



Jersey

WIRELESS TELEGRAPHY (JERSEY) ORDER 2006

Unofficial extended UK law

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APPENDIX



Jersey

WIRELESS TELEGRAPHY (JERSEY) ORDER 2006

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Jersey

Jersey Order in Council L.11/2007

WIRELESS TELEGRAPHY (JERSEY) ORDER 2006*Sanctioned by Order of Her Majesty in Council* 14th December 2006*Registered by the Royal Court* 26th January 2007*In force* 8th February 2007

HER MAJESTY, in exercise of the powers conferred on Her by section 15(6) of the Wireless Telegraphy Act 1967, section 204(6) of the Broadcasting Act 1990, section 12(4) of the Intelligence Services Act 1994, section 150(4) of the Broadcasting Act 1996 and section 411(6) of the Communications Act 2003, all as they have effect by virtue of section 118(6) of the Wireless Telegraphy Act 2006, and sections 118(3) and (6) and 119(3) of, and paragraph 24 of Schedule 8 to, the Wireless Telegraphy Act 2006, is pleased, by and with the advice of Her Privy Council, to order as follows –

1 Citation, commencement and interpretation

- (1) This Order may be cited as the Wireless Telegraphy (Jersey) Order 2006 and shall come into force on 8th February 2007.
- (2) In this order –
 - (a) “Jersey” means the Bailiwick of Jersey;
 - (b) “the Act” means the Wireless Telegraphy Act 2006.
- (3) For the purposes of construing the provisions of the Act as extended by this Order as part of the law of Jersey, any reference to an enactment which extends to Jersey shall, except where a contrary intention appears, be construed as a reference to that enactment as it has effect in Jersey.

2 Extension of the Wireless Telegraphy Act 2006 to Jersey

The following provisions of the Act shall extend to Jersey with the modifications set out in Schedule 1 to this Order –

in Part 1 (general provisions about radio spectrum) – section 1 and sections 3 to 7;

in Part 2 (regulation of radio spectrum) – the whole part other than sections 30 and 51;

in Part 3 (regulation of apparatus) – sections 54 to 61 and 68;

Part 5 (prohibition of broadcasting from sea or air) – the whole Part;

in Part 6 (general) – sections 97 to 103, sections 105 to 108, 110 to 119 and 121, 122, 124, 125 and 126;

Schedules 1 to 3, 5 and 7 to 9.

3 Extension of other instruments

- (1) Subject to paragraph (2), sections 43(1) to (3) and 116(1) and (2) of the Act shall have effect as if an order made by the Secretary of State under subsections 43(4) and 116(3), respectively, and which is for the time being in force in the United Kingdom, had extended to Jersey.
- (2) No order under sections 43(4) or 116(3) shall have effect in Jersey until the day following the day it is registered in the Royal Court of Jersey, or on the day specified in the instrument for its coming into force, whichever is the later.

4 Modification and revocation of other instruments

- (1) The Communications (Jersey) Order 2003¹ is modified as specified in Part 1 of Schedule 2.
- (2) The instruments mentioned in Part 2 of Schedule 2 are revoked to the extent specified in that Part.

MERIEL McCULLAGH

Deputy Clerk of the Privy Council

SCHEDULE 1

(Article 2)

**MODIFICATIONS WITH WHICH PROVISIONS OF THE WIRELESS TELEGRAPHY
ACT 2006 EXTEND TO JERSEY****1**

In section 1 (general functions) –

- (a) in subsection (2), after “United Kingdom” insert “on behalf of Jersey”;
- (b) after subsection (2), insert –
 - “(2A) Before requiring OFCOM to do or undertake anything under subsection (2) in respect of Jersey, the Secretary of State shall consult with the Minister.”; and
- (c) in subsections (3) to (5), after “United Kingdom”, wherever these words occur, insert “and Jersey”.

2

In section 5 (directions of the Secretary of State), after subsection (5) insert –

- “(6) Before making an order under this section which relates to the management of the radio spectrum in respect of Jersey, the Secretary of State shall consult the Minister.”.

3

In section 6 (procedure for directions), omit subsections (4) to (7).

4

In section 8 (licences and exemptions) –

- (a) in subsection (2) –
 - (i) in paragraph (b), for “purpose.”, substitute “purpose; or”; and
 - (ii) after paragraph (b) insert –
 - “(c) the installation or use of any television receiver by a person who is a dealer in such receivers where the installation or use is solely for the purpose of doing any one or more of the following in the course of his business as such a dealer, namely, demonstrating, testing or repairing such receivers;” and
- (b) after subsection (5) insert the following –

“(6) The functions of OFCOM under this section, insofar as they relate to programme making, as defined in the Contracting Out (Functions Relating to Wireless Telegraphy) Order 1996, may be exercised by, or by employees of, such person (if any) as may be authorised in that behalf in the United Kingdom by OFCOM under that Order.”.

5

In section 9 (terms, provisions and limitations), omit subsection (6).

6

In section 11 (surrender of licence) in subsection (4) –

- (a) omit “on summary conviction”; and
- (b) for “level 3” substitute “level 2”.

7

In section 18 (grant of recognised spectrum access) –

- (a) in subsection (1)(c), for “at places in the United Kingdom or in the UK territorial sea” substitute “at places in Jersey or in Jersey’s territorial sea”;
- (b) in subsection (2), for “the United Kingdom” in each place where these words occur substitute “Jersey”; and
- (c) omit subsection (7).

8

In section 33 (failure to provide information etc.) –

- (a) in subsection (3), for “level 3” substitute “level 2”; and
- (b) in subsection (5), for “level 5” substitute “level 4”.

9

In section 35 (unauthorised use of wireless telegraphy station) –

- (a) in subsection (2), for the words from “liable” to the end substitute “liable to imprisonment for a term not exceeding two years or to a fine or to both.”;
- (b) omit subsection (3);
- (c) in subsection (4), for the words from “on summary conviction” to the end substitute “to a fine not exceeding level 2 on the standard scale.”;
- (d) in subsection (5), for the words “on summary conviction” to the end substitute “to imprisonment for a term not exceeding one year or to a fine not exceeding level 3 on the standard scale, or to both.”; and

- (e) omit subsection (6).

10

In section 36 (keeping available for unauthorised use) –

- (a) in subsection (2), for the words from “liable” to the end substitute “liable to imprisonment for a term not exceeding two years or to a fine, or to both.”;
- (b) omit subsection (3);
- (c) in subsection (4), for the words from “on summary conviction” to the end substitute “to a fine not exceeding level 2 on the standard scale.”;
- (d) in subsection (5), for the words from “on summary conviction” to the end substitute “to imprisonment for a term not exceeding one year or to a fine not exceeding level 4 on the standard scale, or to both.”; and
- (e) omit subsection (6).

11

In section 37 (allowing premises to be used for unlawful broadcasting) –

- (a) in subsection (2), for the words from “liable” to the end substitute “liable to imprisonment for a term not exceeding two years or to a fine, or to both.”; and
- (b) omit subsection (3).

12

In section 38 (facilitating unauthorised broadcasting) –

- (a) in subsection (6), for the words from “liable” to the end substitute “liable to imprisonment for a term not exceeding two years or to a fine, or to both.”;
- (b) omit subsection (7).

13

In section 41 (procedure for prosecutions), omit subsections (7) and (8).

14

In section 43 (amount of penalty under section 42), omit subsections (4) and (5).

15

In section 44 (relevant amount of gross revenue), for subsection (9)(b) substitute the following –

- “(b) send a copy of the statement and every such revision to the Treasurer of the States of Jersey.”.

16

In section 46 (offences) –

- (a) in subsection (2) for the words from “liable” to the end, substitute “liable to a fine not exceeding level 2 on the standard scale.”; and
- (b) in subsection (3), for the words from “liable” to the end substitute “liable to a fine not exceeding level 4 on the standard scale”.

17

In section 47 (misleading messages) –

- (a) in subsection (4), for the words from “liable” to the end, substitute “liable to imprisonment for a term not exceeding two years or to a fine, or to both.”; and
- (b) omit subsection (5).

18

In section 48 (interception and disclosure of messages) –

- (a) in subsection (4), for the words from “liable” to the end substitute “liable to a fine not exceeding level 4 on the standard scale.”; and
- (b) for subsection (5) substitute –
 - “(5) “Designated person” means –
 - (a) the Attorney General of Jersey;
 - (b) any person designated for the purposes of this section and section 49 by the Attorney General of Jersey.”.

19

In section 49 (interception authorities) –

- (a) for subsection (2) substitute the following –
 - “(2) Conduct falls within this subsection if it is –
 - (a) conduct that, if engaged in without lawful authority, constitutes an offence under Article 5(1) or (2) of the Regulation of Investigatory Powers (Jersey) Law 2005;
 - (b) conduct that, if engaged in without lawful authority, is actionable under Article 6 of that Law;
 - (c) conduct that is capable of being authorised by an authorisation or notice granted under Chapter 2 of Part 2 of that Law (Communications data); or

- (d) conduct that is capable of being authorised by an authorisation granted under Part 3 of that Law (surveillance etc.).”;
- (b) in subsection (4), for “the United Kingdom” substitute “Jersey”;
- (c) for subsection (7) substitute the following –
 - “(7) An interception authority must be in writing under the hand of the Attorney General of Jersey.”;
- (d) omit subsection (9);
- (e) in subsection (10) –
 - (i) for “Part 1” substitute “Part 2”;
 - (ii) for “Act 2000 (c.23)” substitute “(Jersey) Law 2005”;
 - (iii) for “Part 2” substitute “Part 3”; and
 - (iv) for “Act” substitute “Law”.
- (f) in subsection (11), for “Part 1 or 2” substitute “Part 2 or 3” and for “Act 2000” substitute “(Jersey) Law 2005”; and
- (g) for subsection (12) substitute the following –
 - “(12) In this section “crime” has the meaning given by Article 1(1) of the Regulation of Investigatory Powers (Jersey) Law 2005.”.

20

In section 50 (apparatus on foreign registered ships) –

- (a) in subsection (1), for “the United Kingdom and UK territorial sea” substitute “Jersey and Jersey’s territorial sea”;
- (b) for subsection (3), substitute the following –
 - “(3) Any Regulations made under subsection (2) above, which specify a penalty for an offence against those Regulations by reference to a level on the standard scale, shall have effect in relation to Jersey as if for each such reference there were substituted a reference to the next lower level in the standard scale as defined in section 115.”;
- (c) in subsection (6) –
 - (i) in paragraph (a), for “the United Kingdom” substitute “Jersey”; and
 - (ii) in paragraph (b), for “any of the Channel Islands” substitute “the Bailiwick of Guernsey”.

21

In section 53 (surrender of authority) in subsection (3) –

- (a) omit “on summary conviction”; and
- (b) for “level 3” substitute “level 2”.

22

In section 54 (regulations about use and sale of apparatus) omit subsection (8).

23

In section 57 (appeal against notice under section 55 or 56 etc.) omit subsections (4) and (5).

24

In section 58 (contravening notice under section 55 or 56) –

- (a) in subsection (2) –
 - (i) omit “on summary conviction”;
 - (ii) in paragraph (a), for “level 5” substitute “level 4”; and
 - (iii) in paragraph (b), for “level 3” substitute “level 2”;
- (b) omit subsection (3); and
- (c) in subsection (5) –
 - (i) omit “on summary conviction”;
 - (ii) in paragraph (a), for “level 5” substitute “level 4”; and
 - (iii) in paragraph (b), for “level 3” substitute “level 2”.

25

In section 59 (entry and search of premises etc.) –

- (a) in subsection (1), for “A justice of the peace” substitute “The Bailiff”;
- (b) in subsections (1)(c), (2), (3), (4) and (6), for the word “justice” in each place where it occurs substitute “Bailiff”;
- (c) in subsection (5), for “with or without constables” substitute “accompanied by a police officer”;
- (d) in subsection (7), after “A” insert “police officer accompanying a”;
- (e) in subsection (8) omit “by the person”; and
- (f) omit subsection (10).

26

In section 60 (obstruction and failure to assist) in subsection (2) –

- (a) omit “on summary conviction”; and
- (b) for “level 5” substitute “level 4”.

27

In section 68 (deliberate interference) –

- (a) in subsection (3), for all the words from “liable” to the end substitute “liable to imprisonment for a term not exceeding two years or to a fine, or to both”; and
- (b) omit subsection (4).

28

In section 77 (broadcasting from ships and aircraft) in subsection (1), for “the United Kingdom” substitute “Jersey”.

29

In section 78 (broadcasting from marine structures) in subsection (1), for “the United Kingdom” substitute “Jersey”.

30

In section 79 (broadcasting from prescribed areas of high seas), for “the United Kingdom” in each place where it occurs substitute “Jersey”.

31

In section 80 (acts connected with broadcasting) in subsection (1), for “British person” substitute “Island person”.

32

In section 81 (management of station) in subsection (1), for the “United Kingdom” substitute “Jersey”.

33

In section 86 (facilitation offences: territorial scope) –

- (a) in subsections (2) and (3), for “the United Kingdom” in each place where it occurs substitute “Jersey”; and
- (b) in subsection (6), for “a British person” substitute “an Island person”.

34

In section 87 (procuring person to commit offence abroad), for “the United Kingdom” in each place where it occurs, substitute “Jersey”.

35

In section 88 (enforcement officers), for paragraphs (d) and (e) in subsection (1) substitute the following –

- “(d) customs officers; and
- (e) fisheries officers.”.

36

In section 89 (enforcement powers) in subsection (2)(a)(i), for “United Kingdom” substitute “Jersey”.

37

In section 91 (exercise of powers) in subsection (1), for “the United Kingdom” substitute “Jersey”.

38

For section 93 (penalties and proceedings) substitute the following –

“Penalties and Proceedings

- 93.**-(1) A person who commits an offence under this Part is liable to imprisonment for a term not exceeding two years or to a fine, or to both.
- (2) Proceedings for an offence under this Part may only be instituted by or with the consent of the Attorney General of Jersey.”.

39

In section 95 (Part 5: interpretation) –

- (a) in subsection (1) –
 - (i) in the definition of “external waters” for “the United Kingdom” substitute “Jersey” and for “UK” substitute “Jersey’s”;
 - (ii) in the definition of “high seas” for “UK” substitute “Jersey’s” and for “the United Kingdom” substitute “Jersey”; and
- (b) for subsection (2) substitute the following –
 - “(2) For the purposes of this Part references to an “Island person” are references to –
 - (a) a British citizen, a British overseas territories citizen, a British National (overseas) or a British Overseas citizen;
 - (b) a person who, under the British Nationality Act 1981 (c.61) is a British subject; or

- (c) a British protected person within the meaning given by section 50(1) of that Act,
who is ordinarily resident in Jersey.”.

40

In section 97 (powers of entry and search) –

- (a) in subsection (1), for “A justice of the peace” substitute “The Bailiff”;
- (b) in subsection (2), for “constable or” substitute “police officer, who may be accompanied by”;
- (c) omit subsections (4) and (5);
- (d) in subsection (6), for “A person authorised by OFCOM or the Secretary of State to exercise a power conferred by this section” substitute “A police officer”; and
- (e) omit subsection (9).

41

In section 98 (obstruction and failure to assist) in subsection (2) –

- (a) omit the words “on summary conviction”; and
- (b) for the words “level 5” substitute “level 4”.

42

In section 99 (powers of seizure) –

- (a) for subsection (1)(a) substitute the following –
 - “(a) any offence under this Act punishable by imprisonment, other than an offence under section 111;”;
- (b) in subsection (2), for “person authorised by OFCOM to exercise the powers conferred by this subsection” substitute “police officer”;
- (c) in subsection (3), for “constable” substitute “police officer”;
- (d) in subsection (4), for “person authorised by OFCOM to exercise a power conferred by this section” substitute “police officer”; and
- (e) in subsection (6), for “constable” substitute “police officer”.

43

In section 100 (obstruction) in subsection (2) –

- (a) omit “on summary conviction”; and
- (b) for “level 5” substitute “level 4”.

44

In section 101 (detention and disposal of property) in subsection (1) omit “by a person authorised by OFCOM”.

45

In section 107 (proceedings and enforcement) –

- (a) in subsection (1) –
 - (i) for “UK” substitute “Jersey’s”; and
 - (ii) for “the United Kingdom” substitute “Jersey”.
- (b) for subsection (2) substitute the following –
 - “(2) For the purposes of enforcement of any provision falling within subsection (3), a member of the Honorary Police of a parish has in any area of the sea within the seaward limits of Jersey’s territorial sea all the powers protections and privileges which he has in that parish.”; and
- (c) omit subsection (4).

46

In section 108 (civil proceedings) –

- (a) in subsection (2), for “the Crown” substitute “the Attorney General of Jersey”; and
- (b) omit subsection (3).

47

In section 110 (criminal liability of company directors, etc.) –

- (a) omit subsection (2);
- (b) after subsection (3) insert the following –
 - “(4) A person who aids, abets, counsels or procures the commission of an offence under this Act shall also be guilty of an offence and liable in the same manner as a principal offender to the penalty provided for that offence.”.

48

In section 111 (general restrictions) –

- (a) in subsection (3) –
 - (i) in paragraph (b), for “any relevant person” substitute “the Secretary of State”;
 - (ii) omit paragraphs (c) and (d); and

- (iii) in paragraph (f), after “United Kingdom” insert “on behalf of Jersey”;
- (b) omit subsection (4);
- (c) in subsection (6) omit paragraphs (b) to (e), (g), (j), (k), (m) and (n);
- (d) omit subsection (8);
- (e) in subsection (10), for all the words from “is liable” to the end substitute “is liable to imprisonment for a term not exceeding two years or to a fine, or to both.”;
- (f) omit subsection (11); and
- (g) in subsection (12) omit the definitions of “the Consumer Panel” and “the Welsh Authority”.

49

In section 112 (service of documents) –

- (a) in subsection (6), for “section 7 of the Interpretation Act 1978 (c.30) (service of documents by post)” substitute “Article 7 of the Interpretation (Jersey) Law 1954”;
- (b) in subsection (7), for “the United Kingdom” in each place where it occurs substitute “Jersey”.

50

In section 115 (general interpretation) –

- (a) in subsection (1) –
 - (i) the following definitions shall be inserted in the appropriate alphabetical order –
 - ““customs officer” means the Agent of the Impôts and a person appointed as a customs officer under Article 14 of the Customs and Excise (Jersey) Law 1999;
 - “fisheries officer” means a person appointed as a fisheries officer under Article 15 of the Sea Fisheries (Jersey) Law 1994 or deemed under that Article to be a fisheries officer;
 - “Island person” has the meaning given by section 95(2);
 - “Jersey” means the Bailiwick of Jersey and the territorial sea adjacent thereto;
 - “Jersey’s territorial sea” means the territorial sea adjacent to Jersey;
 - “the Minister” means the Minister for Economic Development;
 - “Police officer” means a member of the Honorary Police or a member of the States of Jersey Police Force;

- “Standard scale” means the standard scale of fines for the time being in the Schedule to the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993;”;
 - (ii) omit the definition of “UK territorial sea”;
 - (iii) for the definition of “electric line” substitute –
 - ““electric line” means any line which is used for carrying electricity for any purpose and includes, unless the context otherwise requires –
 - (a) any support for such line, that is to say any structure, pole or other thing in, on, by or from which any such line is or may be supported, carried or suspended;
 - (b) any apparatus connected to any such line for the purpose of carrying electricity; and
 - (c) any wire, cable, tube, pipe or other similar thing (including its case or coating) which surrounds or supports or is supported, carried or suspended in association with, any such line;”;
 - (iv) for the definition of “film” substitute –
 - ““film” means a sound recording on any medium from which a moving image may by any means be produced.”;
 - (v) in the definition of “international obligation of the United Kingdom” after “United Kingdom” insert “on behalf of Jersey” and omit “any Community obligation and”;
- (b) omit subsection (6).

51

In section 116 (“wireless telegraphy”) omit subsection (4).

52

In section 118 (extent) omit subsections (1), (3) and (4).

53

In section 119 (territorial application) –

- (a) in subsection (1)(a), for “the United Kingdom or UK territorial sea” substitute “Jersey or Jersey’s territorial sea.”;
- (b) in subsection (1)(b) –
 - (i) for “the United Kingdom” where it first occurs substitute “Jersey”;
 - and
 - (ii) for “United Kingdom or UK territorial sea” substitute “Jersey or Jersey’s territorial sea”;
- (c) in subsection (1)(c) –

- (i) for “the United Kingdom or UK territorial sea” in each place where it occurs substitute “Jersey or Jersey’s territorial sea”; and
- (ii) for paragraph (ii) substitute –
 - “(ii) for a ship that is a British ship or an aircraft registered in the United Kingdom”; and
- (d) omit subsections (3) and (4).

54

In section 121 (orders and regulations made by the Secretary of State) –

- (a) omit subsections (1) and (2); and
- (b) after subsection (3) insert –
 - “(4) Any statutory instrument made by the Secretary of State pursuant to this Act shall not have effect in Jersey until it is registered in the Royal Court of Jersey and where any such statutory instrument is so registered, it shall have effect on the day following the day of such registration or on the day specified in the instrument for its coming into force, whichever is the later.”.

55

In section 122 (orders and regulations made by OFCOM) –

- (a) omit subsections (2) and (3);
- (b) after subsection (7) insert the following –
 - “(8) Any statutory instrument made by OFCOM pursuant to this Act shall not have effect in Jersey until it is registered in the Royal Court of Jersey and where any such statutory instrument is so registered, it shall have effect on the day following the day of such registration or on the day specified in the instrument for its coming into force, whichever is the later.”.

56

In section 126 (short title and commencement) omit subsection (2).

57

In Schedule 2 (procedure for grants of recognised spectrum access) –

- (a) in paragraph 6(12)(b), after “United Kingdom” insert “on behalf of Jersey”; and
- (b) in paragraph 7(4)(c), after “United Kingdom” insert “on behalf of Jersey”.

58

In Schedule 5 (forfeiture on conviction) –

- (a) in paragraph 1(1), for “OFCOM” substitute “the Treasurer of the States of Jersey”;
- (b) in paragraph 1(4) omit clause (b);
- (c) in paragraph 1(5) omit clause (c);
- (d) for paragraph 4 substitute –
 - “4. Apparatus ordered to be forfeited under paragraph 1 or 2 may be retained, disposed or dealt with by the Treasurer of the States of Jersey in such manner as he may think fit.”.
- (e) in paragraph 5 for “OFCOM” in each place where it occurs, substitute “The Treasurer of the States of Jersey”; and
- (f) omit paragraphs 6 and 7.

59

In Schedule 7 –

- (a) omit paragraph 1 to 8, 15, 16, 19 to 24, 33, 35, 37 and 38; and
- (b) for paragraph 31 substitute the following –
 - “(31) In section 393 (general restrictions on disclosure of information) in subsection (5) after paragraph (1) insert –
 - “(1a) the Wireless Telegraphy Act 2006;”.

60

In Schedule 8 (transitional provisions, savings and transitory modifications) –

- (a) omit paragraphs 5, 9, 10, 16 to 22, 25, 26, 28 and 29; and
- (b) in paragraph 12(1) omit “20(2) or” and in paragraph 12(3) omit “20 or”.

61

In Schedule 9 (repeals) –

- (a) in Part 1, omit all the items and entries except those in respect of –
 - Wireless Telegraphy Act 1949;
 - Marine *etc.* Broadcasting (Offences) Act 1967;
 - Wireless Telegraphy Act 1967;
 - Telecommunications Act 1984;
 - Broadcasting Act 1990; and
 - Communications Act 2003;
- (b) Omit Part 2.

SCHEDULE 2

(Article 4)

PART 1**MODIFICATIONS OF COMMUNICATIONS (JERSEY) ORDER 2003²****1**

For article 4 substitute –

“4. The Secretary of State shall not request OFCOM under subsection (2) of section 22 of the 2003 Act to do as respects Jersey one or more of the things set out in subsection (1) of that section unless he has first consulted the appropriate authorities in Jersey.”.

2

In article 6 –

- (a) In the item Part 6 (Miscellaneous and Supplementary) for “sections 390 to 396, 400 and 402 to 406, 410 and 411”; substitute “sections 390 to 392, 393(1)(a), (c) and (d), (2) to (4), (5), (c) to (k), (m) to (p) and 394(1), (2)(a), (b), (d) to (f), (3) to (10), 395, 396, 400, 402(1), (2)(a), (c), (3), 403, 404(1) to (3), (4)(a), (d) and (e), and sections 405 and 406, 410 and 411”; and
- (b) For the item “Schedule 1, 2, 5, 8 to 15 and 17 to 19” substitute “Schedule 1, paragraphs 3 to 14, Schedule 2, Schedule 8, paragraphs 1 to 12, Schedules 9 to 15, Schedule 17 paragraphs 1 to 5, 19 to 31, 39 to 63, 70, 72(1) and (3) to (7), 73 to 144, and 152 to 175, Schedule 18, paragraphs 1 to 5 and 7, to 19, 22 to 54, 56 to 62 and 64 and Schedule 19 (apart from Notes 1 and 3)”.

3

In Schedule 2 (Modifications with which provisions of the Communications Act 2003 extend to Jersey) –

- (a) for paragraph 101, substitute “In Schedule 8 (Decisions not subject to appeal), omit paragraphs 3 to 12, 37, the words “or 62” in paragraph 40(b) and paragraph 46.”;
- (b) for paragraph 109(a) substitute –
 - “(a) omit paragraphs 2 to 5, 19 to 31, 39 to 63, 70 to 72(1), 72(3) to (9), 73 to 144, 152 to 171 and 173 to 175.”; and

- (c) in paragraph 110(a) substitute “omit paragraphs 2(4), 3, 4, 7 to 19, 22, 24 and 25, 26(8), 27 to 29, 38, 45, 56 to 62 and 64.”.

4

After sub-paragraph 110(c) insert –

- “(cc) in paragraph 23 omit sub-paragraph 1(c)(i);
 (cd) in sub-paragraph (2) omit the words “(or that Act of 1949);
 and
 (ce) omit sub-paragraph (3).”.

5

In paragraph 111 insert at the end a new sub-paragraph as follows –

- “(f) omit Notes 1 to 3 of Schedule 19”.

PART 2

REVOCATIONS

<i>Revocations</i>	<i>Reference</i>	<i>Extent of revocation</i>
The Wireless Telegraphy (Channel Islands) Order 1952 ³	S.I. 1952/1900	The whole of the Order insofar as it applies to Jersey
The Marine & c, Broadcasting (Offences) (Jersey) Order 1967 ⁴	S.I. 1967/1275	The whole of the Order
The Wireless Telegraphy (Channel Islands) Order 1967 ⁵	S.I. 1967/1279	The whole of the Order insofar as it applies to Jersey
The Wireless Telegraphy (Channel Islands) (Amendment) Order 1997 ⁶	S.I. 1997/284	The whole of the Order insofar as it applies to Jersey
The Wireless Telegraphy (Jersey) Order 1998 ⁷	S.I. 1998/1512	The whole of the Order
The Wireless Telegraphy (Jersey) Order 2003 ⁸	S.I. 2003/3196	The whole of the Order
The Communications (Jersey) Order 2003 ⁹	S.I. 2003/3197	In article 6 the words “Chapter 2 (Spectrum use): sections 152, 154 to 167, 169 to 179 and 183 and 184”. In Schedule 2 (Modifications

		with which provisions of the Communications Act 2003 extend to Jersey), paragraphs 15 to 25, 91(1)(ii), 98(a), 100, 109(b) to (l).
The Broadcasting and Communications (Jersey) Order 2004 ¹⁰	S.I. 2004/308	Part 1 of Schedule 2 to the Order (Amendments of the Wireless Telegraphy (Jersey) Order), and in Part 3 of Schedule 2 (Amendments of the Communications (Jersey) Order 2003), paragraphs (b), (c) and (n) only.

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ELIZABETH II**WIRELESS TELEGRAPHY ACT 2006****2006 CHAPTER 36**

AN ACT to consolidate enactments about wireless telegraphy.

[8th November 2006]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows¹¹ –

PART I**GENERAL PROVISION ABOUT RADIO SPECTRUM***Radio spectrum functions of OFCOM***1 General functions**

- (1) It is a function of OFCOM –
 - (a) to give such advice in relation to the use of the electromagnetic spectrum for wireless telegraphy,
 - (b) to provide such other services, and
 - (c) to maintain such records,as they consider appropriate for the purpose of facilitating or managing the use of the spectrum for wireless telegraphy.
- (2) It is a function of OFCOM, in relation to the use of the electromagnetic spectrum for wireless telegraphy –
 - (a) to give such further advice,
 - (b) to provide such other services, and
 - (c) to maintain such other records,as the Secretary of State may require for the purpose of securing compliance with the international obligations of the United Kingdom [on behalf of Jersey].

- [(2A) Before requiring OFCOM to do or undertake anything under subsection (2) in respect of Jersey, the Secretary of State shall consult with the Minister.]
- (3) The advice, other services and records that OFCOM may give, provide or maintain under this section include advice, other services and records with respect to the use of the electromagnetic spectrum at places outside the United Kingdom [and Jersey].
- (4) The powers of OFCOM under Part 1 of the Communications Act 2003 (c.21) to carry out research, or to arrange for others to carry out research, are to be exercisable, in particular, for ascertaining, for the purpose of carrying out OFCOM's functions under this section, information about –
- (a) the demands for use of the electromagnetic spectrum for wireless telegraphy in the United Kingdom [and Jersey];
 - (b) the effects, in the United Kingdom [and Jersey], of any such use of the spectrum;
 - (c) likely future developments in relation to those matters; and
 - (d) any other connected matters that OFCOM think relevant.
- (5) OFCOM may make a grant to any person if, in their opinion, the making of the grant is likely to promote –
- (a) the efficient use in the United Kingdom [and Jersey] of the electromagnetic spectrum for wireless telegraphy; or
 - (b) the efficient management of that use.
- (6) A grant –
- (a) may be made to a person holding a wireless telegraphy licence or a grant of recognised spectrum access or to any other person; and
 - (b) is to be made on such terms and conditions as OFCOM consider appropriate;
- and the terms and conditions may include terms requiring the repayment of the grant in specified circumstances.
- (7) The consent of the Treasury is required –
- (a) for the making of a grant under subsection (5); and
 - (b) for the terms and conditions on which such a grant is made.
- (8) Where OFCOM are required to give advice or provide another service to a person under this section, they may make the giving of the advice or the provision of the other service conditional on the payment to them of such sums –
- (a) as they may determine in advance; or
 - (b) as may be agreed between them and that person.
- (9) In this section references to providing a service to a person include references to a service consisting in –

- (a) the entry of that person's particulars in a register or other record kept by OFCOM for the purpose of carrying out their functions under this section; or
- (b) the taking of steps for the purposes of determining whether to grant an application for an entry in a register or record so kept.

2 United Kingdom Plan for Frequency Authorisation

* * * * *

3 Duties of OFCOM when carrying out functions

- (1) In carrying out their radio spectrum functions, OFCOM must have regard, in particular, to –
 - (a) the extent to which the electromagnetic spectrum is available for use, or further use, for wireless telegraphy;
 - (b) the demand for use of the spectrum for wireless telegraphy; and
 - (c) the demand that is likely to arise in future for the use of the spectrum for wireless telegraphy.
- (2) In carrying out those functions, they must also have regard, in particular, to the desirability of promoting –
 - (a) the efficient management and use of the part of the electromagnetic spectrum available for wireless telegraphy;
 - (b) the economic and other benefits that may arise from the use of wireless telegraphy;
 - (c) the development of innovative services; and
 - (d) competition in the provision of electronic communications services.
- (3) Subsection (4) has effect in the case of OFCOM's radio spectrum functions, other than their functions under sections 13 and 22.
- (4) In the application of this section to those functions, OFCOM may disregard such of the matters mentioned in subsections (1) and (2) as appear to them –
 - (a) to be matters to which they are not required to have regard apart from this section; and
 - (b) to have no application to the case in question.
- (5) Where it appears to OFCOM that a duty under this section conflicts with one or more of their duties under sections 3 to 6 of the Communications Act 2003 (c. 21), priority must be given to their duties under those sections.
- (6) Where it appears to OFCOM that a duty under this section conflicts with another in a particular case, they must secure that the conflict is resolved in the manner they think best in the circumstances.

4 Advisory service in relation to interference

It is a function of OFCOM to provide a service consisting in the giving of advice and assistance to persons complaining of interference with wireless telegraphy.

5 Directions of Secretary of State

- (1) The Secretary of State may by order give general or specific directions to OFCOM about the carrying out by them of their radio spectrum functions.
- (2) An order under this section may require OFCOM to secure that such frequencies of the electromagnetic spectrum as may be specified in the order are kept available or become available –
 - (a) for such uses or descriptions of uses, or
 - (b) for such users or descriptions of users,as may be so specified.
- (3) An order under this section may require OFCOM to exercise their powers under the provisions mentioned in subsection (4) –
 - (a) in such cases,
 - (b) in such manner,
 - (c) subject to such restrictions and constraints, and
 - (d) with a view to achieving such purposes,as may be specified in, or determined by the Secretary of State in accordance with, the order.
- (4) The provisions are –
 - (a) section 8(3);
 - (b) sections 12 to 14; and
 - (c) sections 21 to 23.
- (5) This section does not restrict the Secretary of State's power under section 5 of the Communications Act 2003 (c. 21) (directions in respect of networks and spectrum functions).
- [(6) Before making an order under this section which relates to the management of the radio spectrum in respect of Jersey, the Secretary of State shall consult the Minister.]

6 Procedure for directions

- (1) An order under section 5 must state the purpose for which a direction is given, unless it falls within section 5(2) or (3).
- (2) Before making an order under section 5, the Secretary of State must consult –
 - (a) OFCOM; and

(b) such other persons as he thinks fit.

(3) Subsection (2) does not apply where the Secretary of State considers that the urgency of the case makes it inexpedient to consult before making the order.

(4)	*	*	*	*	*
(5)	*	*	*	*	*
(6)	*	*	*	*	*
(7)	*	*	*	*	*

Reservation of spectrum for multiplex use

7 Special duty in relation to television multiplexes

- (1) This section applies where OFCOM, in the exercise of their radio spectrum functions, have reserved frequencies for the broadcasting of television programmes.
- (2) OFCOM must, in carrying out those functions, exercise their powers so as to secure, so far as practicable, that the requirement in subsection (3) is satisfied.
- (3) The requirement is that sufficient capacity is made available on the reserved frequencies for ensuring, in the case of every licensed television multiplex service, that the qualifying services are broadcast by means of that multiplex service.
- (4) “Licensed television multiplex service” means a television multiplex service the provision of which is authorised by a licence under Part 1 of the Broadcasting Act 1996 (c. 55).
- (5) “Qualifying service” and “television multiplex service” each has the same meaning as in Part 3 of the Communications Act 2003 (c. 21).

PART 2

REGULATION OF RADIO SPECTRUM

CHAPTER 1

WIRELESS TELEGRAPHY LICENCES

Licensing of wireless telegraphy

8 Licences and exemptions

- (1) It is unlawful –
 - (a) to establish or use a wireless telegraphy station, or
 - (b) to install or use wireless telegraphy apparatus,

except under and in accordance with a licence (a “wireless telegraphy licence”) granted under this section by OFCOM.

- (2) Subsection (1) does not apply to –
 - (a) the use of a television receiver (within the meaning of Part 4 of the Communications Act 2003) for receiving a television programme; or
 - (b) the installation of a television receiver for use solely for that [purpose; or]
 - [(c) the installation or use of any television receiver by a person who is a dealer in such receivers where the installation or use is solely for the purpose of doing any one or more of the following in the course of his business as such a dealer, namely, demonstrating, testing or repairing such receivers;]
- (3) OFCOM may by regulations exempt from subsection (1) the establishment, installation or use of wireless telegraphy stations or wireless telegraphy apparatus of such classes or descriptions as may be specified in the regulations, either absolutely or subject to such terms, provisions and limitations as may be so specified.
- (4) If OFCOM are satisfied that the condition in subsection (5) is satisfied as respects the use of stations or apparatus of a particular description, they must make regulations under subsection (3) exempting the establishment, installation and use of a station or apparatus of that description from subsection (1).
- (5) The condition is that the use of stations or apparatus of that description is not likely to involve undue interference with wireless telegraphy.
- [(6) The functions of OFCOM under this section, insofar as they relate to programme making, as defined in the Contracting Out (Functions Relating to Wireless Telegraphy) Order 1996, may be exercised by, or by employees of, such person (if any) as may be authorised in that behalf in the United Kingdom by OFCOM under that order.]

9 Terms, provisions and limitations

- (1) A wireless telegraphy licence may be granted subject to such terms, provisions and limitations as OFCOM think fit.
- (2) In the case of a licence to establish a station, the limitations may, in particular, include limitations as to –
 - (a) the position and nature of the station;
 - (b) the purpose for which, the circumstances in which and the persons by whom the station may be used;
 - (c) the apparatus that may be installed or used in the station.
- (3) In the case of any other licence, the limitations may, in particular, include limitations as to –
 - (a) the apparatus that may be installed or used;

- (b) the places where, the purposes for which, the circumstances in which and the persons by whom the apparatus may be used.
- (4) The terms, provisions and limitations may also include, in particular –
 - (a) terms, provisions and limitations as to strength or type of signal, as to times of use and as to the sharing of frequencies;
 - (b) terms, provisions or limitations imposing prohibitions on the transmission or broadcasting of particular matters by the holder of the licence;
 - (c) terms or provisions requiring the transmission or broadcasting of particular matters by that person.
- (5) A wireless telegraphy licence may be granted –
 - (a) in relation to a particular station or particular apparatus; or
 - (b) in relation to any station or apparatus falling within a description specified in the licence;

and such a description may be expressed by reference to such factors (including factors confined to the manner in which it is established, installed or used) as OFCOM think fit.
- (6) * * * * *
- (7) In imposing terms, provisions or limitations on a wireless telegraphy licence, OFCOM may impose only those that they are satisfied are –
 - (a) objectively justifiable in relation to the networks and services to which they relate;
 - (b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - (c) proportionate to what they are intended to achieve; and
 - (d) in relation to what they are intended to achieve, transparent.
- (8) This section has effect subject to regulations under section 14.

10 Procedure

Schedule 1 (which makes provision about the grant, revocation and variation of wireless telegraphy licences) has effect.

11 Surrender of licence

- (1) Where a wireless telegraphy licence has expired or has been revoked, it is the duty of –
 - (a) the person to whom the licence was granted, and
 - (b) any other person in whose possession or under whose control the licence may be,

to cause it to be surrendered to OFCOM if required by them to do so.

- (2) Subsection (1) does not apply to a licence that relates solely to receiving apparatus.
- (3) A person commits an offence if –
 - (a) he has a duty under subsection (1) to cause a wireless telegraphy licence to be surrendered to OFCOM; and
 - (b) without reasonable excuse he fails or refuses to do so.
- (4) A person who commits an offence under this section is liable * * * to a fine not exceeding [level 2] on the standard scale.

Charges etc.

12 Charges for grant of licence

- (1) A person to whom a wireless telegraphy licence is granted must pay to OFCOM –
 - (a) on the grant of the licence, and
 - (b) if regulations made by OFCOM so provide, subsequently at such times during its term and such times in respect of its variation or revocation as may be prescribed by the regulations,the sums described in subsection (2).
- (2) The sums are –
 - (a) such sums as OFCOM may prescribe by regulations, or
 - (b) if regulations made by OFCOM so provide, such sums (whether on the grant of the licence or subsequently) as OFCOM may determine in the particular case.
- (3) Regulations under this section may –
 - (a) confer exemptions from provisions of the regulations in particular cases; and
 - (b) provide for sums paid to be refunded, in whole or in part, in such cases as may be specified in the regulations or in such cases as OFCOM think fit.
- (4) On the grant of a licence in respect of which sums will or may subsequently become payable under regulations under this section, OFCOM may require such security to be given, by way of deposit or otherwise, for the payment of those sums as they think fit.
- (5) Regulations under this section do not apply in relation to a licence granted in accordance with regulations under section 14.

13 Matters taken into account

- (1) This section applies where OFCOM exercise a power under section 12 to prescribe sums payable in respect of wireless telegraphy licences, other than a power to prescribe sums payable where a licence is varied or revoked at the request or with the consent of the holder of the licence.

- (2) OFCOM may, if they think fit in the light (in particular) of the matters to which they must have regard under section 3, prescribe sums greater than those necessary to recover costs incurred by them in connection with their radio spectrum functions.
- (3) “Prescribe” means prescribe by regulations or determine in accordance with regulations.

14 Bidding for licences

- (1) Having regard to the desirability of promoting the optimal use of the electromagnetic spectrum, OFCOM may by regulations provide that, in such cases as may be specified in the regulations, applications for wireless telegraphy licences must be made in accordance with a procedure that involves the making by the applicant of a bid specifying an amount that he is willing to pay to OFCOM in respect of the licence.
- (2) The regulations may make provision with respect to –
 - (a) the grant of the licences to which they apply; and
 - (b) the terms, provisions and limitations subject to which such licences are granted.
- (3) The regulations may, in particular –
 - (a) require the applicant’s bid to specify the amount he is willing to pay;
 - (b) require that amount to be expressed –
 - (i) as a cash sum;
 - (ii) as a sum determined by reference to a variable (such as income attributable wholly or in part to the holding of the licence);
 - (iii) as a combination of the two; or
 - (iv) (at the applicant’s choice) in any one of the ways falling within sub-paragraphs (i) to (iii) that is authorised by the regulations;
 - (c) require that amount to be expressed in terms of –
 - (i) the making of a single payment;
 - (ii) the making of periodic payments;
 - (iii) a combination of the two; or
 - (iv) (at the applicant’s choice) any one of the ways falling within sub-paragraphs (i) to (iii) that is authorised by the regulations;
 - (d) specify requirements (for example, technical or financial requirements, requirements relating to fitness to hold the licence and requirements intended to restrict the holding of two or more wireless telegraphy licences by any one person) which must be met by applicants for a licence;

- (e) require an applicant to pay a deposit to OFCOM;
 - (f) specify circumstances in which a deposit is, or is not, to be refundable;
 - (g) specify matters to be taken into account by OFCOM (in addition to the bids made in accordance with the procedure provided for in the regulations) in deciding whether, or to whom, to grant a licence;
 - (h) specify the other terms, provisions and limitations subject to which a licence to which the regulations apply is to be granted;
 - (i) make any provision referred to in section 12(3).
- (4) Regulations do not require OFCOM to grant a wireless telegraphy licence on the completion of the procedure provided for in the regulations, except in such circumstances as may be provided for in the regulations.
- (5) A wireless telegraphy licence granted in accordance with the regulations must specify –
- (a) the sum or sums which in consequence of the bids made are, in accordance with the regulations, to be payable in respect of the licence; or
 - (b) the method for determining that sum or those sums;
- and that sum or those sums must be paid to OFCOM by the person to whom the licence is granted in accordance with the terms of the licence.
- (6) In determining the sum or sums payable in respect of a wireless telegraphy licence, regard may be had to bids made for other wireless telegraphy licences and for grants of recognised spectrum access.
- (7) The regulations may provide that where a person –
- (a) applies for a licence in accordance with a procedure provided for in the regulations, but
 - (b) subsequently refuses the licence applied for,
- that person must make such payments to OFCOM as may be determined in accordance with the regulations by reference to bids made for the licence.
- (8) Section 12(4) applies in relation to sums that will or may become payable under regulations under this section after the grant of a wireless telegraphy licence as it applies in relation to sums that will or may become payable under regulations under section 12.

15 Recovery

- (1) This section applies in the case of a sum which is to be paid to OFCOM –
- (a) under any provision of sections 12 to 14;
 - (b) in pursuance of any provision of any regulations under those sections; or
 - (c) because of any terms contained as a result of those sections in a wireless telegraphy licence.

- (2) The sum must be paid to OFCOM as soon as it becomes due in accordance with that provision or those terms and, if it is not paid, it is to be recoverable by them accordingly.

16 Regulations

- (1) In its application to the powers of OFCOM to make regulations under sections 12 to 14, section 122 is subject to the following provisions of this section.
- (2) Subsections (4) to (6) of section 122 do not apply in any case in which it appears to OFCOM that by reason of the urgency of the matter it is inexpedient to publish a notice in accordance with section 122(4)(b).
- (3) Subsections (4) to (6) of section 122 do not apply in the case of any regulations under section 14 modifying previous regulations under section 14 in a case not falling within subsection (2) of this section, if it appears to OFCOM –
 - (a) that the modifications would not adversely affect the interests of any person or otherwise put him in a worse position or, as regards someone else, put him at a disadvantage; and
 - (b) in so far as the modifications affect a procedure that has already begun, that no person would have acted differently had the modifications come into force before the procedure began.

17 Sections 12 to 16: interpretation

References in sections 12 to 16 to the grant of a wireless telegraphy licence include references to the grant of a licence by way of renewal of a previous licence.

CHAPTER 2

GRANTS OF RECOGNISED SPECTRUM ACCESS

Making of grants

18 Grant of recognised spectrum access

- (1) This section applies where –
 - (a) a person is proposing to use or to continue to use a wireless telegraphy station or wireless telegraphy apparatus;
 - (b) the circumstances of the use are circumstances specified for the purposes of this section in regulations made by OFCOM;
 - (c) that use does not require a wireless telegraphy licence but will involve the emission of electromagnetic energy with a view to the reception of anything [at places in Jersey or in Jersey's territorial sea].

- (2) For the purposes of this section it is immaterial whether the emissions are from a place within [Jersey] or from a place outside [Jersey].
- (3) On an application by that person, OFCOM may make a grant of recognised spectrum access in respect of any use by him of anything for wireless telegraphy that is specified in the grant.
- (4) A grant of recognised spectrum access made to a person shall set out, by reference to such factors as OFCOM think fit (including, so far as they think fit, frequencies, times and places of reception and strength and type of signal), the respects in which the use of anything by that person for wireless telegraphy is recognised by the grant.
- (5) A grant of recognised spectrum access to a person is made by giving him a notification containing the grant.
- (6) A grant of recognised spectrum access may be made subject to such restrictions and conditions as OFCOM think fit, including, in particular, restrictions or conditions as to strength or type of signal, as to times of use and as to the sharing of frequencies.
- (7) * * * * *
- (8) Where a grant of recognised spectrum access is made subject to restrictions and conditions, the restrictions and conditions must be set out in the notification by which the grant is made.

19 Procedure

Schedule 2 (which makes provision about the making, revocation and modification of grants of recognised spectrum access) has effect.

20 Effect of grant of recognised spectrum access

- (1) This section applies to –
 - (a) OFCOM's functions under sections 8 and 9 with respect to the granting of wireless telegraphy licences;
 - (b) their functions under section 18 with respect to the making of grants of recognised spectrum access; and
 - (c) any of their other radio spectrum functions in the carrying out of which it is appropriate for them to have regard to –
 - (i) whether wireless telegraphy licences are in force, or
 - (ii) the terms, provisions or limitations of wireless telegraphy licences that are in force.
- (2) In carrying out those functions, OFCOM must take into account –
 - (a) the existence of any grant of recognised spectrum access that is in force, and
 - (b) the provisions imposing the restrictions and conditions subject to which such a grant has effect,

to the same extent as they would take into account a wireless telegraphy licence with terms, provisions or limitations making equivalent provision.

Charges etc.

21 Charges for grant of recognised spectrum access

- (1) A person to whom a grant of recognised spectrum access is made must pay to OFCOM –
 - (a) on the making of the grant, and
 - (b) if regulations made by OFCOM so provide, subsequently at such times during its term and such times in respect of its modification or revocation as may be prescribed by the regulations,the sums described in subsection (2).
- (2) The sums are –
 - (a) such sums as OFCOM may prescribe by regulations, or
 - (b) if regulations made by OFCOM so provide, such sums (whether on the making of the grant or subsequently) as OFCOM may determine in the particular case.
- (3) Regulations under this section may –
 - (a) confer exemptions from provisions of the regulations in particular cases; and
 - (b) provide for sums paid to be refunded, in whole or in part, in such cases as may be specified in the regulations or in such cases as OFCOM think fit.
- (4) On the making of a grant of recognised spectrum access in respect of which sums will or may subsequently become payable under regulations under this section, OFCOM may require such security to be given, by way of deposit or otherwise, for the payment of those sums as they think fit.
- (5) Regulations under this section do not apply in relation to a grant of recognised spectrum access made in accordance with regulations under section 23.

22 Matters taken into account

- (1) This section applies where OFCOM exercise a power under section 21 to prescribe sums payable in respect of grants of recognised spectrum access, other than a power to prescribe sums payable where a grant is modified or revoked at the request or with the consent of the holder of the grant.
- (2) OFCOM may, if they think fit in the light (in particular) of the matters to which they must have regard under section 3, prescribe sums greater than those necessary to recover costs incurred by them in connection with their radio spectrum functions.

- (3) “Prescribe” means prescribe by regulations or determine in accordance with regulations.

23 Bidding for grants

- (1) Having regard to the desirability of promoting the optimal use of the electromagnetic spectrum, OFCOM may by regulations provide that, in such cases as may be specified in the regulations, applications for grants of recognised spectrum access must be made in accordance with a procedure that involves the making by the applicant of a bid specifying an amount that he is willing to pay to OFCOM in respect of the grant.
- (2) The regulations may make provision with respect to –
 - (a) the grants to which they apply; and
 - (b) the restrictions and conditions subject to which such grants are made.
- (3) The regulations may, in particular –
 - (a) require the applicant’s bid to specify the amount he is willing to pay;
 - (b) require that amount to be expressed –
 - (i) as a cash sum;
 - (ii) as a sum determined by reference to a variable (such as income attributable wholly or in part to the use of wireless telegraphy to which the grant relates);
 - (iii) as a combination of the two; or
 - (iv) (at the applicant’s choice) in any one of the ways falling within sub-paragraphs (i) to (iii) that is authorised by the regulations;
 - (c) require that amount to be expressed in terms of –
 - (i) the making of a single payment;
 - (ii) the making of periodic payments;
 - (iii) a combination of the two; or
 - (iv) (at the applicant’s choice) any one of the ways falling within sub-paragraphs (i) to (iii) that is authorised by the regulations;
 - (d) specify requirements (for example, technical or financial requirements, requirements relating to the use of wireless telegraphy to which the grant relates and requirements intended to restrict the holding of two or more grants of recognised spectrum access by any one person) which must be met by applicants for a grant;
 - (e) require an applicant to pay a deposit to OFCOM;
 - (f) specify circumstances in which a deposit is, or is not, to be refundable;

- (g) specify matters to be taken into account by OFCOM (in addition to the bids made in accordance with the procedure provided for in the regulations) in deciding whether, or to whom, to make a grant of recognised spectrum access;
 - (h) specify the other restrictions and conditions subject to which a grant to which the regulations apply is to be made;
 - (i) make any provision referred to in section 21(3).
- (4) Regulations do not require OFCOM to make a grant of recognised spectrum access on the completion of the procedure provided for in the regulations, except in such circumstances as may be provided for in the regulations.
- (5) A grant of recognised spectrum access made in accordance with the regulations must specify –
 - (a) the sum or sums which in consequence of the bids made are, in accordance with the regulations, to be payable in respect of the grant; or
 - (b) the method for determining that sum or those sums;and that sum or those sums must be paid to OFCOM by the person to whom the grant is made in accordance with the terms of the grant.
- (6) In determining the sum or sums payable in respect of a grant, regard may be had to bids made for other grants of recognised spectrum access and for wireless telegraphy licences.
- (7) The regulations may provide that where a person –
 - (a) applies for a grant of recognised spectrum access in accordance with a procedure provided for in the regulations, but
 - (b) subsequently refuses the grant applied for,that person must make such payments to OFCOM as may be determined in accordance with the regulations by reference to bids made for the grant.
- (8) Section 21(4) applies in relation to sums that will or may become payable under regulations under this section after the making of a grant of recognised spectrum access as it applies in relation to sums that will or may become payable under regulations under section 21.

24 Recovery

- (1) This section applies in the case of a sum which is to be paid to OFCOM –
 - (a) under any provision of sections 21 to 23;
 - (b) in pursuance of any provision of any regulations under those sections; or
 - (c) because of any conditions contained as a result of those sections in a grant of recognised spectrum access.

- (2) The sum must be paid to OFCOM as soon as it becomes due in accordance with that provision or those conditions and, if it is not paid, it is to be recoverable by them accordingly.

25 Regulations

- (1) In its application to the powers of OFCOM to make regulations under sections 21 to 23, section 122 is subject to the following provisions of this section.
- (2) Subsections (4) to (6) of section 122 do not apply in any case in which it appears to OFCOM that by reason of the urgency of the matter it is inexpedient to publish a notice in accordance with section 122(4)(b).
- (3) Subsections (4) to (6) of section 122 do not apply in the case of any regulations under section 23 modifying previous regulations under section 23 in a case not falling within subsection (2) of this section, if it appears to OFCOM –
 - (a) that the modifications would not adversely affect the interests of any person or otherwise put him in a worse position or, as regards someone else, put him at a disadvantage; and
 - (b) in so far as the modifications affect a procedure that has already begun, that no person would have acted differently had the modifications come into force before the procedure began.

26 Sections 21 to 25: interpretation

References in sections 21 to 25 to the making of a grant of recognised spectrum access include references to the making of a grant by way of renewal of a previous grant.

CHAPTER 3

MANAGEMENT OF RADIO SPECTRUM

General

27 Conversion into and from wireless telegraphy licences

OFCOM may by regulations make provision for –

- (a) the conversion, on the application of the licence holder, of a wireless telegraphy licence into a grant of recognised spectrum access; and
- (b) the conversion, on the application of the holder of the grant, of a grant of recognised spectrum access into a wireless telegraphy licence.

28 Payments by the Crown

- (1) The Secretary of State may, out of money provided by Parliament, make payments to OFCOM of such amounts as he considers appropriate in respect of –
 - (a) the establishment and use, by or on behalf of the Crown, of a wireless telegraphy station;
 - (b) the installation and use, by or on behalf of the Crown, of wireless telegraphy apparatus;
 - (c) any grant of recognised spectrum access made to the Crown.
- (2) The payments made under this section are to be made –
 - (a) at such times, and
 - (b) so far as made in relation to use, in relation to such periods, as the Secretary of State considers appropriate.

29 Limitations on authorised spectrum use

- (1) If they consider it appropriate to impose limitations on the use of particular frequencies for the purpose of securing the efficient use of the electromagnetic spectrum, OFCOM must make an order imposing the limitations.
- (2) An order under this section may do one or both of the following –
 - (a) specify frequencies for the use of which OFCOM will grant or make only a limited number of wireless telegraphy licences and grants of recognised spectrum access; or
 - (b) specify uses for which, on specified frequencies, OFCOM will grant or make only a limited number of wireless telegraphy licences and grants of recognised spectrum access.
- (3) Where OFCOM make an order under this section, it must set out the criteria which OFCOM will apply in determining in accordance with the order –
 - (a) the limit on the number of wireless telegraphy licences and grants of recognised spectrum access to be granted or made for the specified frequencies or uses;
 - (b) the persons to whom licences will be granted or grants of recognised spectrum access made.
- (4) OFCOM must satisfy themselves that any criteria set out as a result of subsection (3) are –
 - (a) objectively justifiable in relation to the frequencies or uses to which they relate;
 - (b) not such as to discriminate unduly against particular persons or against a particular description of persons;
 - (c) proportionate to what they are intended to achieve; and
 - (d) in relation to what they are intended to achieve, transparent.

- (5) OFCOM must exercise –
 - (a) their powers under Chapter 1 of this Part with respect to wireless telegraphy licences, and
 - (b) their powers under Chapter 2 of this Part with respect to grants of recognised spectrum access,
 in accordance with the orders for the time being in force under this section.
- (6) OFCOM must keep under review any order for the time being in force under this section.
- (7) OFCOM must make an order revoking or amending the provisions of an order under this section if, on reviewing it, they consider it necessary to do so for the purpose of securing the efficient use of the electromagnetic spectrum.
- (8) An order under this section may make provision by reference to determinations which –
 - (a) are made from time to time by OFCOM in accordance with the provisions of such an order; and
 - (b) are published by them from time to time in such manner as may be provided for in such an order.

30 Spectrum trading

* * * * *

Wireless telegraphy register

31 Wireless telegraphy register

- (1) OFCOM may by regulations make provision for the establishment and maintenance of a register of relevant information.
- (2) OFCOM may include relevant information in the register if, and only if, it is relevant information of a description prescribed by regulations under this section.
- (3) Information is relevant information for the purposes of subsection (1) if it relates to –
 - (a) the grant, renewal, transfer, variation or revocation of wireless telegraphy licences; or
 - (b) the making, renewal, transfer, modification or revocation of grants of recognised spectrum access.
- (4) Subject to such conditions (including conditions as to payment) as may be prescribed by regulations under this section, a register established by virtue of subsection (1) is to be open to inspection by the public.

*Statistical information***32 Statistical information**

- (1) OFCOM may require a person who is using or has established, installed or used a wireless telegraphy station or wireless telegraphy apparatus to provide OFCOM with all such information relating to –
 - (a) the establishment, installation or use of the station or apparatus, and
 - (b) any related matters,as OFCOM may require for statistical purposes.
- (2) Subsection (1) has effect subject to the following provisions of this section.
- (3) OFCOM may not require the provision of information under this section except –
 - (a) by a demand for information that sets out OFCOM's reasons for requiring the information and the statistical purposes for which it is required; and
 - (b) where the making of a demand for that information is proportionate to the use to which the information is to be put in the carrying out of OFCOM's functions.
- (4) A demand for information required under this section must be contained in a notice given to the person from whom the information is required.
- (5) A person required to give information under this section must provide it in such manner and within such reasonable period as may be specified by OFCOM.

33 Failure to provide information etc

- (1) A person commits an offence if he fails to provide information in accordance with a requirement of OFCOM under section 32.
- (2) In proceedings against a person for an offence under subsection (1) it is a defence for the person to show –
 - (a) that it was not reasonably practicable for him to comply with the requirement within the period specified by OFCOM; but
 - (b) that he has taken all reasonable steps to provide the required information after the end of that period.
- (3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding [level 2] on the standard scale.
- (4) A person commits an offence if –
 - (a) in pursuance of a requirement under section 32, he provides information that is false in any material particular; and

- (b) at the time he provides it, he knows it to be false or is reckless as to whether or not it is false.
- (5) A person who commits an offence under subsection (4) is liable on summary conviction to a fine not exceeding [level 4] on the standard scale.

34 Statement of policy

- (1) OFCOM must prepare and publish a statement of their general policy with respect to –
 - (a) the exercise of their powers under section 32; and
 - (b) the uses to which they are proposing to put information obtained under that section.
- (2) OFCOM may from time to time revise that statement as they think fit.
- (3) Where OFCOM make a statement under this section (or revise it), they must publish the statement (or the revised statement) in such manner as they consider appropriate for bringing it to the attention of persons who, in their opinion, are likely to be affected by it.
- (4) OFCOM must, in exercising their powers under section 32, have regard to the statement for the time being in force under this section.

CHAPTER 4

ENFORCEMENT

Unauthorised use etc.

35 Unauthorised use etc. of wireless telegraphy station or apparatus

- (1) A person commits an offence if he contravenes section 8.
- (2) A person who commits an offence under this section consisting in the establishment or use of a wireless telegraphy station, or the installation or use of wireless telegraphy apparatus, for the purpose of making a broadcast is [liable to imprisonment for a term not exceeding two years or to a fine or to both.]
- (3) * * * *
- (4) A person who commits an offence under this section consisting in the installation or use of receiving apparatus is liable [to a fine not exceeding level 2 on the standard scale.]
- (5) A person who commits an offence under this section other than one falling within subsection (2) or (4) is liable [to imprisonment for a term not exceeding one year or to a fine not exceeding level 3 on the standard scale, or to both.]
- (6) * * * *
- (7) In this section “broadcast” has the same meaning as in Part 5.

36 Keeping available for unauthorised use

- (1) A person who has a wireless telegraphy station or wireless telegraphy apparatus in his possession or under his control commits an offence if –
 - (a) he intends to use it in contravention of section 8; or
 - (b) he knows, or has reasonable cause to believe, that another person intends to use it in contravention of that section.
- (2) A person who commits an offence under this section where the relevant contravention of section 8 would constitute an offence to which section 35(2) applies is [liable to imprisonment for a term not exceeding two years or to a fine, or to both.]
- (3) * * * * *
- (4) A person who commits an offence under this section in relation to receiving apparatus is liable [to a fine not exceeding level 2 on the standard scale.]
- (5) A person who commits an offence under this section other than one falling within subsection (2) or (4) is liable [to imprisonment for a term not exceeding one year or to a fine not exceeding level 4 on the standard scale, or to both.]
- (6) * * * * *

37 Allowing premises to be used for unlawful broadcasting

- (1) A person who is in charge of premises that are used for unlawful broadcasting commits an offence if –
 - (a) he knowingly causes or permits the premises to be so used; or
 - (b) he has reasonable cause to believe that the premises are being so used but fails to take such steps as are reasonable in the circumstances of the case to prevent them from being so used.
- (2) A person who commits an offence under this section is [liable to imprisonment for a term not exceeding two years or to a fine, or to both.]
- (3) * * * * *
- (4) For the purposes of this section a person is in charge of premises if –
 - (a) he is the owner or occupier of the premises; or
 - (b) he has, or acts or assists in, the management or control of the premises.
- (5) For the purposes of this section premises are used for unlawful broadcasting if they are used –
 - (a) for making an unlawful broadcast; or
 - (b) for sending signals for the operation or control of apparatus used for the purpose of making an unlawful broadcast from another place.
- (6) For the purposes of this section a broadcast is unlawful if –

- (a) it is made by means of the use of a wireless telegraphy station or wireless telegraphy apparatus in contravention of section 8; or
 - (b) the making of the broadcast contravenes a provision of Part 5.
- (7) In this section –
 - “broadcast” has the same meaning as in Part 5;
 - “premises” includes any place and, in particular, includes –
 - (a) a vehicle, ship or aircraft; and
 - (b) a structure or other object (whether movable or not, and whether on land or not).

38 Facilitating unauthorised broadcasting

- (1) This section applies in the case of a broadcasting station from which unauthorised broadcasts are made.
- (2) A person commits an offence if –
 - (a) he participates in the management, financing, operation or day-to-day running of the broadcasting station knowing, or having reasonable cause to believe, that unauthorised broadcasts are made by the station;
 - (b) he supplies, installs, repairs or maintains wireless telegraphy apparatus or any other item knowing, or having reasonable cause to believe –
 - (i) that the apparatus or other item is to be, or is, used for the purpose of facilitating the operation or day-to-day running of the broadcasting station, and
 - (ii) that unauthorised broadcasts are made by the station;
 - (c) he renders any other service to a person knowing, or having reasonable cause to believe –
 - (i) that the rendering of the service to the person will facilitate the operation or day-to-day running of the broadcasting station, and
 - (ii) that unauthorised broadcasts are made by the station;
 - (d) he supplies a film or sound recording knowing, or having reasonable cause to believe, that an unauthorised broadcast of it is to be made by the broadcasting station;
 - (e) he makes a literary, dramatic or musical work knowing, or having reasonable cause to believe, that an unauthorised broadcast of it is to be made by the broadcasting station;
 - (f) he makes an artistic work knowing, or having reasonable cause to believe, that an unauthorised broadcast including that work is to be made by the broadcasting station;

- (g) he participates in an unauthorised broadcast made by the broadcasting station knowing, or having reasonable cause to believe, that unauthorised broadcasts are made by the station;
 - (h) he advertises, or invites another to advertise, by means of an unauthorised broadcast made by the broadcasting station knowing, or having reasonable cause to believe, that unauthorised broadcasts are made by the station;
 - (i) he publishes the times or other details of unauthorised broadcasts made by the broadcasting station, or (otherwise than by publishing such details) publishes an advertisement of matter calculated to promote the station (whether directly or indirectly), knowing, or having reasonable cause to believe, that unauthorised broadcasts are made by the station.
- (3) For the purposes of this section a person participates in a broadcast only if he is actually present –
- (a) as an announcer;
 - (b) as a performer or one of the performers concerned in an entertainment given; or
 - (c) as the deliverer of a speech.
- (4) The cases in which a person is to be taken for the purposes of this section as advertising by means of a broadcast include any case in which he causes or allows it to be stated, suggested or implied that entertainment included in the broadcast –
- (a) has been supplied by him; or
 - (b) is provided wholly or partly at his expense.
- (5) In proceedings for an offence under this section consisting in supplying a thing or rendering a service, it is a defence for the defendant to prove that he was obliged, under or by virtue of any enactment, to supply the thing or render the service.
- (6) A person who commits an offence under this section is [liable to imprisonment for a term not exceeding two years or to a fine, or to both.]
- (7) * * * * *
- (8) In this section –
- “broadcast” has the same meaning as in Part 5;
- “broadcasting station” means a business or other operation (whether or not in the nature of a commercial venture) that is engaged in the making of broadcasts;
- “unauthorised broadcast” means a broadcast made by means of the use of a wireless telegraphy station or wireless telegraphy apparatus in contravention of section 8.

*Procedures for contraventions***39 Contravention of terms, etc.**

- (1) Where OFCOM determine that there are reasonable grounds for believing that a person is contravening, or has contravened –
 - (a) a term, provision or limitation of a wireless telegraphy licence, or
 - (b) a term, provision or limitation of an exemption under section 8(3),they may give that person a notification under this section.
- (2) A notification under this section –
 - (a) sets out the determination made by OFCOM;
 - (b) specifies the term, provision or limitation, and the contravention, in respect of which that determination has been made; and
 - (c) specifies the period during which the person notified has an opportunity of doing the things specified in subsection (3).
- (3) The things are –
 - (a) making representations about the matters notified; and
 - (b) complying with any notified term, provision or limitation of which he remains in contravention.
- (4) Subject to subsections (5) to (7), the period for doing those things must be the period of one month beginning with the day after the one on which the notification was given.
- (5) OFCOM may, if they think fit, allow a longer period for doing those things –
 - (a) by specifying a longer period in the notification; or
 - (b) by subsequently, on one or more occasions, extending the specified period.
- (6) The person notified has a shorter period for doing those things if a shorter period is agreed between OFCOM and the person notified.
- (7) The person notified also has a shorter period if –
 - (a) OFCOM have reasonable grounds for believing that the case is a case of repeated contravention;
 - (b) they have determined that, in those circumstances, a shorter period would be appropriate; and
 - (c) the shorter period has been specified in the notification.

40 Repeated contravention

- (1) For the purposes of section 39 a contravention is a repeated contravention, in relation to a notification with respect to that contravention, if –

- (a) in the case of a contravention of a term, provision or limitation of a wireless telegraphy licence, it falls within subsection (2) or (3); or
 - (b) in the case of a contravention of a term, provision or limitation of an exemption under section 8(3), it falls within subsection (4) or (5).
- (2) A contravention of a term, provision or limitation of a wireless telegraphy licence falls within this subsection if –
 - (a) a previous notification under section 39 has been given in respect of the same contravention or in respect of another contravention of a term, provision or limitation of the same licence;
 - (b) the person who was given that notification subsequently took steps for remedying the notified contravention; and
 - (c) the subsequent notification is given no more than 12 months after the day of the giving of the previous notification.
- (3) A contravention of a term, provision or limitation of a wireless telegraphy licence falls within this subsection if –
 - (a) the person concerned has been convicted of an offence under section 35 in respect of the contravention to which the notification relates or in respect of another contravention of a term, provision or limitation of the same licence; and
 - (b) the subsequent notification is given before the end of the period of 12 months from the contravention in respect of which that person was convicted of that offence.
- (4) A contravention of a term, provision or limitation of an exemption falls within this subsection if –
 - (a) a previous notification under section 39 has been given in respect of the same contravention or in respect of another contravention of the same term, provision or limitation;
 - (b) the person who was given that notification subsequently took steps for remedying the notified contravention; and
 - (c) the subsequent notification is given no more than 12 months after the day of the giving of the previous notification.
- (5) A contravention of a term, provision or limitation of an exemption falls within this subsection if –
 - (a) the person concerned has been convicted of an offence under section 35 in respect of the contravention to which the notification relates or in respect of another contravention of the same term, provision or limitation; and
 - (b) the subsequent notification is given before the end of the period of 12 months from the contravention in respect of which that person was convicted of that offence.
- (6) In calculating the periods of 12 months mentioned in subsections (3)(b) and (5)(b), the period between the institution of the criminal proceedings which led to the conviction and the conclusion of those proceedings is to be left out of account.

- (7) For the purposes of subsection (6) criminal proceedings are taken to be concluded when no further appeal against conviction may be brought without the permission of the court and –
 - (a) in a case where there is no fixed period within which that permission can be sought, permission has been refused or has not been sought; or
 - (b) in a case where there is a fixed period within which that permission can be sought, that permission has been refused or that period has expired without permission having been sought.
- (8) References to remedying a contravention include references to –
 - (a) doing any thing the failure to do which, or the failure to do which within a particular period or before a particular time, constituted the whole or a part of the contravention;
 - (b) paying an amount to a person by way of compensation for loss or damage suffered by that person in consequence of the contravention;
 - (c) paying an amount to a person by way of compensation in respect of annoyance, inconvenience or anxiety to which he has been put in consequence of the contravention;
 - (d) otherwise acting in a manner that constitutes an acknowledgement that the notified contravention did occur.
- (9) References to a contravention of a term, provision or limitation of a wireless telegraphy licence include references to a contravention of a term, provision or limitation contained in a previous licence of which the licence in question is a direct or indirect renewal.

41 Procedure for prosecutions

- (1) This section applies to proceedings against a person (“the defendant”) for an offence under section 35 consisting in the contravention of –
 - (a) the terms, provisions or limitations of a wireless telegraphy licence; or
 - (b) the terms, provisions or limitations of an exemption under section 8(3).
- (2) Proceedings to which this section applies are not to be brought unless, before they are brought, OFCOM have –
 - (a) given the defendant a notification under section 39 in respect of the contravention to which the proceedings relate; and
 - (b) considered any representations about the matters notified which were made by the defendant within the period allowed under that section.
- (3) Proceedings to which this section applies are not to be brought against a person in respect of a contravention if –
 - (a) it is a contravention to which a notification given to that person under section 39 relates; and

- (b) that person has, during the period allowed under that section, complied with the notified term, provision or limitation.
- (4) Subsection (2) does not apply where OFCOM have certified that it would be inappropriate to follow the procedure in section 39 because of an immediate risk of –
 - (a) a serious threat to the safety of the public, to public health or to national security; or
 - (b) serious economic or operational problems for persons (other than the defendant) who –
 - (i) use wireless telegraphy stations or wireless telegraphy apparatus; or
 - (ii) are communications providers or make associated facilities available.
- (5) Where –
 - (a) proceedings to which this section applies are as a result of subsection (4) brought without a notification having been given to the defendant, and
 - (b) the defendant is convicted in those proceedings of the offence under section 35,

the court, in determining how to deal with that person, must have regard, in particular, to the matters specified in subsection (6).

- (6) The matters are –
 - (a) whether the defendant has ceased to be in contravention of the terms, provisions or limitations in question and (if so) when; and
 - (b) any steps taken by the defendant (whether before or after the commencement of the proceedings) for securing compliance with the obligations imposed on him by virtue of those terms, provisions or limitations.
- (7) * * * *
- (8) * * * *

42 Special procedure for contraventions by multiplex licence holders

- (1) OFCOM may impose a penalty on a person if –
 - (a) that person is or has been in contravention in any respect of the terms, provisions or limitations of a general multiplex licence;
 - (b) the contravention relates to terms, provisions or limitations falling within section 9(4)(b) or (c);
 - (c) OFCOM have notified that person that it appears to them that those terms, provisions or limitations have been contravened in that respect; and
 - (d) that contravention is not one in respect of which proceedings for an offence under this Chapter have been brought against that person.

- (2) Where OFCOM impose a penalty on a person under this section, they must –
 - (a) notify that person of that decision and of their reasons for that decision; and
 - (b) in that notification, fix a reasonable period after it is given as the period within which the penalty is to be paid.
- (3) A penalty imposed under this section –
 - (a) must be paid to OFCOM; and
 - (b) if not paid within the period fixed by them, is to be recoverable by them accordingly.
- (4) No proceedings for an offence under this Chapter may be commenced against a person in respect of a contravention in respect of which a penalty has been imposed by OFCOM under this section.
- (5) A licence is a general multiplex licence, in relation to the time of a contravention, if –
 - (a) it is a wireless telegraphy licence containing terms, provisions or limitations as a result of which the services for the purposes of which the use of the licensed station or apparatus is authorised are confined to, or are allowed to include, one or more multiplex services; and
 - (b) at that time, there is no licence under Part 1 or 2 of the Broadcasting Act 1996 (c. 55) in force in respect of a multiplex service to be broadcast using that station or apparatus.
- (6) “Multiplex service” means –
 - (a) a service for broadcasting for general reception consisting in the packaging together of two or more services that are provided for inclusion together in that service by a combination of the relevant information in digital form; or
 - (b) a service provided with a view to its being a service falling within paragraph (a) but in the case of which only one service is for the time being comprised in digital form in what is provided.

43 Amount of penalty under section 42

- (1) The amount of a penalty imposed under section 42 is to be such amount as OFCOM think fit.
- (2) But the amount of the penalty may not exceed the greater of –
 - (a) £250,000; and
 - (b) 5 per cent. of the relevant amount of gross revenue.
- (3) In subsection (2) “the relevant amount of gross revenue” means the amount specified in section 44.
- (4) * * * *
- (5) * * * *

44 Relevant amount of gross revenue

- (1) The relevant amount of gross revenue for the purposes of section 43, in relation to a penalty imposed on a person, is –
 - (a) where the last accounting period of that person which falls before the contravention was a period of 12 months, the relevant part of his gross revenue for that period; and
 - (b) in any other case, the amount which, by making any appropriate apportionments or other adjustments of the relevant part of his gross revenue for the accounting period or periods mentioned in subsection (2), is computed to be the amount representing the annual rate for the relevant part of his gross revenue.
- (2) The accounting period or periods referred to in subsection (1) are –
 - (a) every accounting period of his to end within the period of 12 months immediately preceding the contravention; and
 - (b) if there is no such accounting period, the accounting period of his which is current at the time of the contravention.
- (3) A reference to the relevant part of a person's gross revenue, in relation to a contravention of the terms, provisions or limitations of a licence, is a reference to so much of his gross revenue as is attributable to the provision of the service to which that licence relates.
- (4) For the purposes of this section –
 - (a) the gross revenue of a person for a period, and
 - (b) the extent to which a part of a person's gross revenue is attributable to the provision of any service,is to be ascertained in accordance with such principles as may be set out in a statement made by OFCOM.
- (5) Such a statement may provide for the amount of a person's gross revenue for an accounting period that is current when the amount falls to be calculated to be taken to be the amount estimated by OFCOM, in accordance with the principles set out in the statement, to be the amount that will be his gross revenue for that period.
- (6) OFCOM may revise a statement made under subsection (4) from time to time.
- (7) A statement made or revised under this section may set out different principles for different cases.
- (8) Before making or revising a statement under this section, OFCOM must consult the Secretary of State and the Treasury.
- (9) OFCOM must –
 - (a) publish the statement made under subsection (4) and every revision of it; and
 - [(b) send a copy of the statement and every such revision to the Treasurer of the States.]

- (10) Sections 32 and 33 are to apply for the purpose of ascertaining the amount of a person's gross revenue for any period for the purposes of section 43 and this section as they apply for the purpose of obtaining information for statistical purposes about matters relating to the establishment, installation or use by that person of a wireless telegraphy station or wireless telegraphy apparatus.
- (11) In this section –
- “accounting period”, in relation to a person, means a period in respect of which accounts of the undertaking carried on by him are prepared or, if one such period is comprised in another, whichever of those periods is or is closest to a 12 month period;
- “gross revenue”, in relation to a person, means the gross revenue of an undertaking carried on by that person.

CHAPTER 5

MISCELLANEOUS

Regulations about wireless telegraphy

45 Regulations

- (1) OFCOM may make regulations prescribing the things that are to be done, or not done, in connection with the use of a wireless telegraphy station or wireless telegraphy apparatus.
- (2) Regulations under subsection (1) may, in particular, require the use of a wireless telegraphy station or wireless telegraphy apparatus to cease on the demand of such persons as may be prescribed by or under the regulations.
- (3) OFCOM may make regulations imposing on a person –
- (a) to whom a wireless telegraphy licence relating to a wireless telegraphy station or wireless telegraphy apparatus is granted, or
 - (b) who is in possession or control of such a station or such apparatus, the obligations mentioned in subsection (4).
- (4) The obligations are –
- (a) obligations as to permitting and facilitating the inspection of the station or apparatus;
 - (b) obligations as to the condition in which the station or apparatus is to be kept;
 - (c) in the case of a station or apparatus for the establishment, installation or use of which a wireless telegraphy licence is necessary, obligations as to the production of the licence, or of such other evidence of the licensing of the station or apparatus as may be prescribed by the regulations.
- (5) OFCOM may make regulations requiring the holder of a wireless telegraphy licence in respect of which sums are or may become due after

the grant of the licence, or after its renewal, to keep and produce such accounts and records as may be specified in the regulations.

- (6) OFCOM may make regulations requiring the holder of a wireless telegraphy licence authorising the establishment or use of a wireless telegraphy station to exhibit at the station such notices as may be specified in the regulations.
- (7) Regulations under this section have effect subject to regulations under section 14.
- (8) Nothing in regulations under this section requires a person to concede any form of right of entry into a private dwelling-house for the purpose of permitting or facilitating the inspection of receiving apparatus.
- (9) The approval of the Secretary of State is required for the making by OFCOM of regulations under this section.
- (10) A statutory instrument containing regulations made by OFCOM under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

46 Offences

- (1) A person commits an offence if –
 - (a) he contravenes regulations made under section 45; or
 - (b) he causes or permits a wireless telegraphy station or wireless telegraphy apparatus to be used in contravention of regulations made under that section.
- (2) A person who commits an offence under this section consisting in a contravention, in relation to receiving apparatus, of regulations made under section 45 is [liable to a fine not exceeding level 2 on the standard scale.]
- (3) A person who commits an offence under this section other than one falling within subsection (2) is [liable to a fine not exceeding level 4 on the standard scale.]

Misuse of wireless telegraphy

47 Misleading messages

- (1) A person commits an offence if, by means of wireless telegraphy, he sends or attempts to send a message to which this section applies.
- (2) This section applies to a message which, to the person's knowledge –
 - (a) is false or misleading; and
 - (b) is likely to prejudice the efficiency of a safety of life service or to endanger the safety of a person or of a ship, aircraft or vehicle.
- (3) This section applies in particular to a message which, to the person's knowledge, falsely suggests that a ship or aircraft –
 - (a) is in distress or in need of assistance; or

- (b) is not in distress or not in need of assistance.
- (4) A person who commits an offence under this section is [liable to imprisonment for a term not exceeding two years or to a fine, or to both.]
- (5) * * * *

48 Interception and disclosure of messages

- (1) A person commits an offence if, otherwise than under the authority of a designated person –
 - (a) he uses wireless telegraphy apparatus with intent to obtain information as to the contents, sender or addressee of a message (whether sent by means of wireless telegraphy or not) of which neither he nor a person on whose behalf he is acting is an intended recipient, or
 - (b) he discloses information as to the contents, sender or addressee of such a message.
- (2) A person commits an offence under this section consisting in the disclosure of information only if the information disclosed by him is information that would not have come to his knowledge but for the use of wireless telegraphy apparatus by him or by another person.
- (3) A person does not commit an offence under this section consisting in the disclosure of information if he discloses the information in the course of legal proceedings or for the purpose of a report of legal proceedings.
- (4) A person who commits an offence under this section is [liable to a fine not exceeding level 4 on the standard scale.]
- [(5) “Designated person” means –
 - (a) the Attorney General of Jersey;
 - (b) any person designated for the purposes of this section and section 49 by the Attorney General of Jersey.]

49 Interception authorities

- (1) The conduct in relation to which a designated person may give an interception authority is not to include conduct falling within subsection (2), except where he believes that the conduct is necessary on grounds falling within subsection (5).
- [(2) Conduct falls within this subsection if it is –
 - (a) conduct that, if engaged in without lawful authority, constitutes an offence under Article 5(1) or (2) of the Regulation of Investigatory Powers (Jersey) Law 2005;
 - (b) conduct that, if engaged in without lawful authority, is actionable under Article 6 of that Law;
 - (c) conduct that is capable of being authorised by an authorisation or notice granted under Chapter 2 of Part 2 of that Law (Communications data); or

- (d) conduct that is capable of being authorised by an authorisation granted under Part 3 of that Law (surveillance etc).]
- (3) A designated person may not exercise his power to give an interception authority except where he believes –
 - (a) that the giving of his authority is necessary on grounds falling within subsection (4) or (5); and
 - (b) that the conduct authorised by him is proportionate to what is sought to be achieved by that conduct.
- (4) An interception authority is necessary on grounds falling within this subsection if it is necessary –
 - (a) in the interests of national security;
 - (b) for the purpose of preventing or detecting crime or of preventing disorder;
 - (c) in the interests of the economic well-being of [Jersey];
 - (d) in the interests of public safety;
 - (e) for the purpose of protecting public health;
 - (f) for the purpose of assessing or collecting a tax, duty, levy or other imposition, contribution or charge payable to a government department; or
 - (g) for any purpose (not falling within paragraphs (a) to (f)) that is specified for the purposes of this subsection by regulations made by the Secretary of State.
- (5) An interception authority is necessary on grounds falling within this subsection if it is not necessary on grounds falling within subsection (4)(a) or (c) to (g) but is necessary for purposes connected with –
 - (a) the grant of wireless telegraphy licences;
 - (b) the prevention or detection of anything that constitutes interference with wireless telegraphy; or
 - (c) the enforcement of –
 - (i) any provision of this Part (other than Chapter 2 and sections 27 to 31) or Part 3, or
 - (ii) any enactment not falling within sub-paragraph (i) that relates to interference with wireless telegraphy.
- (6) The matters to be taken into account in considering whether the requirements of subsection (3) are satisfied in the case of the giving of an interception authority include whether what it is thought necessary to achieve by the authorised conduct could reasonably be achieved by other means.
- [(7) An interception authority must be in writing under the hand of the Attorney General of Jersey.]
- (8) An interception authority may be general or specific and may be given –

- (a) to such person or persons, or description of persons,
 - (b) for such period, and
 - (c) subject to such restrictions and limitations,
as the designated person thinks fit.
- (9) * * * *
- (10) For the purposes of this section the question whether a person's conduct is capable of being authorised under Chapter 2 of [Part 2] of the Regulation of Investigatory Powers [(Jersey) Law 2005] or under [Part 3] of that [Law] is to be determined without reference –
- (a) to whether the person is someone upon whom a power or duty is or may be conferred or imposed by or under that Chapter or that Part;
or
 - (b) to whether there are grounds for believing that the requirements for the grant of an authorisation or the giving of a notice under that Chapter or that Part are satisfied.
- (11) References in this section to an interception authority are references to an authority for the purposes of section 48 given otherwise than by way of the issue or renewal of a warrant, authorisation or notice under [Part 2 or 3] of the Regulation of Investigatory Powers [(Jersey) Law 2005].
- [(12) In this section “crime” has the meaning given by Article 1(1) of the Regulation of Investigatory Powers (Jersey) Law 2005.]

Miscellaneous

50 Apparatus on foreign-registered ships etc

- (1) The Secretary of State may make regulations for regulating the use, on board a foreign-registered ship or aircraft while it is within the limits of [Jersey and Jersey's territorial sea], of wireless telegraphy apparatus on board the ship or aircraft.
- (2) The regulations may provide –
 - (a) for the punishment of persons contravening the regulations by a fine;
 - (b) for the forfeiture of any wireless telegraphy apparatus in respect of which an offence under the regulations is committed.
- [(3) Any Regulations made under subsection (2) above, which specify a penalty for an offence against those Regulations by reference to a level on the standard scale, shall have effect in relation to Jersey as if for each such reference there were substituted a reference to the next lower level in the standard scale as defined in section 115.]
- (4) The regulations may make different provision for ships or aircraft registered in different countries.
- (5) Except as provided by this section or in consequence of an Order in Council under section 119(3), nothing in sections 8 to 11, 35 to 38, 45 to 49, 105 and 119 operates so as to impose any prohibition or restriction on

persons using wireless telegraphy apparatus on board a foreign-registered ship or aircraft.

- (6) A foreign-registered ship or aircraft is one that –
 - (a) is not registered in [Jersey]; and
 - (b) is registered in a country other than the United Kingdom, the Isle of Man or [the Bailiwick of Guernsey].

51 Apparatus in vehicles

* * * * *

52 Wireless personnel

- (1) The Secretary of State may –
 - (a) hold examinations to determine the competence of the persons examined to fill positions in connection with the operation of wireless telegraphy stations or wireless telegraphy apparatus;
 - (b) issue certificates of competence to persons successful in such examinations.
- (2) The certificates of competence are to be of such types as the Secretary of State may from time to time determine.
- (3) The Secretary of State may issue written authorities to such persons as he thinks fit authorising them to fill such positions in connection with the operation of wireless telegraphy stations or wireless telegraphy apparatus as may be specified in the authority.
- (4) The positions that may be so specified are positions for the holding of which the possession of an authority under subsection (3) is a necessity or a qualification under –
 - (a) a wireless telegraphy licence granted under this Act, or
 - (b) a licence granted under a corresponding law of a country or territory under the sovereignty of Her Majesty.
- (5) If it appears to the Secretary of State that there are sufficient grounds to do so, he may at any time suspend an authority under subsection (3) with a view to its revocation.
- (6) Schedule 3 has effect where an authority is suspended under subsection (5).
- (7) The Secretary of State may charge such fees, if any, as he may determine –
 - (a) to persons applying to take part in an examination under this section;
 - (b) to applicants for, or for copies of, a certificate or authority issued under this section.

53 Surrender of authority

- (1) Where an authority under section 52(3) has ceased to be in force or has been suspended, it is the duty of –
 - (a) the person to whom the authority was issued, and
 - (b) any other person in whose possession or under whose control the authority may be,to cause it to be surrendered to the Secretary of State if required by the Secretary of State to do so.
- (2) A person commits an offence if –
 - (a) he has a duty under subsection (1) to cause an authority under section 52(3) to be surrendered to the Secretary of State, and
 - (b) without reasonable excuse he fails or refuses to do so.
- (3) A person who commits an offence under subsection (2) is liable
* * * to a fine not exceeding [level 2] on the standard scale.

PART 3**REGULATION OF APPARATUS***Undue interference***54 Regulations about use and sale etc. of apparatus**

- (1) OFCOM may make regulations prescribing the requirements to be complied with in the case of apparatus specified in the regulations, if the apparatus is to be used.
- (2) OFCOM may make regulations prescribing the requirements to be complied with in the case of apparatus specified in the regulations, if the apparatus is to be –
 - (a) sold otherwise than for export,
 - (b) offered or advertised for sale otherwise than for export, or
 - (c) let on hire, or offered or advertised for letting on hire,by a person who manufactures, assembles or imports such apparatus in the course of business.
- (3) The requirements prescribed under subsection (1) or (2) are to be such requirements as OFCOM think fit for the purpose of ensuring that the use of the apparatus does not cause undue interference with wireless telegraphy.
- (4) In particular, the requirements may include –
 - (a) requirements as to the maximum intensity of electromagnetic energy of specified frequencies that may be radiated in any direction from the apparatus while it is being used;

- (b) in the case of apparatus the power for which is supplied from electric lines, requirements as to the maximum electromagnetic energy of specified frequencies that may be injected into those lines by the apparatus.
- (5) The apparatus which may be specified in the regulations under subsection (1) or (2) is apparatus which generates, or is designed to generate, or is liable to generate fortuitously, electromagnetic energy at frequencies not exceeding 3,000 gigahertz.
- (6) In a case where apparatus does not comply with the requirements applicable to it under regulations made under subsection (1) or (2), a person does not act unlawfully only because –
 - (a) he uses the apparatus, or
 - (b) he sells it, or offers or advertises it for sale, or lets it on hire or offers or advertises it for letting on hire.

But the non-compliance is a ground for the giving of a notice under section 55 or 56.
- (7) The approval of the Secretary of State is required for the making by OFCOM of regulations under this section.
- (8) * * * * *

55 Enforcement: use of apparatus

- (1) This section applies where, in the opinion of OFCOM –
 - (a) apparatus does not comply with the requirements applicable to it under regulations made under section 54(1); and
 - (b) the first or second condition is satisfied in relation to the apparatus.
- (2) The first condition is that the use of the apparatus is likely to cause undue interference with wireless telegraphy used –
 - (a) for the purposes of a safety of life service; or
 - (b) for a purpose on which the safety of a person, or of a ship, aircraft or vehicle, may depend.
- (3) The second condition is that –
 - (a) the use of the apparatus is likely to cause undue interference with wireless telegraphy other than wireless telegraphy falling within subsection (2);
 - (b) the use of the apparatus in fact has caused, or is causing, such interference; and
 - (c) the case is one where OFCOM consider that all reasonable steps to minimise interference have been taken in relation to the wireless telegraphy station or wireless telegraphy apparatus receiving the telegraphy interfered with.
- (4) OFCOM may give a notice in writing to the person in possession of the apparatus –

- (a) prohibiting the use of the apparatus after a date fixed by the notice, whether by the person to whom the notice is given or otherwise; or
 - (b) (if OFCOM think fit so to frame the notice) prohibiting the use of the apparatus after a date fixed by the notice except in such way, at such times and in such circumstances as the notice may specify.
- (5) The date fixed by a notice under subsection (4) must be not less than 28 days from the date on which the notice is given.
- (6) But if OFCOM are satisfied that the use of the apparatus in question is likely to cause such undue interference as is described in subsection (2), the date fixed by a notice under subsection (4) may be the date on which the notice is given.
- (7) A notice under subsection (4) may be revoked or varied by a subsequent notice in writing from OFCOM given to the person who is then in possession of the apparatus.
- (8) Where a notice under subsection (7) has the effect of imposing additional restrictions on the use of the apparatus, the provisions of this section about the coming into force of notices apply in relation to the notice as if it were a notice under subsection (4).

56 Enforcement: sale etc. of apparatus

- (1) This section applies where, in the opinion of OFCOM, apparatus does not comply with the requirements applicable to it under regulations made under section 54(2).
- (2) OFCOM may give a notice in writing to the person who, in the course of business, has manufactured, assembled or imported the apparatus, prohibiting him from –
 - (a) selling the apparatus otherwise than for export;
 - (b) offering or advertising it for sale otherwise than for export; or
 - (c) letting it on hire, or offering or advertising it for letting on hire.

57 Appeal against notice under section 55 or 56 etc

- (1) Where an appeal with respect to a notice under section 55 (or section 56) is pending –
 - (a) proceedings for an offence under section 58(1) (or section 58(4)) relating to that notice, whether instituted before or after the bringing of the appeal, are to be stayed until the appeal has been finally determined; and
 - (b) the proceedings are to be discharged if the notice is set aside in consequence of the appeal.
- (2) But subsection (1) does not affect proceedings in which a person has been convicted at a time when there was no pending appeal.
- (3) For the purposes of this section an appeal under section 192 of the Communications Act 2003 (c. 21) with respect to a notice under

section 55 (or section 56) or a further appeal relating to the decision on such an appeal is pending unless –

- (a) that appeal has been brought to a conclusion or withdrawn and there is no further appeal pending in relation to the decision on the appeal; or
- (b) no further appeal against a decision made on the appeal or on any such further appeal may be brought without the permission of the court and –
 - (i) in a case where there is no fixed period within which that permission can be sought, that permission has been refused or has not been sought, or
 - (ii) in a case where there is a fixed period within which that permission can be sought, that permission has been refused or that period has expired without permission having been sought.

(4) * * * *

(5) * * * *

58 Contravening notice under section 55 or 56

- (1) A person commits an offence if –
 - (a) he uses apparatus, or causes or permits apparatus to be used, knowing that a notice under section 55 is in force with respect to it; and
 - (b) the use of the apparatus contravenes the notice.
- (2) A person who commits an offence under subsection (1) is liable * * * _
 - (a) if the offence is one that falls within subsection (6), to a fine not exceeding [level 4] on the standard scale;
 - (b) otherwise, to a fine not exceeding [level 2] on the standard scale.
- (3) * * * *
- (4) A person commits an offence if he contravenes the provisions of a notice given to him under section 56 (unless the notice has previously been revoked by OFCOM).
- (5) A person who commits an offence under subsection (4) is liable * * * _
 - (a) if the offence is one that falls within subsection (6), to a fine not exceeding [level 4] on the standard scale;
 - (b) otherwise, to a fine not exceeding [level 2] on the standard scale.
- (6) An offence falls within this subsection if it involves or consists in a contravention of a notice under section 55 or 56 in relation to apparatus the use of which is likely to cause undue interference with wireless telegraphy used –

- (a) for the purpose of a safety of life service; or
- (b) for a purpose on which the safety of a person, or of a ship, aircraft or vehicle, may depend.

59 Entry and search of premises etc.

- (1) [The Bailiff] may issue an authorisation under this section if he is satisfied, on an application supported by sworn evidence, that –
 - (a) there is reasonable ground for believing that there is to be found, on specified premises or in a specified ship, aircraft or vehicle, apparatus that does not comply with the requirements applicable to it under regulations made under section 54;
 - (b) it is necessary to enter those premises, or that ship, aircraft or vehicle, for the purpose of obtaining information that will enable OFCOM to decide whether or not to give a notice under section 55 or 56; and
 - (c) within the period of 14 days before the date of the application to the [Bailiff], access to the premises, ship, aircraft or vehicle for the purpose of obtaining such information –
 - (i) has been demanded by a person authorised for the purpose by OFCOM, who has produced sufficient documentary evidence of his identity and authority; but
 - (ii) has been refused.
- (2) But the [Bailiff] may not issue an authorisation unless the first or second condition is fulfilled as regards the application.
- (3) The first condition is that it is shown to the [Bailiff] that OFCOM are satisfied that there is reasonable ground for believing that the use of the apparatus in question is likely to cause undue interference with wireless telegraphy used –
 - (a) for the purposes of a safety of life service; or
 - (b) for a purpose on which the safety of a person, or of a ship, aircraft or vehicle, may depend.
- (4) The second condition is that it is shown to the [Bailiff] that –
 - (a) at least seven days before the demand was made, notice that access would be demanded was given to the occupier of the premises or (as the case may be) the person in possession or the person in charge of the ship, aircraft or vehicle;
 - (b) the demand for access was made at a reasonable hour; and
 - (c) it was unreasonably refused.
- (5) An authorisation under this section is an authorisation empowering a person or persons authorised for the purpose by OFCOM, [accompanied by a police officer] –
 - (a) to enter the premises or (as the case may be) the ship, aircraft or vehicle and any premises on which it may be;

- (b) to search the premises, ship, aircraft or vehicle with a view to discovering whether apparatus falling within subsection (1)(a) is there;
- (c) if he or they find such apparatus there, to examine and test it with a view to obtaining the information mentioned in subsection (1)(b).
- (6) An authorisation under this section must be in writing and signed by the [Bailiff].
- (7) A [police officer accompanying a] person authorised by OFCOM to exercise a power conferred by this section may if necessary use reasonable force in the exercise of the power.
- (8) Subsection (7) does not affect any power exercisable * * * apart from that subsection.
- (9) Where under this section a person has a right to examine and test apparatus on premises or in a ship, aircraft or vehicle, any person who –
 - (a) is on the premises, or
 - (b) is in charge of, or in or in attendance on, the ship, aircraft or vehicle,
 must give him whatever assistance he may reasonably require in the examination or testing of the apparatus.
- (10) * * * *

60 Obstruction and failure to assist

- (1) A person commits an offence if –
 - (a) he intentionally obstructs a person in the exercise of the powers conferred on him under section 59; or
 - (b) he fails or refuses, without reasonable excuse, to give to such a person any assistance which, under that section, he is under a duty to give to him.
- (2) A person who commits an offence under this section is liable * * * to a fine not exceeding [level 4] on the standard scale.

61 Sections 54 to 60: interpretation

References in sections 54 to 60 to apparatus include references to any form of electric line.

Restriction orders

* * * *

*Deliberate interference***68 Deliberate interference**

- (1) A person commits an offence if he uses apparatus for the purpose of interfering with wireless telegraphy.
- (2) This section applies –
 - (a) whether or not the apparatus in question is wireless telegraphy apparatus;
 - (b) whether or not it is apparatus specified in regulations under section 54;
 - (c) whether or not a notice under section 55 or 56 has been given with respect to it, or, if given, has been varied or revoked.
- (3) A person who commits an offence under this section is [liable to imprisonment for a term not exceeding two years or to a fine, or to both.]
- (4) * * * * *

PART 4

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PART 5**PROHIBITION OF BROADCASTING FROM SEA OR AIR***Prohibitions***77 Broadcasting from ships and aircraft**

- (1) It is unlawful –
 - (a) in the case of any ship or aircraft, to make a broadcast from it while it is in or over [Jersey] or external waters; or
 - (b) in the case of a British-registered ship or British-registered aircraft, to make a broadcast from it while it is not in or over [Jersey] or external waters.
- (2) If a broadcast is made from a ship in contravention of subsection (1), an offence is committed by –
 - (a) the owner of the ship;
 - (b) the master of the ship; and
 - (c) a person who operates, or participates in the operation of, the apparatus by means of which the broadcast is made.
- (3) If a broadcast is made from an aircraft in contravention of subsection (1), an offence is committed by –

- (a) the operator of the aircraft;
 - (b) the commander of the aircraft; and
 - (c) a person who operates, or participates in the operation of, the apparatus by means of which the broadcast is made.
- (4) A person commits an offence if he procures a broadcast to be made in contravention of subsection (1).
- (5) In this section –
- “master”, in relation to a ship, includes any other person (except a pilot) who has command or charge of the ship;
- “operator”, in relation to an aircraft, means the person who at the relevant time has the management of the aircraft.

78 Broadcasting from marine structures etc.

- (1) This section applies to –
- (a) tidal waters in [Jersey];
 - (b) external waters;
 - (c) waters in a designated area.
- (2) It is unlawful to make a broadcast from –
- (a) a structure, other than a ship, that is affixed to, or supported by, the bed of waters to which this section applies, or
 - (b) any other object in those waters.
- (3) Subsection (2) does not apply by virtue of paragraph (b) to a broadcast made from a ship or aircraft.
- (4) A person commits an offence if he operates, or participates in the operation of, apparatus by means of which a broadcast is made in contravention of subsection (2).
- (5) A person commits an offence if he procures a broadcast to be made in contravention of subsection (2).

79 Broadcasting from prescribed areas of high seas

- (1) It is unlawful –
- (a) to make a broadcast that is capable of being received in [Jersey], or
 - (b) to make a broadcast that causes interference with any wireless telegraphy in [Jersey],
- from a ship (other than a British-registered ship) while it is within a prescribed area of the high seas.
- (2) If a broadcast is made in contravention of subsection (1), an offence is committed by –
- (a) the owner of the ship from which the broadcast is made;

- (b) the master of the ship; and
 - (c) a person who operates, or participates in the operation of, apparatus by means of which the broadcast is made.
- (3) A person commits an offence if he procures a broadcast to be made in contravention of subsection (1).
- (4) The making of a broadcast does not contravene subsection (1) if it is shown to have been authorised under the law of a country or territory outside [Jersey].
- (5) “Prescribed” means prescribed for the purposes of this section by an order made by the Secretary of State.

80 Acts connected with broadcasting

- (1) An [Island person] commits an offence if he operates, or participates in the operation of, apparatus by means of which a broadcast is made –
 - (a) from a ship (other than a British-registered ship) while it is on the high seas;
 - (b) from an aircraft (other than a British-registered aircraft) while it is on or over the high seas;
 - (c) from a structure (other than a ship) that is affixed to, or supported by, the bed of the high seas; or
 - (d) from an object on the high seas (other than a structure falling within paragraph (c), a ship or an aircraft).
- (2) Subsection (1) does not apply –
 - (a) by virtue of paragraph (a), to a broadcast made in contravention of section 79(1);
 - (b) by virtue of paragraph (c) or (d), to a broadcast made from a structure or other object in waters in a designated area.
- (3) A person commits an offence if he procures a broadcast to be made as mentioned in subsection (1).

81 Management of station

- (1) A person commits an offence if, from anywhere in [Jersey] or external waters, he participates in the management, financing, operation or day-to-day running of a broadcasting station by which broadcasts are made –
 - (a) in contravention of section 77(1), 78(2) or 79(1); or
 - (b) as mentioned in section 80(1)(a).
- (2) In this section “broadcasting station” means a business or other operation (whether or not in the nature of a commercial venture) that is engaged in the making of broadcasts.

82 Facilitating broadcasting from ships or aircraft

- (1) A person commits an offence if he provides a ship or aircraft to another, or agrees to do so, knowing, or having reasonable cause to believe, that broadcasts are to be made from it –
- (a) in contravention of section 77(1); or
 - (b) while it is on or over the high seas.
- (2) A person commits an offence if –
- (a) he carries wireless telegraphy apparatus in a ship or aircraft, or agrees to do so, or
 - (b) he supplies wireless telegraphy apparatus to a ship or aircraft, or installs such apparatus in a ship or aircraft,
- knowing, or having reasonable cause to believe, that by means of the apparatus broadcasts are to be made from the ship or aircraft as mentioned in subsection (1).
- (3) A person commits an offence if –
- (a) he supplies goods or materials –
 - (i) for the operation or maintenance of a ship or aircraft,
 - (ii) for the operation or maintenance of wireless telegraphy apparatus installed in a ship or aircraft, or
 - (iii) for the sustenance or comfort of the persons on board a ship or aircraft,
 - (b) he carries by water or air goods or persons to or from a ship or aircraft, or
 - (c) he engages a person as an officer or one of the crew of a ship or aircraft,
- knowing, or having reasonable cause to believe, that broadcasts are made, or are to be made, from the ship or aircraft as mentioned in subsection (1).
- (4) In proceedings for an offence under this section consisting in carrying goods or persons to or from a ship or aircraft, it is a defence for the defendant to prove –
- (a) that the ship or aircraft was, or was believed to be, wrecked, stranded or in distress, and that the goods or persons were carried for the purpose of –
 - (i) preserving the ship or aircraft, or its cargo or equipment, or
 - (ii) saving the lives of persons on board the ship or aircraft; or
 - (b) that a person on board the ship or aircraft was, or was believed to be, hurt, injured or ill, and that the goods or persons were carried for the purpose of securing that he received the necessary surgical or medical advice and attendance.

- (5) The reference in subsection (4)(a) to persons carried for the purpose of saving lives is not to be read as excluding the persons whose lives were to be saved.
- (6) The reference in subsection (4)(b) to persons carried for the purpose of securing that advice and attendance were received is not to be read as excluding the person who was (or was believed to be) hurt, injured or ill.
- (7) In proceedings for an offence under this section consisting in carrying a person (“A”) to or from a ship or aircraft, it is a defence for the defendant to prove that A was visiting the ship or aircraft for the purpose of exercising or performing a power or duty conferred or imposed on A by law.
- (8) This section is subject to section 86.

83 Facilitating broadcasting from structures etc.

- (1) A person commits an offence if he installs wireless telegraphy apparatus on or in a structure or other object, or supplies such apparatus for installation on or in a structure or other object, knowing, or having reasonable cause to believe, that by means of the apparatus broadcasts are to be made from it –
 - (a) in contravention of section 78(2); or
 - (b) while it is on the high seas.
- (2) A person commits an offence if, in the case of a structure or other object –
 - (a) he supplies goods or materials –
 - (i) for its maintenance,
 - (ii) for the operation or maintenance of wireless telegraphy apparatus installed in or on it, or
 - (iii) for the sustenance or comfort of the persons in or on it,
 - (b) he carries goods or persons to or from it by water or air, or
 - (c) he engages a person to render services in or on it,knowing, or having reasonable cause to believe, that broadcasts are made, or are to be made, from the structure or other object as mentioned in subsection (1).
- (3) In proceedings for an offence under this section consisting in carrying goods or persons to or from a structure or other object, it is a defence for the defendant to prove –
 - (a) that it was, or was believed to be, unsafe, and that the goods or persons were carried for the purpose of saving the lives of persons in or on it; or
 - (b) that a person in or on it was, or was believed to be, hurt, injured or ill, and that the goods or persons were carried for the purpose of securing that he received the necessary surgical or medical advice and attendance.

- (4) The reference in subsection (3)(a) to persons carried for the purpose of saving lives is not to be read as excluding the persons whose lives were to be saved.
- (5) The reference in subsection (3)(b) to persons carried for the purpose of securing that advice and attendance were received is not to be read as excluding the person who was (or was believed to be) hurt, injured or ill.
- (6) In proceedings for an offence under this section consisting in carrying a person (“A”) to or from a structure or other object, it is a defence for the defendant to prove that A was visiting it for the purpose of exercising or performing a power or duty conferred or imposed on A by law.
- (7) In this section references to a structure or other object do not include references to a ship or aircraft.
- (8) This section is subject to section 86.

84 Maintaining or repairing apparatus

- (1) A person commits an offence if he repairs or maintains wireless telegraphy apparatus knowing, or having reasonable cause to believe, that by means of it broadcasts are made, or are to be made –
 - (a) in contravention of section 77(1), 78(2) or 79(1); or
 - (b) as mentioned in section 80(1).
- (2) This section is subject to section 86.

85 Acts relating to broadcast material

- (1) A person commits an offence if –
 - (a) he supplies a film or sound recording knowing, or having reasonable cause to believe, that an unlawful broadcast is to be made of it;
 - (b) he makes a literary, dramatic or musical work knowing, or having reasonable cause to believe, that an unlawful broadcast is to be made of it;
 - (c) he makes an artistic work knowing, or having reasonable cause to believe, that it is to be included in an unlawful television broadcast;
 - (d) he participates in an unlawful broadcast;
 - (e) he advertises by means of an unlawful broadcast or invites another to advertise by means of an unlawful broadcast that is to be made;
 - (f) he publishes the times or other details of unlawful broadcasts that are to be made, or (otherwise than by publishing such details) publishes an advertisement of matter calculated to promote (whether directly or indirectly) the interests of a business whose activities consist in or include the operation of a station from which unlawful broadcasts are or are to be made.
- (2) An unlawful broadcast is a broadcast made –

- (a) in contravention of section 77(1), 78(2) or 79(1); or
 - (b) as mentioned in section 80(1).
- (3) A person participates in a broadcast only if he is actually present –
 - (a) as an announcer;
 - (b) as a performer or one of the performers concerned in an entertainment given; or
 - (c) as the deliverer of a speech.
- (4) The cases in which a person is to be taken for the purposes of this section as advertising by means of a broadcast include any case in which he causes or allows it to be stated, suggested or implied that entertainment included in the broadcast –
 - (a) has been supplied by him; or
 - (b) is provided wholly or partly at his expense.
- (5) For the purposes of this section advertising by means of a broadcast takes place not only where the broadcast is made but also wherever it is received.
- (6) This section is subject to section 86.

86 Facilitation offences: territorial scope

- (1) A person who does an act mentioned in section 82, 83, 84 or 85 does not commit an offence under that section unless condition A, B, C, D or E is satisfied.
- (2) Condition A is satisfied if he does the act in [Jersey] or external waters.
- (3) Condition B is satisfied if he does the act in a British-registered ship or British-registered aircraft while it is not in or over [Jersey] or external waters.
- (4) Condition C is satisfied if, in a case where –
 - (a) neither condition A nor condition B is satisfied, but
 - (b) the broadcasts in question are made, or are to be made, from a structure or other object (which is not a ship or aircraft) in waters in a designated area,he does the act on that structure or other object within those waters.
- (5) Condition D is satisfied if, in a case where –
 - (a) neither condition A nor condition B is satisfied, but
 - (b) the broadcasts in question are made, or are to be made, from a ship in contravention of section 79(1),he does the act in that ship within an area of the high seas that is prescribed for the purposes of section 79.
- (6) Condition E is satisfied if –
 - (a) he is [an Island person]; and

- (b) he does the act on or over the high seas.

87 Procuring person to commit offence abroad

A person commits an offence if he procures, in [Jersey], another person to do, outside [Jersey], anything that would have constituted an offence under sections 82 to 85 had the other person done it in [Jersey].

Enforcement

88 Enforcement officers

- (1) For the purposes of sections 89 to 92 enforcement officers are –
 - (a) persons authorised by the Secretary of State or OFCOM to exercise the powers conferred by sections 89 and 90;
 - (b) police officers;
 - (c) commissioned officers of Her Majesty's armed forces;
 - [(d) customs officers; and
 - (e) fisheries officers.]
- (2) A reference in sections 89 to 92, in relation to an enforcement officer, to an assistant is a reference to a person assigned to assist the enforcement officer in his duties.
- (3) In this section "armed forces" means the Royal Navy, the Royal Marines, the regular army and the regular air force, and a reserve or auxiliary force of any of those services that has been called out on permanent service or embodied.

89 Enforcement powers

- (1) If conditions A and B are satisfied in the case of a ship, structure or other object, an enforcement officer may, with or without assistants, exercise the powers mentioned in subsection (4) in relation to it.
- (2) Condition A is satisfied if the enforcement officer has reasonable grounds for suspecting that –
 - (a) an offence under this Part has been or is being committed by the making of a broadcast –
 - (i) from a ship, structure or other object in external waters or in tidal waters in [Jersey], or
 - (ii) from a British-registered ship while it is on the high seas;
 - (b) an offence under section 78 has been or is being committed by the making of a broadcast from a structure or other object in waters in a designated area; or
 - (c) an offence under section 79 has been or is being committed by the making of a broadcast from a ship.

- (3) Condition B is satisfied if a written authorisation has been issued by the Secretary of State or OFCOM for the exercise of the powers mentioned in subsection (4) in relation to that ship, structure or other object.
- (4) The powers are –
 - (a) to board and search the ship, structure or other object;
 - (b) to seize and detain it, and any apparatus or other thing found in the course of the search that appears to him –
 - (i) to have been used, or to have been intended to be used, in connection with the commission of the suspected offence, or
 - (ii) to be evidence of the commission of the suspected offence;
 - (c) to arrest and search any person who he has reasonable grounds to suspect has committed or is committing an offence under this Part if –
 - (i) the person is on board the ship, structure or other object, or
 - (ii) the officer has reasonable grounds for suspecting that the person was on board at, or shortly before, the time when the officer boarded the object;
 - (d) to arrest any person –
 - (i) who assaults him, or an assistant of his, while exercising any of the powers mentioned in this subsection, or
 - (ii) who intentionally obstructs him, or an assistant of his, in the exercise of any of those powers;
 - (e) to require any person on board the ship, structure or other object to produce any documents or other items that are in his custody or possession and are or may be evidence of the commission of an offence under this Part;
 - (f) to require any such person to do anything for the purpose of –
 - (i) enabling any apparatus or other thing to be rendered safe and, in the case of a ship, enabling the ship to be taken to a port, or
 - (ii) facilitating in any other way the exercise of any of the powers mentioned in this subsection;
 - (g) to use reasonable force, if necessary, in exercising any of those powers.
- (5) In subsection (4)(a) to (c) and (e) a reference to the ship, structure or other object includes a reference to a ship's boat, or other vessel, used from it.

90 Enforcement powers: facilitation offences

- (1) Subsection (2) applies if –
 - (a) a written authorisation has been issued by the Secretary of State or OFCOM under section 89(3) for the exercise of the powers

mentioned in section 89(4) in relation to a ship, structure or other object, and

- (b) an enforcement officer has reasonable grounds for suspecting that an offence under section 82, 83, 84 or 85 has been or is being committed in connection with the making of a broadcast from that ship, structure or other object.
- (2) The enforcement officer may, with or without assistants, exercise the powers mentioned in section 89(4) in relation to any ship, structure or other object which he has reasonable grounds to suspect has been or is being used in connection with the commission of the offence referred to in subsection (1)(b).
- (3) Subsection (4) applies if –
 - (a) an enforcement officer has reasonable grounds for suspecting that an offence under section 82, 83, 84 or 85 has been or is being committed in connection with the making of a broadcast from a ship, structure or other object, but
 - (b) no written authorisation has been issued under section 89(3) for the exercise of the powers mentioned in section 89(4) in relation to that ship, structure or other object.
- (4) The enforcement officer may, with or without assistants, exercise the powers mentioned in section 89(4) in relation to any ship, structure or other object which he has reasonable grounds to suspect has been or is being used in connection with the commission of the offence referred to in subsection (3)(a).
- (5) Subsection (4) only applies if a written authorisation under this subsection has been issued by the Secretary of State or OFCOM for the exercise of those powers in relation to that ship, structure or other object.

91 Exercise of powers

- (1) Except as provided in subsections (2) and (3), the powers mentioned in section 89(4) may be exercised only in tidal waters in [Jersey] or in external waters.
- (2) The powers may in addition –
 - (a) in the case of a suspected offence under this Part committed in a British-registered ship while it is on the high seas, be exercised in relation to the ship on the high seas;
 - (b) in the case of a suspected offence under section 78 committed on a structure or other object within waters in a designated area, be exercised in relation to the structure or other object within those waters;
 - (c) in the case of a suspected offence under section 79 committed in a ship within an area of the high seas prescribed for the purposes of that section, be exercised in relation to the ship within that area of the high seas.

- (3) Subsection (2) does not apply so far as the powers are exercisable by virtue of a written authorisation issued by OFCOM.

92 Further provisions

- (1) A person commits an offence if –
- (a) he assaults an enforcement officer, or an assistant of his, while he is exercising any of the powers conferred by section 89 or 90;
 - (b) he intentionally obstructs an enforcement officer, or an assistant of his, in the exercise of any of those powers; or
 - (c) he fails or refuses, without reasonable excuse, to comply with such a requirement as is mentioned in section 89(4)(e) or (f).
- (2) Neither an enforcement officer nor an assistant of his is liable in civil or criminal proceedings for anything done in purported exercise of any of the powers conferred by section 89 or 90 if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.
- (3) Nothing in sections 89 to 91 or this section affects the exercise of any powers exercisable apart from those sections.
- (4) A reference in sections 89 to 91 or this section, in relation to an enforcement officer's assistant, to the exercise of any of the powers mentioned in section 89(4) is a reference to the exercise by the assistant of any of those powers on behalf of the officer.

Penalties and proceedings

[93 Penalties and proceedings]

- (1) A person who commits an offence under this Part is liable to imprisonment for a term not exceeding two years or to a fine, or to both.
- (2) Proceedings for an offence under this Part may only be instituted by or with the consent of the Attorney General of Jersey.]

Saving

94 Saving for certain broadcasts

Nothing in this Part makes it unlawful to do anything under and in accordance with a wireless telegraphy licence, or to procure anything to be so done.

Interpretation

95 Part 5: interpretation

- (1) In this Part –
- “British-registered” means registered in the United Kingdom, the Isle of Man or any of the Channel Islands;

“broadcast” means a broadcast by wireless telegraphy of sounds or visual images intended for general reception (whether or not the sounds or images are actually received by anyone), but does not include a broadcast consisting in a message or signal sent in connection with navigation or for the purpose of securing safety;

“designated area” has the meaning given by section 1(7) of the Continental Shelf Act 1964 (c. 29);

“external waters” means the whole of the sea adjacent to [Jersey] that is within the seaward limits of [Jersey’s] territorial sea;

“the high seas” means seas that are not within the seaward limits of UK territorial sea or of the territorial waters adjacent to a country or territory outside [Jersey].

- [(2) For the purposes of this Part references to an “Island person” are references to –
- (a) a British citizen, a British overseas territories citizen, a British National (overseas) or a British Overseas citizen;
 - (b) a person who, under the British Nationality Act 1981 (c. 61) is a British subject; or
 - (c) a British protected person within the meaning given by section 50(1) of that Act,
- who is ordinarily resident in Jersey.]

PART 6

GENERAL

Fixed penalties

96 Fixed penalties for summary offences

Schedule 4 (which makes provision as respects fixed penalty notices for certain summary offences) has effect.

Entry, search and seizure

97 Powers of entry and search

- (1) [The Bailiff] may grant a search warrant under this section if he is satisfied by information on oath that –
- (a) there is reasonable ground for suspecting that an offence under this Act, other than an offence under Part 4 or section 111, has been or is being committed; and
 - (b) evidence of the commission of the offence is to be found on premises specified in the information, or in a vehicle, ship or aircraft so specified.

- (2) A search warrant under this section is a warrant empowering a [police officer, who may be accompanied by] any person or persons authorised for the purpose by OFCOM or the Secretary of State –
- (a) to enter, at any time within the relevant period, the premises specified in the information or (as the case may be) the vehicle, ship or aircraft so specified and any premises on which it may be;
 - (b) to search the premises, vehicle, ship or aircraft;
 - (c) to examine and test any apparatus found there.
- (3) In subsection (2) “the relevant period” means the period of three months beginning with the day after the date of the warrant.
- (4) * * * *
- (5) * * * *
- (6) [A police officer] may if necessary use reasonable force in the exercise of the power.
- (7) Subsection (6) does not affect any power exercisable apart from that subsection by a person so authorised.
- (8) Where under this section a person has a right to examine and test apparatus on premises or in a ship, aircraft or vehicle, any person who –
- (a) is on the premises, or
 - (b) is in charge of, or in or in attendance on, the ship, aircraft or vehicle,
- must give him whatever assistance he may reasonably require in the examination or testing of the apparatus.
- (9) * * * *

98 Obstruction and failure to assist

- (1) A person commits an offence if –
- (a) he intentionally obstructs a person in the exercise of the powers conferred on him under section 97; or
 - (b) he fails or refuses, without reasonable excuse, to give to such a person any assistance which, under that section, he is under a duty to give to him.
- (2) A person who commits an offence under this section is liable * * * to a fine not exceeding [level 4] on the standard scale.

99 Powers of seizure

- (1) This section applies to –
- [(a) any offence under this Act punishable by imprisonment, other than an offence under section 111;]
 - (b) an offence under section 35, other than one consisting in the installation or use of receiving apparatus;

- (c) an offence under section 36, other than one where the relevant contravention of section 8 would constitute an offence consisting in the use of receiving apparatus;
 - (d) an offence under section 48;
 - (e) an offence under section 66.
- (2) Where –
- (a) a search warrant is granted under section 97, and
 - (b) the suspected offence (or any of the suspected offences) is an offence to which this section applies,
- the warrant may authorise a [police officer] to seize and detain, for the purposes of any relevant proceedings, any apparatus or other thing found in the course of the search carried out in pursuance of the warrant that appears to him to be a relevant item.
- (3) If a [police officer] or a person authorised by OFCOM to exercise the power conferred by this subsection has reasonable grounds to suspect that an offence to which this section applies has been or is being committed, he may seize and detain, for the purposes of any relevant proceedings, any apparatus or other thing that appears to him to be a relevant item.
 - (4) A [police officer] may if necessary use reasonable force in the exercise of the power.
 - (5) Subsection (4) does not affect any power exercisable by the person so authorised apart from that subsection.
 - (6) Nothing in this section affects any power to seize or detain property that is exercisable by a [police officer] apart from this section.
 - (7) In this section –
 - “relevant item” means an item that –
 - (a) was used in connection with an offence to which this section applies; or
 - (b) is evidence of the commission of such an offence;
 - “relevant proceedings” means –
 - (a) proceedings for an offence to which this section applies; or
 - (b) proceedings for condemnation under Schedule 6.

100 Obstruction

- (1) A person commits an offence if he intentionally obstructs a person in the exercise of the power conferred on him under section 99(3).
- (2) A person who commits an offence under this section is liable * * * to a fine not exceeding [level 4] on the standard scale.

*Disposal and forfeiture***101 Detention and disposal of property**

- (1) This section applies to property seized * * * –
 - (a) in pursuance of a warrant under section 97; or
 - (b) in the exercise of the power conferred by section 99(3).
- (2) The property may be detained –
 - (a) until the end of the period of six months beginning with the date of seizure; or
 - (b) if proceedings for an offence to which section 99 applies involving that property or proceedings under Schedule 6 for condemnation of that property as forfeited are instituted within that period, until the conclusion of those proceedings.
- (3) Subsections (4) to (6) apply in the case of property so detained which, after the end of the period authorised by subsection (2) –
 - (a) remains in the possession of OFCOM; and
 - (b) has not been ordered to be forfeited under Schedule 5 or condemned as forfeited under Schedule 6.
- (4) OFCOM must take reasonable steps to deliver the property to the person who appears to them to be its owner.
- (5) If the property remains in the possession of OFCOM after the end of one year immediately following the end of the period of detention authorised by subsection (2), OFCOM may dispose of it in such manner as they think fit.
- (6) The delivery of the property in accordance with subsection (4) to the person who appears to OFCOM to be its owner does not affect the right of any other person to take legal proceedings for the recovery of the property –
 - (a) against the person to whom the property is so delivered; or
 - (b) against any person subsequently in possession of the property.

102 Section 101: conclusion of proceedings

- (1) This section applies to –
 - (a) proceedings for an offence to which section 99 applies;
 - (b) proceedings under Schedule 6 for the condemnation of apparatus as forfeited.
- (2) Where proceedings to which this section applies are terminated by an appealable decision, they are not to be regarded as concluded for the purposes of section 101(2)(b) –
 - (a) until the end of the ordinary time for appeal against the decision, if no appeal in respect of the decision is brought within that time; or

- (b) if an appeal in respect of the decision is brought within that time, until the conclusion of the appeal.
- (3) Subsection (2) applies for determining, for the purposes of paragraph (b) of that subsection, when proceedings on an appeal are concluded as it applies for determining when the original proceedings are concluded.
- (4) References in subsection (2) to a decision which terminates proceedings include references to a verdict, sentence, finding or order that puts an end to the proceedings.
- (5) An appealable decision is a decision of a description against which an appeal will lie, whether by way of case stated or otherwise and whether with or without permission.
- (6) References to an appeal include references to an application for permission to appeal.

103 Forfeiture on conviction

Schedule 5 (which makes provision in relation to forfeiture on conviction) has effect.

104 Forfeiture etc. of restricted apparatus

* * * * *

Enforcement, proceedings etc.

105 Offences relating to ships or aircraft

- (1) This section applies if an offence is committed under any of sections 11, 35 to 38, 46 to 48, 58 and 68.
- (2) Where the offence is committed in relation to a station or apparatus on board or released from a ship or aircraft, the captain or person for the time being in charge of the ship or aircraft is guilty of the offence (as well as anyone who is guilty of it apart from this subsection).
- (3) This section does not apply where the offence consists in the use by a passenger on board the ship or aircraft of receiving apparatus that is not part of the wireless telegraphy apparatus, if any, of the ship or aircraft.

106 Continuing offences

- (1) This section applies where –
 - (a) a person is convicted of an offence under Part 2 or 3 consisting in –
 - (i) the use of a wireless telegraphy station or wireless telegraphy apparatus, or
 - (ii) a failure or refusal to cause a wireless telegraphy licence or an authority under section 52(3) to be surrendered; and
 - (b) the use, or the failure or refusal, continues after the conviction.

- (2) The person is to be treated as committing a separate offence in respect of every day on which the use, or the failure or refusal, so continues.
- (3) Subsection (2) does not affect the right to bring separate proceedings for contraventions of this Act taking place on separate occasions.

107 Proceedings and enforcement

- (1) Proceedings for –
 - (a) an offence under Part 2, 3 or 6 (other than an offence under section 111) that is committed in [Jersey’s] territorial sea, or
 - (b) an offence under Part 5,
 may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in [Jersey].
- (2) For the purposes of enforcement of any provision falling within subsection (3), a member of the Honorary Police of a parish has in any area of the sea within the seaward limits of Jersey’s territorial sea all the powers, protections and privileges which he has in that parish.]
- (3) The provisions are –
 - (a) sections 8 to 11, 32 to 38 and 45 to 53;
 - (b) Part 3;
 - (c) Part 5;
 - (d) sections 97 to 100, 103, 105 and 106 and Schedule 5.
- (4) * * * *

108 Civil proceedings

- (1) Where the doing of a thing is rendered unlawful by Part 2 or 3, and it is also an offence under this Act, the fact that it is such an offence does not limit a person’s right to bring civil proceedings in respect of the doing or apprehended doing of that thing.
- (2) Without prejudice to the generality of subsection (1), compliance with a provision of Part 2 or 3 contravention of which is an offence under this Act is enforceable in civil proceedings by [the Attorney General of Jersey], or by OFCOM, for an injunction or for any other appropriate relief.
- (3) * * * *

109 Civil proceedings

* * * *

110 Criminal liability of company directors etc.

- (1) Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
- (a) a director, manager, secretary or other similar officer of the body corporate, or
 - (b) a person who was purporting to act in any such capacity,
- he (as well as the body corporate) is guilty of that offence and is liable to be proceeded against and punished accordingly.
- (2) * * * *
- (3) “Director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.
- [(4) A person who aids, abets, counsels or procures the commission of an offence under this Act shall also be guilty of an offence and liable in the same manner as a principal offender to the penalty provided for that offence.]

*Disclosure of information***111 General restrictions**

- (1) Information with respect to a particular business which has been obtained in exercise of a power conferred by this Act is not, so long as that business continues to be carried on, to be disclosed without the consent of the person for the time being carrying on that business.
- (2) Subsection (1) has effect subject to the following provisions of this section.
- (3) Subsection (1) does not apply to any disclosure of information which is made –
- (a) for the purpose of facilitating the carrying out by OFCOM of any of their functions;
 - (b) for the purpose of facilitating the carrying out by [the Secretary of State] of any relevant function;
 - (c) * * * *
 - (d) * * * *
 - (e) for the purpose of any civil proceedings brought under or because of this Act or any of the enactments or instruments mentioned in subsection (6); or
 - (f) for the purpose of securing compliance with an international obligation of the United Kingdom [on behalf of Jersey].
- (4) * * * *
- (5) The following are relevant functions –
- (a) any function conferred by or under this Act;

- (b) any function conferred by or under any enactment or instrument mentioned in subsection (6);
- (c) any other function specified for the purposes of this subsection in an order made by the Secretary of State.
- (6) The enactments and instruments referred to in subsections (3) and (5) are –
 - (a) the Wireless Telegraphy Act 1967 (c. 72);
 - (b) * * * *
 - (c) * * * *
 - (d) * * * *
 - (e) * * * *
 - (f) the Telecommunications Act 1984 (c. 12);
 - (g) * * * *
 - (h) the Broadcasting Act 1990 (c. 42);
 - (i) the Broadcasting Act 1996 (c. 55);
 - (j) * * * *
 - (k) * * * *
 - (l) the Communications Act 2003 (c. 21);
 - (m) * * * *
 - (n) * * * *
- (7) Nothing in this section –
 - (a) limits the matters that may be published under section 15, 26 or 390 of the Communications Act 2003;
 - (b) limits the matters that may be included in, or made public as part of, a report made by OFCOM because of a provision of the Office of Communications Act 2002 (c. 11) or the Communications Act 2003;
 - (c) prevents the disclosure of anything for the purposes of a report of legal proceedings in which it has been publicly disclosed;
 - (d) applies to information that has been published or made public as mentioned in paragraphs (a) to (c).
- (8) * * * *
- (9) A person commits an offence if he discloses information in contravention of this section.
- (10) A person who commits an offence under subsection (9) is [liable to imprisonment for a term not exceeding two years or to a fine, or to both.]
- (11) * * * *
- (12) In this section –
 - * * * *

“enactment” has the same meaning as in the Communications Act 2003;

“legal proceedings” means civil or criminal proceedings in or before any court, or proceedings before any tribunal established by or under any enactment;

* * * * *

Notifications etc. and electronic working

112 Service of documents

- (1) This section applies where provision made (in whatever terms) by or under this Act authorises or requires –
 - (a) a notification to be given to any person; or
 - (b) a document of any other description (including a copy of a document) to be sent to any person.
- (2) The notification or document may be given or sent to the person in question –
 - (a) by delivering it to him;
 - (b) by leaving it at his proper address; or
 - (c) by sending it by post to him at that address.
- (3) The notification or document may be given or sent to a body corporate by being given or sent to the secretary or clerk of that body.
- (4) The notification or document may be given or sent to a firm by being given or sent to –
 - (a) a partner in the firm; or
 - (b) a person having the control or management of the partnership business.
- (5) The notification or document may be given or sent to an unincorporated body or association by being given or sent to a member of the governing body of the body or association.
- (6) For the purposes of this section and [Article 7 of the Interpretation (Jersey) Law 1954] in its application to this section, the proper address of a person is –
 - (a) in the case of a body corporate, the address of the registered or principal office of the body;
 - (b) in the case of a firm, unincorporated body or association, the address of the principal office of the partnership, body or association;
 - (c) in the case of a person to whom the notification or other document is given or sent in reliance on any of subsections (3) to (5), the proper address of the body corporate, firm or (as the case may be) other body or association in question; and
 - (d) in any other case, the last known address of the person in question.

- (7) In the case of –
- (a) a company registered outside [Jersey],
 - (b) a firm carrying on business outside [Jersey], or
 - (c) an unincorporated body or association with offices outside [Jersey],
- the references in subsection (6) to its principal office include references to its principal office within [Jersey] (if any).
- (8) In this section –
- “document” includes anything in writing; and
- “notification” includes notice;
- and references to giving or sending a notification or other document to a person include references to transmitting it to him and to serving it on him.
- (9) This section has effect subject to section 113.

113 Documents in electronic form

- (1) This section applies where –
- (a) section 112 authorises the giving or sending of a notification or other document by its delivery to a particular person (“the recipient”); and
 - (b) the notification or other document is transmitted to the recipient –
 - (i) by means of an electronic communications network; or
 - (ii) by other means but in a form that nevertheless requires the use of apparatus by the recipient to render it intelligible.
- (2) For the purposes of subsection (1), something is not to be regarded as in an intelligible form if it cannot be readily understood without being decrypted or having some comparable process applied to it.
- (3) The transmission has effect for the purposes of this Act as a delivery of the notification or other document to the recipient, but only if the requirements imposed by or under this section are complied with.
- (4) Where the recipient is OFCOM –
- (a) they must have indicated their willingness to receive the notification or other document in a manner mentioned in subsection (1)(b);
 - (b) the transmission must be made in such manner and satisfy such other conditions as they may require; and
 - (c) the notification or other document must take such form as they may require.
- (5) Where the person making the transmission is OFCOM, they may (subject to subsection (6)) determine –
- (a) the manner in which the transmission is made; and

- (b) the form in which the notification or other document is transmitted.
- (6) Where the recipient is a person other than OFCOM –
 - (a) the recipient, or
 - (b) the person on whose behalf the recipient receives the notification or other document,

must have indicated to the person making the transmission the recipient's willingness to receive notifications or documents transmitted in the form and manner used.
- (7) An indication to any person for the purposes of subsection (6) –
 - (a) must be given to that person in such manner as he may require;
 - (b) may be a general indication or one that is limited to notifications or documents of a particular description;
 - (c) must state the address to be used and must be accompanied by such other information as that person requires for the making of the transmission; and
 - (d) may be modified or withdrawn at any time by a notice given to that person in such manner as he may require.
- (8) An indication, requirement or determination given, imposed or made by OFCOM for the purposes of this section is to be given, imposed or made by being published in such manner as they consider appropriate for bringing it to the attention of the persons who, in their opinion, are likely to be affected by it.
- (9) Section 112(8) applies for the purposes of this section as it applies for the purposes of section 112.

114 Timing and location of things done electronically

- (1) The Secretary of State may by order make provision specifying, for the purposes of this Act, the manner of determining –
 - (a) the times at which things done under this Act by means of electronic communications networks are done; and
 - (b) the places at which such things are so done, and at which things transmitted by means of such networks are received.
- (2) The provision made by subsection (1) may include provision as to the country or territory in which an electronic address is to be treated as located.
- (3) An order made by the Secretary of State may also make provision about the manner of proving in any legal proceedings –
 - (a) that something done by means of an electronic communications network satisfies the requirements of this Act for the doing of that thing; and
 - (b) the matters mentioned in subsection (1)(a) and (b).

- (4) An order under this section may provide for such presumptions to apply (whether conclusive or not) as the Secretary of State considers appropriate.

Interpretation

115 General interpretation

- (1) In this Act –

“artistic work” has the meaning given by section 4(1) of the Copyright, Designs and Patents Act 1988 (c. 48);

“associated facility” has the meaning given by section 32 of the Communications Act 2003 (c. 21);

“broadcast” (except in sections 35 to 38 and Part 5), means broadcast by wireless telegraphy, and cognate expressions are to be construed accordingly;

“business” includes a trade or profession;

“communications provider” has the same meaning as in the Communications Act 2003;

“contravention” includes a failure to comply, and cognate expressions are to be construed accordingly;

[“customs officer” means the Agent of the Impôts and a person appointed as a customs officer under Article 14 of the Customs and Excise (Jersey) Law 1999;]

[“electric line” means any line which is used for carrying electricity for any purpose and includes, unless the context otherwise requires –

- (a) any support for such line, that is to say any structure, pole or other thing in, on, by or from which any such line is or may be supported, carried or suspended;
- (b) any apparatus connected to any such line for the purpose of carrying electricity; and
- (c) any wire, cable, tube, pipe or other similar thing (including its case or coating) which surrounds or supports or is supported, carried or suspended in association with, any such line;]

“electronic communications network” and “electronic communications service” have the meaning given by section 32 of the Communications Act 2003;

“emission”, in relation to electromagnetic energy, is to be construed in accordance with subsection (2);

“the enactments relating to the management of the radio spectrum” has the meaning given by section 405 of the Communications Act 2003;

[“film” means a sound recording on any medium from which a moving image may by any means be produced;]

["fisheries officer" means a person appointed as a fisheries officer under Article 15 of the Sea Fisheries (Jersey) Law 1994 or deemed under that Article to be a fisheries officer;]

"frequency" includes frequency band;

"grant of recognised spectrum access" means a grant made under section 18;

"information" includes accounts, estimates and projections and any document;

"interfere" and "interference", in relation to wireless telegraphy, are to be construed in accordance with subsection (3);

"international obligation of the United Kingdom [on behalf of Jersey]" includes * * * any obligation which will or may arise under any international agreement or arrangements to which the United Kingdom [on behalf of Jersey] is party;

["Island person" has the meaning given by section 95(2);]

["Jersey" means the Bailiwick of Jersey and the territorial sea adjacent thereto;]

["Jersey's territorial sea" means the territorial sea adjacent to Jersey;]

"literary, dramatic or musical work" has the same meaning as in Part 1 of the Copyright, Designs and Patents Act 1988;

["the Minister" means the Minister for Economic Development;]

"modification" includes omissions, alterations and additions, and cognate expressions are to be construed accordingly;

"OFCOM" means the Office of Communications;

["Police officer" means a member of the Honorary Police or a member of the States of Jersey Police Force;]

"radio spectrum functions", in relation to OFCOM, means their functions under the enactments relating to the management of the radio spectrum;

"receiving apparatus" means wireless telegraphy apparatus that is not designed or adapted for emission (as opposed to reception);

"ship" includes every description of vessel used in navigation;

"sound recording" has the meaning given by section 5A(1) of the Copyright, Designs and Patents Act 1988;

"speech" includes lecture, address and sermon;

["Standard scale" means the standard scale of fines for the time being in the Schedule to the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993;]

"supply", in relation to any item, is to be construed in accordance with subsection (6);

* * * * *

"wireless telegraphy" is to be construed in accordance with section 116;

“wireless telegraphy apparatus” is to be construed in accordance with section 117;

“wireless telegraphy licence” means a licence granted under section 8;

“wireless telegraphy station” is to be construed in accordance with section 117.

- (2) A reference in this Act to the emission of electromagnetic energy, or to emission (as opposed to reception), includes a reference to the deliberate reflection (whether continuous or intermittent) of electromagnetic energy by means of apparatus designed or specially adapted for the purpose.
- (3) For the purposes of this Act, wireless telegraphy is interfered with if the fulfilment of the purposes of the telegraphy is prejudiced (either generally or in part and, in particular, as respects all, or as respects any, of the recipients or intended recipients of a message, sound or visual image intended to be conveyed by the telegraphy) by an emission or reflection of electromagnetic energy.
- (4) Interference with any wireless telegraphy is not to be regarded as undue for the purposes of this Act unless it is also harmful.
- (5) For the purposes of this Act interference is harmful if –
 - (a) it creates dangers, or risks of danger, in relation to the functioning of any service provided by means of wireless telegraphy for the purposes of navigation or otherwise for safety purposes; or
 - (b) it degrades, obstructs or repeatedly interrupts anything which is being broadcast or otherwise transmitted –
 - (i) by means of wireless telegraphy; and
 - (ii) in accordance with a wireless telegraphy licence, regulations under section 8(3) or a grant of recognised spectrum access or otherwise lawfully.
- (6) * * * * *
- (7) In this Act (except Part 5) a reference to the sending or conveying of a message includes a reference to the making of a signal or the sending or conveying of a warning or information, and a reference to the reception of a message is to be construed accordingly.
- (8) A reference in this Act to apparatus on board a ship includes a reference to apparatus on a kite or captive balloon flown from a ship.

116 “Wireless telegraphy”

- (1) In this Act “wireless telegraphy” means the emitting or receiving, over paths that are not provided by any material substance constructed or arranged for the purpose, of energy to which subsection (2) applies.
- (2) This subsection applies to electromagnetic energy of a frequency not exceeding 3,000 gigahertz that –
 - (a) serves for conveying messages, sound or visual images (whether or not the messages, sound or images are actually received by anyone), or for operating or controlling machinery or apparatus; or

- (b) is used in connection with determining position, bearing or distance, or for gaining information as to the presence, absence, position or motion of an object or of a class of objects.
- (3) The Secretary of State may by order modify the definition of “wireless telegraphy” by substituting a different frequency for the frequency that is for the time being specified in subsection (2).
- (4) * * * * *

117 “Wireless telegraphy apparatus” and “wireless telegraphy station”

- (1) In this Act “wireless telegraphy apparatus” means apparatus for the emitting or receiving, over paths that are not provided by any material substance constructed or arranged for the purpose, of energy to which section 116(2) applies.
- (2) In this Act “wireless telegraphy station” –
 - (a) means a station for the emitting or receiving, over paths that are not provided by any material substance constructed or arranged for the purpose, of energy to which section 116(2) applies; and
 - (b) includes the wireless telegraphy apparatus of a ship or aircraft.

Extent and application

118 Extent

- (1) * * * * *
- (2) An amendment, repeal or revocation made by this Act has the same extent as the enactment or other instrument amended, repealed or revoked.
- (3) * * * * *
- (4) * * * * *
- (5) Section 121(3) applies to the power to make an Order in Council under this section as it applies to a power of the Secretary of State to make an order under this Act, but as if references in section 121(3) to the Secretary of State were references to Her Majesty in Council.
- (6) The provisions capable of being extended outside the United Kingdom under –
 - (a) section 15(6) of the Wireless Telegraphy Act 1967 (c. 72),
 - (b) section 204(6) of the Broadcasting Act 1990 (c. 42),
 - (c) section 12(4) of the Intelligence Services Act 1994 (c. 13),
 - (d) section 315(2) of the Merchant Shipping Act 1995 (c. 21),
 - (e) section 150(4) of the Broadcasting Act 1996 (c. 55), or
 - (f) section 411(6) of the Communications Act 2003 (c. 21),
 include any amendment of those provisions made by this Act.

119 Territorial application

- (1) The provisions mentioned in subsection (2) apply to –
- (a) all stations and apparatus in or over, or for the time being in or over, [Jersey or Jersey's territorial sea];
 - (b) subject to any limitations that the Secretary of State may by regulations determine, all stations and apparatus on board a ship or aircraft that is registered in [Jersey] but is not for the time being in or over [Jersey or Jersey's territorial sea]; and
 - (c) subject to any limitations that the Secretary of State may by regulations determine, all apparatus not itself in or over [Jersey or Jersey's territorial sea] but released –
 - (i) from within [Jersey or Jersey's territorial sea], or
 - [(ii) for a ship that is a British ship or an aircraft registered in the United Kingdom.]
- (2) The provisions are –
- (a) sections 8 to 11, 35 to 38, 45 to 49, 55 to 58 and 68; and
 - (b) regulations under section 54.
- (3) * * * *
- (4) * * * *

120 Territorial sea and other waters

* * * *

*Supplemental***121 Orders and regulations made by Secretary of State**

- (1) * * * *
- (2) * * * *
- (3) Every power of the Secretary of State to make an order or regulations under this Act includes power –
- (a) to make different provision for different cases (including different provision in respect of different areas);
 - (b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and
 - (c) to make such incidental, supplemental, consequential and transitional provision as the Secretary of State thinks fit.
- [(4) Any statutory instrument made by the Secretary of State pursuant to this Act shall not have effect in Jersey until it is registered in the Royal Court of Jersey and where any such statutory instrument is so registered, it shall have effect on the day following the day of such registration or on the day

specified in the instrument for its coming into force, whichever is the later.]

122 Orders and regulations made by OFCOM

- (1) This section applies to every power of OFCOM to make regulations or an order under this Act.
- (2) * * * *
- (3) * * * *
- (4) Before making any regulations or order under such a power, OFCOM must –
 - (a) give a notice of their proposal to do so to such persons representative of the persons appearing to OFCOM to be likely to be affected by the implementation of the proposal as OFCOM think fit;
 - (b) publish notice of their proposal in such manner as they consider appropriate for bringing it to the attention of the persons who, in their opinion, are likely to be affected by it and are not given notice by virtue of paragraph (a); and
 - (c) consider any representations that are made to OFCOM, before the time specified in the notice.
- (5) A notice for the purposes of subsection (4) must –
 - (a) state that OFCOM propose to make the regulations or order in question;
 - (b) set out the general effect of the regulations or order;
 - (c) specify an address from which a copy of the proposed regulations or order may be obtained; and
 - (d) specify a time before which any representations with respect to the proposal must be made to OFCOM.
- (6) The time specified for the purposes of subsection (5)(d) must be no earlier than the end of the period of one month beginning with the day after the latest day on which the notice is given or published for the purposes of subsection (4).
- (7) Every power of OFCOM to make regulations or an order under this Act includes power –
 - (a) to make different provision for different cases (including different provision in respect of different areas);
 - (b) to make provision subject to such exemptions and exceptions as OFCOM think fit; and
 - (c) to make such incidental, supplemental, consequential and transitional provision as OFCOM think fit.
- [(8) Any statutory instrument made by OFCOM pursuant to this Act shall not have effect in Jersey until it is registered in the Royal Court of Jersey and where any such statutory instrument is so registered, it shall have effect

on the day following the day of such registration or on the day specified in the instrument for its coming into force, whichever is the later.]

123 Consequential amendments

* * * * *

124 Transitional provisions, savings and transitory modifications

Schedule 8 (transitional provisions, savings and transitory modifications) has effect.

125 Repeals and revocations

- (1) The enactments mentioned in Part 1 of Schedule 9 are repealed to the extent specified.
- (2) The instruments mentioned in Part 2 of that Schedule are revoked to the extent specified.

126 Short title and commencement

- (1) This Act may be cited as the Wireless Telegraphy Act 2006.
- (2) * * * * *

SCHEDULES

SCHEDULE 1

Section 10

PROCEDURE FOR WIRELESS TELEGRAPHY LICENCES

General procedure for applications

- 1(1) An application for a grant of a wireless telegraphy licence is to be determined in accordance with procedures prescribed in regulations made by OFCOM.
- (2) The procedures must include provision for –
 - (a) time limits for dealing with the granting of licences;
 - (b) requirements that must be met for the grant of a licence;
 - (c) particulars of the terms, provisions and limitations to which a licence may be made subject.

Time limits

- 2(1) The time limits fixed for the purposes of paragraph 1(2) must require a decision on the application to be made, notified to the applicant and published –
 - (a) in the case of an application for a licence relating to a frequency allocated in accordance with the United Kingdom Plan for Frequency Authorisation, not more than six weeks after the day of the receipt of the application; and
 - (b) in any other case, as soon as possible after the receipt of the application.
- (2) The period of six weeks specified in sub-paragraph (1)(a) may be extended by OFCOM where it appears to them necessary to do so –
 - (a) for the purpose of enabling the requirements of any international agreement relating to frequencies, to orbital positions or to satellite co-ordination to be complied with; or
 - (b) in a case where a determination falls to be made as to which of a number of applicants is the more or most suitable to be licensed, for the purpose of securing that the procedure for the making of that determination is fair, reasonable, open and transparent.
- (3) The period may not be extended by virtue of sub-paragraph (2)(b) by more than eight months.

Information to be provided in connection with applications

- 3 The grounds on which a licence may be refused by OFCOM include a failure by the applicant to provide information which OFCOM reasonably

require in order to satisfy themselves that the applicant is able to comply with terms, provisions or limitations to which the licence may be made subject.

Proposed refusal

- 4 Where OFCOM propose to refuse a licence they must –
- (a) give to the applicant the reasons for the proposed refusal;
 - (b) specify a period of not less than one month within which representations about the proposed refusal may be made.

Duration

- 5 A wireless telegraphy licence continues in force, unless previously revoked by OFCOM, for such period as may be specified in the licence.

Revocation or variation

- 6 OFCOM may revoke a wireless telegraphy licence or vary its terms, provisions or limitations –
- (a) by a notice in writing given to the holder of the licence; or
 - (b) by a general notice applicable to licences of the class to which the licence belongs, published in such way as may be specified in the licence.

Notification of proposed revocation or variation

- 7(1) Where OFCOM propose to revoke or vary a wireless telegraphy licence, they must give the person holding the licence a notification under this sub-paragraph –
- (a) stating the reasons for the proposed revocation or variation; and
 - (b) specifying the period during which the person notified has an opportunity to do the things specified in sub-paragraph (2).
- (2) The things are –
- (a) making representations about the proposal; and
 - (b) if the proposal is the result of a contravention of a term, provision or limitation of the licence, complying with that term, provision or limitation.
- (3) Subject to sub-paragraphs (4) to (6), the period for doing those things must be the period of one month beginning with the day after the one on which the notification was given.
- (4) OFCOM may, if they think fit, allow a longer period for doing those things –
- (a) by specifying a longer period in the notification; or
 - (b) by subsequently, on one or more occasions, extending the specified period.
- (5) The person notified has a shorter period for doing those things if a shorter period is agreed between OFCOM and the person notified.

- (6) The person notified also has a shorter period if –
 - (a) OFCOM have reasonable grounds for believing that the case is urgent or a case of serious and repeated contravention;
 - (b) they have determined that, in the circumstances, a shorter period would be appropriate; and
 - (c) the shorter period has been specified in the notification.
- (7) A case is urgent if the failure to revoke or vary the licence will result in, or create an immediate risk of –
 - (a) a serious threat to the safety of the public, to public health or to national security; or
 - (b) serious economic or operational problems for persons, other than the person in contravention, who –
 - (i) use wireless telegraphy stations or wireless telegraphy apparatus; or
 - (ii) are communications providers or make associated facilities available.
- (8) A contravention of a term, provision or limitation of a licence is a repeated contravention, in relation to a proposal to revoke or vary a licence, if it falls within sub-paragraph (9).
- (9) A contravention falls within this sub-paragraph if –
 - (a) a previous notification under sub-paragraph (1) has been given in respect of the same contravention or in respect of another contravention of a term, provision or limitation of the same licence; and
 - (b) the subsequent notification under that sub-paragraph is given no more than 12 months after the day of the making by OFCOM of a determination for the purposes of sub-paragraph (10) that the contravention to which the previous notification related did occur.
- (10) Where OFCOM have given a notification under sub-paragraph (1), they must, within the period of one month beginning with the end of the period for the making of representations about the proposal contained in that notification –
 - (a) decide whether or not to revoke or vary the licence in accordance with their proposal, or in accordance with that proposal but with modifications; and
 - (b) give the person holding the licence a notification of their decision.
- (11) The notification under sub-paragraph (10) –
 - (a) must be given no more than one week after the making of the decision to which it relates; and
 - (b) must, in accordance with that decision, either revoke or vary the licence or withdraw the proposal for a revocation or variation.

- (12) Nothing in this paragraph applies to a proposal to revoke or vary a licence if the proposal is made at the request or with the consent of the holder of the licence.
- (13) The reference in sub-paragraph (9) to a contravention of a term, provision or limitation of the same licence includes a reference to a contravention of a term, provision or limitation contained in a previous licence of which the licence in question is a direct or indirect renewal.

Restriction on powers of revocation and variation

- 8(1) The terms that OFCOM may include in a wireless telegraphy licence include terms restricting the exercise by them of their power to revoke or vary the licence.
- (2) The terms that may be included because of sub-paragraph (1) include, in particular, terms providing that the licence may not be revoked or varied except –
 - (a) with the consent of the holder of the licence; or
 - (b) in such other circumstances and on such grounds as may be specified in the licence.
- (3) The circumstances or grounds may relate to matters relevant for the purposes of any other enactment (and may, in particular, be dependent on the exercise of a statutory discretion under any other enactment).
- (4) A licence containing terms included because of sub-paragraph (1) may also provide that regulations made under section 45 –
 - (a) do not apply in relation to a station or apparatus to which the licence relates; or
 - (b) apply in relation to such a station or such apparatus to such extent only, or subject to such modifications, as may be specified in the licence.
- (5) Despite any term or provision included in a wireless telegraphy licence in accordance with this paragraph, OFCOM may at any time by giving the holder of the licence a notice in writing revoke the licence or vary its terms, provisions or limitations, if it appears to OFCOM to be necessary or expedient to do so –
 - (a) in the interests of national security; or
 - (b) for the purpose of securing compliance with an international obligation of the United Kingdom.

SCHEDULE 2

Section 19

PROCEDURE FOR GRANTS OF RECOGNISED SPECTRUM ACCESS*General procedure for applications*

- 1(1) An application for a grant of recognised spectrum access is to be determined in accordance with procedures prescribed in regulations made by OFCOM.
- (2) The procedures must include provision for –
 - (a) time limits for dealing with applications for a grant of recognised spectrum access;
 - (b) requirements which must be met before a grant is made;
 - (c) the restrictions and conditions to which a grant may be made subject.

Information to be provided in connection with applications

- 2 The grounds on which a grant of recognised spectrum access may be refused by OFCOM include a failure by the applicant to provide information which OFCOM reasonably require in order to satisfy themselves that the applicant is able to comply with restrictions or conditions to which the grant may be made subject.

Notice of proposed refusal of application

- 3(1) Where OFCOM propose to refuse an application for a grant of recognised spectrum access, they must give notice to the applicant –
 - (a) stating the reasons for their proposal; and
 - (b) specifying a period within which representations may be made about the proposal.
- (2) The period must be a period ending not less than one month after the day of the giving of the notice.

Duration of grant

- 4 A grant of recognised spectrum access continues in force, unless previously revoked by OFCOM, for such period as may be specified in the notification by which the grant is made.

Revocation or modification

- 5 OFCOM may revoke or modify a grant of recognised spectrum access, or the restrictions or conditions to which such a grant is subject, by a notice to the person to whom the grant was made.

Notice of proposed revocation or modification

- 6(1) Where OFCOM propose to revoke or modify a grant of recognised spectrum access or a restriction or condition to which such a grant is subject, they must give a notification to the holder of the grant –
- (a) stating the reasons for their proposal; and
 - (b) specifying the period during which the person notified has an opportunity to do the things specified in sub-paragraph (2).
- (2) The things are –
- (a) making representations about the proposal; and
 - (b) if the proposal is the result of a contravention of a restriction or condition of the grant, complying with it.
- (3) Subject to sub-paragraphs (4) to (6), the period for doing those things must be the period of one month beginning with the day after the one on which the notification was given.
- (4) OFCOM may, if they think fit, allow a longer period for doing those things –
- (a) by specifying a longer period in the notification; or
 - (b) by subsequently, on one or more occasions, extending the specified period.
- (5) The person notified has a shorter period for doing those things if a shorter period is agreed between OFCOM and the person notified.
- (6) The person notified also has a shorter period if –
- (a) OFCOM have reasonable grounds for believing that the case is urgent or a case of serious and repeated contravention;
 - (b) they have determined that, in the circumstances, a shorter period would be appropriate; and
 - (c) the shorter period has been specified in the notification.
- (7) A case is urgent if the failure to revoke or modify the grant will result in, or create an immediate risk of –
- (a) a serious threat to the safety of the public, to public health or to national security; or
 - (b) serious economic or operational problems for persons, other than the person in contravention, who –
 - (i) use wireless telegraphy stations or wireless telegraphy apparatus; or
 - (ii) are communications providers or make associated facilities available.
- (8) A contravention of a restriction or condition of a grant of recognised spectrum access is a repeated contravention, in relation to a proposal to revoke or modify the grant, if it falls within sub-paragraph (9).
- (9) A contravention falls within this sub-paragraph if –

- (a) a previous notification under sub-paragraph (1) has been given in respect of the same contravention or in respect of any other contravention of a restriction or condition of the same grant; and
 - (b) the subsequent notification under that sub-paragraph is given no more than 12 months after the day of the making by OFCOM of a determination for the purposes of sub-paragraph (10) that the contravention to which the previous notification related did occur.
- (10) Where OFCOM have given a notification under sub-paragraph (1), they must, within the period of one month beginning with the end of the period for the making of representations about the proposal contained in that notification –
 - (a) decide whether or not to revoke or modify the grant of recognised spectrum access in accordance with their proposal, or in accordance with that proposal but with modifications; and
 - (b) give the holder of the grant a notification of their decision.
- (11) The notification under sub-paragraph (10) –
 - (a) must be given no more than one week after the making of the decision to which it relates; and
 - (b) must, in accordance with that decision, either revoke or modify the grant or withdraw the proposal for revocation or modification.
- (12) Nothing in this paragraph is to apply to –
 - (a) a revocation or modification to be made at the request or with the consent of the holder of the grant; or
 - (b) a revocation or modification that appears to OFCOM to be necessary or expedient for the purpose of securing compliance with an international obligation of the United Kingdom [on behalf of Jersey].
- (13) The reference in sub-paragraph (9) to a contravention of a restriction or condition of the same grant includes a reference to a contravention of a restriction or condition contained in any previous grant of which the grant in question is a direct or indirect renewal.

Restriction on powers of revocation and modification

- 7(1) The conditions that OFCOM may include in a grant of recognised spectrum access include conditions restricting the exercise by them of their power to revoke or modify the grant.
- (2) Those conditions include, in particular, conditions providing that the grant may not be revoked or modified except –
 - (a) with the consent of the holder of the grant; or
 - (b) in such other circumstances and on such grounds as may be specified in the conditions.
- (3) The circumstances or grounds may relate to matters relevant for the purposes of any enactment, whether relating to wireless telegraphy or not (and may, in particular, be made dependent on the exercise of a statutory discretion under any enactment).

- (4) Nothing in a condition included in a grant of recognised spectrum access restricts the power of OFCOM to revoke or modify a grant of recognised spectrum access, if it appears to OFCOM to be necessary or appropriate to do so –
- (a) in the interests of national security;
 - (b) in the interests of the safety of the public or public health; or
 - (c) for the purpose of securing compliance with an international obligation of the United Kingdom [on behalf of Jersey].
- (5) “Enactment” has the same meaning as in the Communications Act 2003 (c. 21).

SCHEDULE 3

Section 52

SUSPENSION AND REVOCATION OF AUTHORITIES ISSUED TO WIRELESS PERSONNEL*Notice of suspension*

- 1(1) On suspending the authority, the Secretary of State must give the person to whom the authority under section 52(3) was issued a notice –
 - (a) informing him of the suspension, of the grounds of the suspension and of his rights under this Schedule;
 - (b) further informing him that if he does not avail himself of those rights the Secretary of State may revoke the authority.
- (2) Sub-paragraph (3) applies where it appears to the Secretary of State that it is not reasonably practicable to give the notice to the person to whom the authority was issued.
- (3) The Secretary of State must take such steps, by advertisement or otherwise, to bring the notice to the person's knowledge as appear to the Secretary of State to be reasonable in the circumstances.

Reference to advisory committee

- 2(1) The person to whom the authority was issued may request that the question whether the authority should be revoked, or its suspension continued or terminated, be referred to an advisory committee.
- (2) The request is to be made within such period and in such manner as may be specified in the notice under paragraph 1.
- (3) Where a request is made under sub-paragraph (1) the Secretary of State must, unless he terminates the suspension, refer the question to an advisory committee.
- (4) For the purposes of this Schedule an advisory committee is a committee consisting of three persons appointed by the Secretary of State.
- (5) The three persons appointed are to be –
 - (a) an independent chairman selected by the Secretary of State;
 - (b) a person nominated by such body or bodies representing employers of wireless operators as seem to the Secretary of State to be appropriate for the purpose;
 - (c) a person nominated by such association or associations representing wireless operators as seem to the Secretary of State to be appropriate for the purpose.
- (6) Where a question is referred to an advisory committee under this paragraph, the committee must –

- (a) inquire into the matter, and
 - (b) consider any representations made by the person to whom the authority was issued,
- and then make a report to the Secretary of State.
- (7) The report is to state –
 - (a) the facts as found by the committee, and
 - (b) the action that, in their opinion, ought to be taken as respects the revocation of the authority or the continuation or termination of its suspension.
- (8) The Secretary of State is to consider the report.

Decision by Secretary of State

- 3(1) Sub-paragraph (2) applies –
 - (a) after the Secretary of State has considered the report of the advisory committee; or
 - (b) if no request for a reference to an advisory committee has been made within the period and in the manner referred to in paragraph 2(2), on the expiry of that period.
- (2) The Secretary of State must (as he thinks fit) –
 - (a) revoke the authority;
 - (b) terminate the suspension of the authority; or
 - (c) continue the suspension for such period as he thinks fit.
- (3) Sub-paragraph (4) applies where the Secretary of State revokes the authority or continues its suspension.
- (4) The Secretary of State must, if requested to do so by the person to whom the authority was issued, inform him of the opinion expressed by the advisory committee as to the action that ought to be taken as respects –
 - (a) the revocation of the authority; or
 - (b) the continuation or termination of its suspension.

Payment of expenses

- 4 The Secretary of State is to pay –
 - (a) the expenses incurred by an advisory committee under this Schedule, to the extent determined by him; and
 - (b) such sums as he may determine in respect of the expenses of the members of the committee.

SCHEDULE 4

* * * * *

SCHEDULE 5**Section 103****FORFEITURE ON CONVICTION***Power to order forfeiture*

- 1(1) Where a person is convicted of a relevant offence, the court may, as well as imposing any other penalty, order to be forfeited to [the Treasurer of the States of Jersey] such of the things mentioned in sub-paragraph (2) as the court considers appropriate.
- (2) The things are –
- (a) any vehicle, ship or aircraft, or any structure or other object, that was used in connection with the commission of the offence;
 - (b) any wireless telegraphy apparatus or other apparatus in relation to which the offence was committed;
 - (c) any wireless telegraphy apparatus or other apparatus that was used in connection with the commission of the offence;
 - (d) any wireless telegraphy apparatus or other apparatus (not falling within paragraph (b) or (c)) that –
 - (i) was in the possession or under the control of the person convicted of the offence at the time he committed it, and
 - (ii) was intended to be used (whether or not by that person) in connection with the making of a broadcast or other transmission that would contravene section 8 or any provision of Part 5.
- (3) References in sub-paragraph (2)(b) to (d) to apparatus other than wireless telegraphy apparatus include references to –
- (a) recordings;
 - (b) equipment designed or adapted for use –
 - (i) in making recordings, or
 - (ii) in reproducing sounds or visual images from recordings;
 - (c) any other equipment that is connected, directly or indirectly, to wireless telegraphy apparatus.
- (4) A relevant offence is –
- (a) an offence under Chapter 4 or 5 of Part 2 consisting in a contravention of any provision of that Part in relation to a wireless telegraphy station or wireless telegraphy apparatus (including an offence under section 37 or 38);
 - (b) * * * * *
 - (c) an offence under section 68;

- (d) an offence under Part 5.
- (5) But the following are not relevant offences –
 - (a) an offence under section 35 consisting in the installation or use of receiving apparatus;
 - (b) an offence under section 36 committed in relation to receiving apparatus;
 - (c) * * * * *

Forfeiture in relation to restricted apparatus

- 2(1) Where a person is convicted of an offence under Part 2, 3 or 6 involving restricted apparatus, the court must order the apparatus to be forfeited to OFCOM unless the defendant or a person who claims to be the owner of, or otherwise interested in, the apparatus shows cause why it should not be forfeited.
- (2) This paragraph does not affect the operation of paragraph 1 in relation to apparatus that is not restricted apparatus.
- (3) Apparatus is restricted apparatus if custody or control of apparatus of any class or description to which it belongs is for the time being restricted by a restriction order under section 62.

Property of third parties

- 3 Apparatus may be ordered to be forfeited under paragraph 1 or 2 even if it is not the property of the person by whom the offence giving rise to the forfeiture was committed.

Disposal of apparatus

- [4 Apparatus ordered to be forfeited under paragraph 1 or 2 may be retained, disposed of or dealt with by the Treasurer of the States of Jersey in such manner as he may think fit.]

Delivery to [the Treasurer of the States of Jersey]

- 5(1) A court that orders apparatus to be forfeited under paragraph 1 or 2 may also order the person by whom the offence giving rise to the forfeiture was committed not to dispose of it except by delivering it up to [the Treasurer of the States of Jersey] within 48 hours of being so required by them.
- (2) A person against whom an order is made under sub-paragraph (1) commits a further offence if –
 - (a) he contravenes the order; or
 - (b) he fails to deliver up the apparatus to [the Treasurer of the States of Jersey] as required.
- (3) An offence under sub-paragraph (2) is punishable as if it were committed under the same provision, and at the same time, as the offence for which the forfeiture was ordered.

Provisions as to disposal of property disapplied

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Provisions as to deprivation of property disapplied

7	*	*	*	*	*
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SCHEDULE 6

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SCHEDULE 7

Section 123

CONSEQUENTIAL AMENDMENTS*Defamation Act (Northern Ireland) 1955 (c. 11 (N.I.))*

1 * * * * *

Wireless Telegraphy Act 1967 (c. 72)

2 * * * * *

Theatres Act 1968 (c. 54)

3 * * * * *

Port of London Act 1968 (c. xxxii)

4 * * * * *

Local Government Act 1972 (c. 70)

5 * * * * *

Thames Barrier and Flood Prevention Act 1972 (c. xlv)

6 * * * * *

Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22)

7 * * * * *

Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))

8 * * * * *

Broadcasting Act 1990 (c. 42)

9 The Broadcasting Act 1990 is amended as follows.

10 In section 3 (licences under Part 1 of that Act) in subsection (8)(a), for “a licence under section 1 of the Wireless Telegraphy Act 1949” substitute “a licence under section 8 of the Wireless Telegraphy Act 2006”.

11 In section 86 (licences under Part 3 of that Act) in subsection (9)(a), for “a licence under section 1 of the Wireless Telegraphy Act 1949” substitute “a licence under section 8 of the Wireless Telegraphy Act 2006”.

12(1) Section 89 (offences giving rise to disqualification) is amended as follows.

- (2) In subsection (1) (disqualification from holding licence on grounds of conviction for transmitting offence), for paragraphs (a), (aa), (ab) and (b) substitute –

- “(a) an offence under section 35 of the Wireless Telegraphy Act 2006 (unauthorised use etc. of wireless telegraphy station or apparatus) consisting in the establishment or use of a wireless telegraphy station, or the installation or use of wireless telegraphy apparatus, for the purpose of making a broadcast (within the meaning of Part 5 of that Act);
- (aa) an offence under section 36 of that Act (keeping wireless telegraphy station or apparatus available for unauthorised use) where the relevant contravention of section 8 of that Act would constitute an offence falling within paragraph (a);
- (ab) an offence under section 37 or 38 of that Act (unlawful broadcasting offences);
- (b) an offence under Part 5 of that Act (prohibition of broadcasting from sea or air); or”.

- (3) In subsection (3)(b) (licence conditions excluding persons disqualified) for “a station for wireless telegraphy” substitute “a wireless telegraphy station”.

- 13 In section 202 (general interpretation) in subsection (1), for the definitions of “wireless telegraphy” and “station for wireless telegraphy” substitute –

“ “wireless telegraphy” and “wireless telegraphy station” each has the same meaning as in the Wireless Telegraphy Act 2006.”

Intelligence Services Act 1994 (c. 13)

- 14 In section 11 of the Intelligence Services Act 1994 (interpretation and consequential amendments) in subsection (1)(e), for “the Wireless Telegraphy Act 1949” substitute “the Wireless Telegraphy Act 2006”.

Merchant Shipping Act 1995 (c. 21)

- 15 * * * * *

Criminal Procedure (Scotland) Act 1995 (c. 46)

- 16 * * * * *

Broadcasting Act 1996 (c. 55)

- 17 In section 3 of the Broadcasting Act 1996 (licences under Part 1 of that Act) in subsection (8)(a), for “a licence under section 1 of the Wireless Telegraphy Act 1949” substitute “a licence under section 8 of the Wireless Telegraphy Act 2006”.

- 18 In section 42 of that Act (licences under Part 2 of that Act) in subsection (7)(a), for “a licence under section 1 of the Wireless Telegraphy Act 1949” substitute “a licence under section 8 of the Wireless Telegraphy Act 2006”.

Police Act 1997 (c. 50)

19 * * * * *

Terrorism Act 2000 (c. 11)

20 * * * * *

Regulation of Investigatory Powers Act 2000 (c. 23)

21 * * * * *

22 * * * * *

23 * * * * *

24 * * * * *

Communications Act 2003 (c. 21)

25 The Communications Act 2003 is amended as follows.

26 In section 14 (consumer research) in subsection (2), for “the Wireless Telegraphy Act 1949 (c. 54)” substitute “the Wireless Telegraphy Act 2006”.

27 In section 190 (resolution of disputes referred to OFCOM) in subsection (4)(c), for “regulations under section 1 or 3 of the Wireless Telegraphy Act 1949 (c. 54)” substitute “regulations under section 8 or 45 of the Wireless Telegraphy Act 2006”.

28 In section 192(1) (appeals: decisions subject to appeal) –

(a) in paragraph (a), for “, the Wireless Telegraphy Act 1949 (c. 54) or the Wireless Telegraphy Act 1998 (c. 6)” substitute “or any of Parts 1 to 3 of the Wireless Telegraphy Act 2006”, and

(b) in paragraph (d)(iv), for “section 156” substitute “section 5 of the Wireless Telegraphy Act 2006”.

29 In section 364 (TV licences) in subsection (2)(f), for “the Wireless Telegraphy Act 1949 (c. 54)” substitute “the Wireless Telegraphy Act 2006”.

30 In section 366 (powers to enforce TV licensing) in subsection (10), in the definition of “interference”, for “the Wireless Telegraphy Act 1949 (c. 54)” substitute “the Wireless Telegraphy Act 2006”.

[31 In section 393 (general restrictions on disclosure of information) in subsection (5), after paragraph (l) insert –

“(la) the Wireless Telegraphy Act 2006;”.]

32 In section 400 (destination of licence fees and penalties), in subsection (1) –

(a) in paragraph (c), for “the Wireless Telegraphy Act 1998 (c. 6)” substitute “Chapter 1 or 2 of Part 2 of the Wireless Telegraphy Act 2006”, and

(b) in paragraph (d), for “section 175” substitute “section 42 of that Act”.

33 * * * *

34(1) Section 405 (general interpretation) is amended as follows.

(2) In subsection (1), in the definition of “the enactments relating to the management of the radio spectrum” –

(a) for paragraphs (a) to (f) (and the word “and” following paragraph (f)) substitute –

“(a) the Wireless Telegraphy Act 2006; and”, and

(b) for paragraph (g) substitute –

“(g) the provisions of this Act so far as relating to that Act;”.

(3) In that subsection, for the definition of “wireless telegraphy” substitute –

““wireless telegraphy” has the same meaning as in the Wireless Telegraphy Act 2006;”.

(4) In that subsection, for the definition of “wireless telegraphy licence” substitute –

““wireless telegraphy licence” means a licence granted under section 8 of the Wireless Telegraphy Act 2006.”

35 * * * *

36 In Schedule 8 (decisions not subject to civil appeal), omit paragraphs 13 to 36 and at end insert –

“Wireless Telegraphy Act 2006

37 A decision relating to the publication of the United Kingdom Plan for Frequency Authorisation.

38 A decision in exercise of the functions conferred on OFCOM by section 1 as to –

(a) the services, records and advice to be provided, maintained or given by them;

(b) the research to be carried out or the arrangements made for carrying it out; or

(c) the making or terms of any grant.

39 A decision under section 4 or 7.

40 A decision given effect to –

(a) by regulations under section 8(3), 12, 14, 18, 21, 23, 27, 30, 45 or 54 or paragraph 1 of Schedule 1 or paragraph 1 of Schedule 2;

(b) by an order under section 29 or 62.

41 A decision relating to the recovery of a sum payable to OFCOM under section 15 or 24.

42 A decision given effect to by regulations under section 31 and any decision under any such regulations.

- 43 A decision relating to the making or revision of a statement under –
 - (a) section 34, or
 - (b) section 44.
- 44 A decision to impose a penalty under section 42(1).
- 45 A decision for the purposes of section 59.
- 46 A decision relating to an authority under section 62(5).”

Income Tax (Trading and Other Income) Act 2005 (c. 5)

37 * * * * *

Commissioners for Revenue and Customs Act 2005 (c. 11)

38 * * * * *

SCHEDULE 8

Section 124

TRANSITIONAL PROVISIONS, SAVINGS AND TRANSITORY MODIFICATIONS**PART 1****TRANSITIONAL PROVISIONS AND SAVINGS***General provisions*

- 1 The substitution of provisions of this Act for provisions repealed or revoked by it does not affect the continuity of the law.
- 2 Anything done, or having effect as if done, under or for the purposes of a provision repealed by this Act (including subordinate legislation so made or having effect as if so made), and in force or effective immediately before the commencement of this Act, has effect after that commencement as if done under or for the purposes of the corresponding provision of this Act.
- 3 A reference (express or implied) in this Act or another enactment, or in an instrument or document, to a provision of this Act is (so far as the context permits) to be read as (according to the context) being or including a reference to the corresponding provision repealed by this Act, in relation to times, circumstances or purposes in relation to which the repealed provision had effect.
- 4(1) A reference (express or implied) in an enactment, or in an instrument or document, to a provision repealed by this Act is (so far as the context permits) to be read as (according to the context) being or including a reference to the corresponding provision of this Act, in relation to times, circumstances and purposes in relation to which that corresponding provision has effect.
- (2) In particular, where a power conferred by an Act is expressed to be exercisable in relation to enactments contained in Acts passed before or in the same Session as the Act conferring the power, the power is also exercisable in relation to provisions of this Act that reproduce such enactments.
- 5 * * * *
- 6 Paragraphs 2 and 4(1) do not apply to an Order in Council to which paragraph 24(1) applies.

General rule for old savings

- 7(1) The repeal by this Act of an enactment previously repealed subject to savings does not affect the continued operation of those savings.

- (2) The repeal by this Act of a saving on the previous repeal of an enactment does not affect the saving in so far as it remains capable of having effect.

Use of existing forms etc.

- 8 A reference to an enactment repealed by this Act which is contained in a document made, served or issued on or after the commencement of that repeal is to be read, except so far as a contrary intention appears, as referring or, as the context may require, including a reference to the corresponding provision of this Act.

Regulatory Reform Act 2001 (c. 6)

- 9 * * * *

Contracted-out functions under section 1 of the Wireless Telegraphy Act 1949

- 10 * * * *

Wireless telegraphy licences granted before 18th June 1998

- 11(1) This paragraph has effect in relation to wireless telegraphy licences granted before 18th June 1998 (the date on which section 1 of the Wireless Telegraphy Act 1998 (c. 6) came into force).
- (2) Where this paragraph has effect, section 12 is the provision of this Act which, for the purposes of paragraph 4(1) of this Schedule, corresponds to section 2(1) of the Wireless Telegraphy Act 1949 (c. 54).

Procedures treated as prescribed by regulations made by OFCOM

- 12(1) Sub-paragraph (2) applies where, immediately before the commencement of this Act, procedures have effect, by virtue of paragraph * * * 21(2) of Schedule 18 to the Communications Act 2003 (c. 21), as if prescribed by OFCOM by regulations under –
- (a) section 1D(3) of the Wireless Telegraphy Act 1949, or
- (b) section 3 of the Wireless Telegraphy Act 1998.
- (2) In relation to times after the commencement of this Act, the procedures are to have effect as if prescribed by OFCOM by regulations under –
- (a) paragraph 1 of Schedule 1, or
- (b) section 14.
- (3) A notice under –
- (a) section 1D of the Wireless Telegraphy Act 1949, or
- (b) regulations under section 3 of the Wireless Telegraphy Act 1998,
- which is in force immediately before the commencement of this Act and, by virtue of paragraph * * * 21 of Schedule 18, has effect as if it authorised or required a thing to be done by or in relation to OFCOM shall, so long as it remains in force, continue to have that effect by virtue of this paragraph.

Tribunal established under section 9 of the Wireless Telegraphy Act 1949

- 13 The repeal by this Act of sections 11 and 12 of the Wireless Telegraphy Act 1949 does not affect the continued operation of section 11 or 12 (without the amendments made in those sections by section 178 of the Communications Act 2003) in relation to a notice under section 11(1) or (2) or section 12(1) that is served before 25th July 2003.

References to Postmaster General etc.

- 14 The repeal by this Act of part of section 3(1)(ii) of the Post Office Act 1969 (c. 48) is not to affect the continued operation of section 3(1)(ii) in relation to a provision of regulations or a licence where the regulations were made or the licence was granted under the Wireless Telegraphy Act 1949 before 1st October 1969 (the day on which functions of the Postmaster General were transferred to the Minister).

Procedure for prosecutions

- 15(1) This paragraph has effect in relation to prosecutions to which section 41 of this Act applies.
- (2) The restrictions on the bringing of proceedings which are imposed by section 41(2) and (3) do not have effect in relation to proceedings started before 25th July 2003 (the date on which section 174 of the Communications Act 2003 (c. 21) came into force).

Penalties for certain offences triable either way

- 16 * * * *

Penalties for offences: unauthorised use of wireless telegraphy station etc.

- 17 * * * *
- 18 * * * *

Penalties for offences: contravening notice under section 55 or 56

- 19 * * * *

Fixed penalties for wireless telegraphy offences

- 20 * * * *

Powers of seizure

- 21 * * * *

Forfeiture etc. of restricted apparatus

- 22 * * * *

Appeals of wireless telegraphy decisions

- 23 The repeals made by this Act do not affect the continued operation of paragraph 23(2) of Schedule 18 to the Communications Act 2003 as regards decisions against which an appeal could have been brought under section 1F of the Wireless Telegraphy Act 1949 (c. 54).

Orders in Council: section 118

- 24(1) An Order in Council made under a provision that is repealed by this Act and re-enacted in section 118(3) continues to have effect despite the repeal of that provision.
- (2) An Order in Council made under section 118(3) may amend or revoke an Order in Council continued in effect by sub-paragraph (1).

Orders in Council: continental shelf

25 * * * *

PART 2**TRANSITORY MODIFICATIONS***Justice (Northern Ireland) Act 2002 (c. 26)*

26 * * * *

Communications Act 2003 (c. 21)

- 27(1) This paragraph applies if –
- (a) section 180 of the Communications Act 2003, and
 - (b) Schedule 6 to that Act,
- have not come into force before the commencement of this Act.
- (2) Until the relevant commencement date, this Act has effect with the omission of –
- (a) section 96, and
 - (b) Schedule 4.
- (3) The relevant commencement date is –
- (a) if an order has been made before the commencement of this Act appointing a day after that commencement as the day for the coming into force of the provisions mentioned in sub-paragraph (1), the day so appointed;
 - (b) otherwise, such day as the Secretary of State may by order appoint.

Power to make transitional provision

28 * * * *

Saving for old transitional provisions

29 * * * *

SCHEDULE 9

Section 125

REPEALS AND REVOCATIONS**PART 1****REPEALS**

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Wireless Telegraphy Act 1949 (c. 54)	The whole Act.
Marine, &c., Broadcasting (Offences) Act 1967 (c. 41)	The whole Act.
Wireless Telegraphy Act 1967 (c. 72)	Sections 7 to 12. In section 13(4) the words from “, and” to the end. In section 15 – (a) subsections (2) and (3), and (b) in subsection (6) the words “, except for section 7 of this Act,”.
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Telecommunications Act 1984 (c. 12)	Part 6.
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Broadcasting Act 1990 (c. 42)	Sections 168 to 174. Section 180(1). Schedule 16. In Schedule 18, in Part 1, paragraphs 1 and 3.
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Communications Act 2003 (c. 21)					<p>Sections 152 to 184. In section 393 – (a) subsection (1)(b), and (b) subsection (5)(a), (b) and (l). Section 394(2)(c). Section 402(2)(b). Section 404(4)(b) and (c) and (5). In section 407(1) – (a) paragraph (a), and (b) in paragraph (c) the words “(a) or”. In Schedule 1, paragraphs 1 and 2. Schedules 5 to 7. In Schedule 8, paragraphs 13 to 36. In Schedule 17 – (a) paragraphs 6 to 18, (b) paragraphs 32 to 38, (c) paragraphs 64 to 69, (d) paragraph 72(2), and (e) paragraphs 145 to 151. In Schedule 18 – (a) paragraph 6, (b) paragraphs 20 and 21, (c) in paragraph 23, sub-paragraph (1)(c)(i), in sub-paragraph (2) the words “(or that Act of 1949)” and in sub-paragraph (3) the words “section 1F of that Act of 1949 or”, (d) paragraph 55, and (e) paragraph 63. In Schedule 19, Notes 1 and 3.</p>				
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PART 2

REVOCATIONS

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1	<i>chapter 06.117</i>
2	<i>chapter 06.117</i>
3	<i>L.30/1952</i>
4	<i>chapter 19.240 (L.21/1967)</i>
5	<i>L.4/1968</i>
6	<i>L.7/1997</i>
7	<i>L.20/1998</i>
8	<i>chapter 06.747 (L.1/2004)</i>
9	<i>chapter 06.117 (L.3/2004)</i>
10	<i>chapter 06.110 (L.7/2004)</i>
11	<i>deletions and words in square brackets indicate adaptations and modifications made by The Wireless Telegraphy (Jersey) Order 2006</i>