

# Broadcasting (Offences) Act, 1968

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BROADCASTING (OFFENCES) ACT, 1968

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AN ACT TO SUPPRESS BROADCASTING, FROM SHIPS, AIRCRAFT AND CERTAIN MARINE STRUCTURES

[16th August, 1968.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—(1) In this Act—

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

"sea waters adjacent to the State" comprises all sea areas which lie within the line specified by [section 3](#) of the [Maritime Jurisdiction Act, 1959](#), as being, for the purposes of that Act, the outer limit of the territorial seas and "the high seas" means the seas outside the line so specified or any line which, under the law of any country or territory outside the State, is the outer limit of the territorial waters of that country or territory;

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

"wireless telegraphy", and "apparatus for wireless telegraphy" have the same meanings respectively as in the [Wireless Telegraphy Act, 1926](#), and "wireless telegraphy licence" means a licence granted under that Act.

(2) Any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended by or under any other enactment.

Prohibition of broadcasting from ships and aircraft.

2.—(1) It shall not be lawful for a broadcast to be made from a ship or aircraft while it is in or over the State or sea waters adjacent to the State, nor shall it be lawful for a broadcast to be made from a ship registered in the State or an aircraft so registered while the ship or aircraft is elsewhere than in or over the State or sea waters adjacent to the State.

(2) If a broadcast is made from a ship in contravention of the foregoing subsection, the owner of the ship, the master of the ship and every person who operates, or participates in the operation of, the apparatus by means of which the broadcast is made shall be guilty of an offence; and if a broadcast is made from an aircraft in contravention of that subsection, the operator of the

aircraft, the commander of the aircraft and every person who operates, or participates in the operation of, the apparatus by means of which the broadcast is made shall be guilty of an offence.

(3) A person who procures the making of a broadcast in contravention of subsection (1) of this section shall be guilty of an offence.

(4) In subsection (2) of this section—

( a ) "master", in relation to a ship, includes any other person (except a pilot) having command or charge of the ship;

( b ) "operator", in relation to an aircraft, means the person for the time being having the management of the aircraft.

Prohibition of broadcasting from marine structures.

**3.**—(1) It shall not be lawful for a broadcast to be made from—

( a ) a structure in sea waters adjacent to the State or in tidal waters in the State, being a structure affixed to, or supported by, the bed of those waters and not being a ship, or

( b ) any other object in such waters, being neither a structure affixed or supported as aforesaid nor a ship or aircraft,

and if a broadcast is made in contravention of the foregoing provision, every person who operates, or participates in the operation of, the apparatus by means of which the broadcast is made shall be guilty of an offence.

(2) A person who procures the making of a broadcast in contravention of the foregoing subsection shall be guilty of an offence.

Prohibition of acts connected with broadcasting from certain ships and aircraft, and from marine structures outside the State.

**4.**—(1) If a broadcast is made—

( a ) from a ship other than one registered in the State while the ship is on the high seas,

( b ) from an aircraft other than one so registered while the aircraft is on or over the high seas,

( c ) from a structure on the high seas, being a structure affixed to, or supported by, the bed of those seas and not being a ship, or

( d ) from any other object on those seas, being neither a structure affixed or supported as aforesaid nor a ship or aircraft,

any person being a citizen of Ireland who operates, or participates in the operation of, the apparatus by means of which the broadcast is made shall be guilty of an offence.

(2) A person who procures a broadcast to be made as mentioned in the foregoing subsection shall be guilty of an offence.

Prohibition of acts facilitating broadcasting from ships, aircraft, etc.

**5.**—(1) A person who does any of the acts mentioned in subsection (3) of this section, while satisfying the condition as to knowledge or belief mentioned in the case of that act, shall be guilty of an offence if—

( a ) he does the act in the State or sea waters adjacent to the State or in a ship registered in the State or an aircraft so registered while the ship or aircraft is elsewhere than in or over the State or sea waters adjacent to the State, or

( b ) being a citizen of Ireland, he does the act on or over the high seas.

(2) A person who, in the State, procures another person to do, outside the State, anything which, if it had been done in the State by the last-mentioned person, would have constituted an offence under the foregoing subsection shall be guilty of an offence.

(3) The acts, and conditions as to knowledge or belief, referred to in subsection (1), of this section are the

following:

( *a* ) furnishing or agreeing to furnish to another a ship or aircraft knowing, or having reasonable cause to believe, that broadcasts are to be made from it in contravention of section 2 (1) of this Act or while it is on or over the high seas;

( *b* ) carrying or agreeing to carry in a ship or aircraft apparatus for wireless telegraphy knowing, or having reasonable cause to believe, that by means thereof broadcasts are to be made from the ship or aircraft as aforesaid;

( *c* ) supplying to, or installing in, a ship or aircraft apparatus for wireless telegraphy knowing, or having reasonable cause to believe, that by means thereof broadcasts are to be made from the ship or aircraft as aforesaid;

( *d* ) supplying any apparatus for wireless telegraphy for installation on or in, or installing any such apparatus on or in, any structure or other object (not being, in either case, a ship or aircraft) knowing, or having reasonable cause to believe, that by means of that apparatus broadcasts are to be made from the object in contravention of section 3 (1) of this Act or while the object is on the high seas;

( *e* ) repairing or maintaining any apparatus for wireless telegraphy knowing, or having reasonable cause to believe, that, by means thereof, broadcasts are made, or are to be made, in contravention of section 2 (1) or 3 (1) of this Act or as mentioned in section 4 (1) of this Act;

( *f* ) knowing, or having reasonable cause to believe, in the case of a ship or aircraft, that broadcasts are made, or are to be made, from it in contravention of section 2 (1) of this Act or while it is on or over the high seas—

(i) supplying any goods or materials for its operation or maintenance, for the operation or maintenance of apparatus for wireless telegraphy installed therein or for the sustentation or comfort of the persons on board of it;

(ii) carrying by water or air goods or persons to or from it;

(iii) engaging a person as an officer or one of the crew of it:

( g ) knowing or having reasonable cause to believe, in the case of a structure or other object (not being, in either case, a ship or aircraft), that broadcasts are made, or are to be made, from it in contravention of section 3 (1) of this Act or while it is on the high seas—

(i) supplying any goods or materials for its maintenance, for the operation or maintenance of apparatus for wireless telegraphy installed therein or thereon or for the sustentation or comfort of the persons therein or thereon;

(ii) carrying by water or air goods or persons thereto or therefrom;

(iii) engaging a person to render services therein or thereon.

Prohibition of acts relating to matter broadcast from ships, aircraft, etc.

**6.—**(1) A person who does any of the acts mentioned in subsection (3) of this section, and, if any intent or circumstances is or are specified in relation to the act, does it with that intent or in those circumstances, shall be guilty of an offence if—

( a ) he does the act in the State or sea waters adjacent to the State or in a ship registered in the State or an aircraft so registered while the ship or aircraft is elsewhere than in or over the State or sea waters adjacent to the State, or

( *b* ) being a citizen of Ireland, he does the act on or over the high seas.

(2) A person who, in the State, procures another person to do, outside the State, anything which, if it had been done in the State by the last-mentioned person, would have constituted an offence under the foregoing subsection, shall be guilty of an offence.

(3) The acts, and, where relevant, the intent and circumstances, referred to in subsection (1) of this section are the following:

( *a* ) supplying a cinematograph film or a record with intent that a broadcast of the film or, as the case may be, the recording embodied in the record may be made in contravention of section 2 (1) or 3 (1) of this Act or as mentioned in section 4 (1) thereof;

( *b* ) making a literary, dramatic or musical work with intent that a broadcast of the work may be made as aforesaid;

( *c* ) making an artistic work with intent that the work may be included in a television broadcast made as aforesaid;

( *d* ) participating in a broadcast made as aforesaid, being actually present as an announcer, as a performer or one of the performers concerned in an entertainment given, or as the deliverer of a speech;

( *e* ) advertising by means of a broadcast made as aforesaid or inviting another to advertise by means of a broadcast to be so made;

( *f* ) publishing the times or other details of any broadcasts which are to be so made, or (otherwise than by publishing such details) publishing an advertisement of matter calculated to promote, directly or indirectly, the interests of a business whose activities consist in or include the operation of a station from which broadcasts are or are to be so made.

(4) For the purposes of this section if, by means of a broadcast made in contravention of section 2 (1) or 3 (1) of this Act or as mentioned in section 4 (1) thereof, it is stated, suggested or implied that any entertainment of which a broadcast is so made has been supplied by, or given at the expense of, a person, he shall, unless he proves that it was not so supplied or given, be deemed thereby to have advertised.

(5) For the purposes of this section advertising by means of a broadcast shall be deemed to take place as well wherever the broadcast is received as where it is made.

(6) In this section "speech" includes lecture, address and sermon, and references in this section to a cinematograph film, a record and a literary, dramatic, musical or artistic work shall be construed in like manner as references thereto in the [Copyright Act, 1963](#) .

Penalties and legal proceedings.

7.—(1) A person guilty of an offence under this Act shall be liable—

( a ) on summary conviction, to imprisonment for a term not exceeding three months or, at the discretion of the court, to a fine not exceeding £100 or to both such imprisonment and such fine, or

( b ) on conviction on indictment, to imprisonment for a term not exceeding two years or, at the discretion of the court, to a fine not exceeding £500 or to both such fine and such imprisonment.

(2) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against accordingly.

(3) Proceedings for an offence under this Act may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the State.

(4) Notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be instituted at any time within two years from the time when the offence was committed.

(5) Proceedings for an offence under this Act shall not be instituted otherwise than by or on behalf of the Attorney General; but this shall not prevent the issue or execution of a warrant for the arrest of any person in respect of such an offence or the remanding in custody or on bail of any person charged with such an offence.

(6) A member of the Garda Síochána shall, for the purpose of the enforcement of this Act, have in sea waters adjacent to the State all the powers, protection and privileges which he has in the State.

Special defence available in proceedings for carrying goods or persons in contravention of section 5.

**8.**—(1) In any proceedings against a person for an offence under section 5 of this Act consisting in the carriage of goods or persons to or from a ship or aircraft, it shall be a defence for him 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 carried were carried for the purpose of preserving the ship or aircraft, or its cargo or apparel, or saving the lives of persons on board of it, or

( b ) that a person on board of the ship or aircraft was, or was believed to be, suffering from hurt, injury or illness, and that the goods or persons were carried for the purpose of securing that the necessary surgical or medical advice and attendance were rendered to him.

(2) In any proceedings against a person for an offence under section 5 of this Act consisting in the carriage of goods or persons to or from an object other than a ship or aircraft, it shall be a defence for him to prove—

( a ) that the object was, or was believed to be, unsafe, and that the goods or persons carried were carried for the purpose of saving the lives of persons therein or thereon, or

( b ) that a person therein or thereon was, or was believed to be, suffering from hurt, injury or illness, and that the goods or persons were carried for the purpose of securing that the necessary surgical or medical advice and attendance were rendered to him.

(3) In any proceedings against a person for an offence under section 5 of this Act consisting in the carriage of a person to or from a ship or aircraft or to or from an object other than a ship or aircraft, it shall be a defence for him to prove that the person carried was visiting the ship, aircraft or object, as the case may be, for the purpose of exercising or performing any power or duty conferred or imposed on him by law.

(4) The references in subsections (1) (a) and (2) (a) of this section to persons' having been carried for the purpose of saving lives shall not be construed so as to exclude the persons whose lives it was the purpose to save and the references in subsections (1) (b) and (2) (b) thereof to persons' having been carried as therein mentioned shall not be construed so as to exclude the person who was, or was believed to be, suffering as so mentioned.

Savings for things done under wireless telegraphy licence.

**9.**—Nothing in this Act shall render it unlawful to do anything under and in accordance with a wireless telegraphy licence, or to procure anything to be so done.

Short title and commencement.

**10.**—(1) This Act may be cited as the [Broadcasting \(Offences\) Act, 1968](#) .

(2) This Act shall not come into operation before the expiry of one month beginning with the day on which it is passed, but subject thereto it shall come into operation on such day as may be appointed by the Minister for Posts and Telegraphs by order.