

# **MOBILE TELEPHONES (RE- PROGRAMMING) ACT 2002**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These explanatory notes relate to the Mobile Telephones (Re-programming) Act which received Royal Assent on 24 July 2002. They have been prepared by the Home Office in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

### **SUMMARY AND BACKGROUND**

3. The Mobile Telephones (Re-programming) Act creates a number of offences relating to the electronic identifiers of mobile wireless communications devices. In particular it becomes an offence to reprogramme the unique International Mobile Equipment Identity (IMEI) number which identifies a mobile telephone handset. It is also possible to interfere with the operation of the IMEI by the addition of a small electronic chip to the handset and this too is made illegal.
4. From September 2002 all the major mobile telephone network providers will be able to bar mobile telephone handsets, when these are reported stolen or lost, by reference to the IMEI number. However, if the IMEI number of the stolen or lost telephone is changed, it will not be possible to implement the barring process and the telephone will be able to continue in use.
5. It is clear from international Global System for Mobiles (GSM) standards that the IMEI number should not be changed and that it should be resistant to change. Indeed there is no legitimate reason why anyone other than the manufacturer of a mobile telephone (or its authorised agents) should need to alter an IMEI number.
6. It is expected that the creation of these new offences, taken together with the implementation of a handset barring system across all networks, should help remove the incentive for mobile telephone theft. According to research published by the Home Office in January 2002 (*Mobile Phone Theft*, Home Office Research Study 235), mobile telephones are involved in 28% of all robberies, compared to 8% three years previously.

### **COMMENTARY ON SECTIONS**

#### ***Section 1: Re-programming mobile telephone etc.***

7. This section creates the offence of changing or interfering with a unique device identifier. The offence is triable either way. The offence is punishable on conviction on indictment by up to 5 years' imprisonment or a fine or both. The offence is punishable

on summary conviction by up to 6 months' imprisonment or a fine not exceeding the statutory maximum (currently £5,000) or both.

8. *Subsection (2)* defines a unique device identifier as an electronic equipment identifier which is unique to a mobile wireless communications device. The offence is defined in terms which ensure that it will still be relevant to future generations of mobile communications devices which may have different electronic equipment identifiers.
9. *Subsection (3)* makes it clear that no offence is committed where the manufacturer, or someone with the manufacturer's written consent, changes or interferes with the operation of a unique device identifier. Other than the manufacturers themselves, only a very limited and strictly controlled number of service centres have express authorisation to change the IMEI number.

### ***Section 2: Possession or supply of anything for re-programming purposes***

10. This section creates a number of offences ancillary to the offence created by section 1. These linked offences are having custody or control of the equipment for the purpose of unauthorised reprogramming (*subsection 1*), and supplying (*subsection 2*) or offering to supply (*subsection 3*) the equipment to someone for that purpose.
11. The equipment required to reprogramme the IMEI number may also be used for other legitimate purposes. The section makes it clear that the offences are committed only if the person intends to use the equipment or allow it to be used for the purposes of making an unauthorised change to the IMEI number, or knows that the person to whom he supplies it or offers to supply it intends to use it or allow it to be used for that purpose.
12. The effect of subsection (5) is that possession by, supply to, or the offer to supply to the manufacturer of a mobile telephone, or someone with his written consent, does not amount to an offence under subsections (1), (2) and (3).
13. Unique device identifier has the same definition as in section 1. The penalties for each of these offences are the same as for the offence created by section 1.

### ***Section 3: Citation etc.***

14. This section gives the short title of the Act; it also provides for commencement. The Act extends to the United Kingdom.

### **COMMENCEMENT**

15. *Section 3* comes into force on Royal Assent. Sections 1 and 2 come into force on days that the Secretary of State will specify by order.

### **HANSARD REFERENCES**

16. The following tables set out the dates and Hansard references for each stage of the Act's passage through Parliament.

<i>Stage</i>	<i>Date</i>	<i>Hansard reference</i>
<b>House of Lords</b>		
Introduction	2 May 2002	Vol 634 Col 801
Second Reading	16 May 2002	Vol 635 Cols 477-484
Committee	20 June 2002	Vol 636 Cols 906-913
Report	4 July 2002	Vol 637 Cols 362-365
Third Reading	11 July 2002	Vol 637 Col 876

*These notes refer to the Mobile Telephones (Re-programming)  
Act 2002 (c.31) which received Royal Assent on 24 July 2002*

<i>Stage</i>	<i>Date</i>	<i>Hansard reference</i>
<b>House of Commons</b>		
Second Reading	22 July 2002	Vol 389 Cols 706-728
Committee, Report and Third Reading	24 July 2002	Vol 389 Cols 1065-1071
<b>Royal Assent</b> — 24 July 2002	House of Commons Hansard Vol 389 Col 1080	
	House of Lords Hansard Vol 638 Col 508	