
STATUTORY INSTRUMENTS

2003 No. 1903

TELECOMMUNICATIONS

TELEGRAPHS

The Radio Equipment and Telecommunications
Terminal Equipment (Amendment) Regulations 2003

<i>Made</i>	- - - -	<i>17th July 2003</i>
<i>Laid before Parliament</i>		<i>21st July 2003</i>
<i>Coming into force</i>	- -	<i>25th July 2003</i>

The Secretary of State, being a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to the approval of telecommunications terminal equipment and in relation to measures relating to wireless telegraphy including radio equipment, in exercise of the powers conferred on her by that section, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Radio Equipment and Telecommunications Terminal Equipment (Amendment) Regulations 2003 and shall come into force on 25th July 2003.

Amendment to the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000

2.—(1) The Radio Equipment and Telecommunications Terminal Equipment Regulations 2000⁽³⁾ shall be amended in accordance with this regulation.

(2) In regulation 1(3), after the words “except for regulations” in the first place where they appear there shall be inserted the words “2(2) and (3).”.

(3) In regulation 2 the following paragraph shall be inserted:

“(4) Except for the references to the European Communities in the definition of “the Commission” and in relation to the Official Journal, a reference to the Community includes a reference to the EEA, and a reference to a member State includes a reference to an EEA State: for this purpose—

(1) S.I. [1989/1327](#) and [1999/2788](#).

(2) 1972 c. 68.

(3) S.I. [2000/730](#).

- (a) the “EEA” means the European Economic Area;
 - (b) an “EEA State” means a State which is a contracting party to the EEA Agreement; and
 - (c) the “EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993⁽⁴⁾
- (4) In regulation 3(2) and (3), for the words “nothing in these Regulations shall affect” there shall be substituted the words “the apparatus shall be governed by these Regulations without prejudice to”.
- (5) In regulation 5:
- (a) after the words “Subject to” in paragraph (1) there shall be inserted the words “paragraph (4) and”;
 - (b) for sub-paragraph (d) of paragraph (2) there shall be substituted:
 - “(d) the requirements of regulation 10 and Schedule 7 (CE and other marking) have been complied with;” and
 - (c) the following paragraph shall be inserted:
 - “(4) Paragraph (1) does not prohibit the putting into service of apparatus in relation to which the requirements of paragraphs (2)(b), (c), (d) and (e) have not been complied with.”
- (6) For regulation 6(2) there shall be substituted the following paragraphs:
- “(2) Subject to paragraph (3), no offence under the Act⁽⁵⁾ or the Wireless Telegraphy Acts 1949 to 1967⁽⁶⁾, nor any offence of incitement to commit such an offence, shall be committed by reason only that apparatus which does not comply with these Regulations is displayed at a trade fair, exhibition or demonstration if a notice is displayed in relation to the apparatus to the effect
 - (a) that it does not satisfy the provisions of these Regulations; and
 - (b) that it may not be placed on the market or put into service until those provisions are satisfied by a responsible person.
 - (3) Paragraph (2) does not apply in any case in which radio equipment is switched on and thereby causes harmful interference or endangers public health.
 - (4) The Secretary of State and the Director shall so exercise their respective functions under Part VI of the Act and the Wireless Telegraphy Acts 1949 to 1967 that the putting into service of radio equipment which complies with these Regulations is restricted only for reasons related to the effective and appropriate use of the radio spectrum, avoidance or harmful interference of public health.”
- (7) For regulation 7 there shall be substituted the following regulation:
- “(1) Operators of public telecommunications networks
 - (a) shall connect or permit the connection, at an interface, of any telecommunications terminal equipment which meets the requirements of regulation 4 or is equipment which was placed on the market before 8th April 2001 and complied with the provisions of Directive 98/13/EC⁽⁷⁾, the Telecommunication Terminal Equipment Regulations 1992⁽⁸⁾ or section 22 or 84 of the Telecommunications Act 1984;

(4) The application of the Directive 1999/5/EC on radio and telecommunications terminal equipment was extended to the EEA by Decision 48/2000 of the EEA Joint Committee, at point 4 in Chapter XVIII of Annex II to the EEA Agreement.

(5) Telecommunications Act 1984 (c. 12).

(6) 1949 c. 54 and 1967 c. 72.

(7) O.J. L74, 12.3.1998, p. 1.

(8) S.I. 1992/2423, amended by S.I. 1994/3129, 1995/144.

(b) shall not discontinue such connection lawfully made of any such equipment.

(2) No apparatus is required under sub-paragraphs (1)(a) and (b) or otherwise to be, or to be permitted to be, connected or kept connected if that apparatus

- (a) met the requirements of regulation 4 at the time when the connection was made but no longer does so;
- (b) was placed on the market before 8th April 2001 and complied with the provisions of Directive 98/13/EC, the Telecommunication Terminal Equipment Regulations 1992 or section 22 or 84 of the Telecommunications Act 1984 at the time when the connection was made but no longer does so;
- (c) causes serious damage to a network or harmful radio interference or harm to the network or its functioning; and the operator may refuse connection of that apparatus, disconnect that apparatus or withdraw that apparatus from service provided the operator at the earliest practical opportunity informs the Secretary of State and the Director of its action; or
- (d) is, in case of emergency, required to be disconnected to protect the network, provided that
 - (i) the user may be offered, without delay and without costs, an alternative solution; and
 - (ii) the operator immediately informs the Secretary of State and the Director.

(3) In any case in which a public telecommunications operator

- (a) refuses connection of apparatus declared to be compliant with the provisions of the Directive; or
- (b) disconnects such apparatus; or
- (c) withdraws it from service

the Secretary of State and the Director may, if they are of the opinion that the apparatus would not cause serious damage to a network or harmful interference or harm to the network or its functioning, require the operator to provide connection, reconnect the apparatus or restore it to service (as the case may be).”.

(8) For regulation 10(3) there shall be substituted the following regulation:

“10.—(3) There shall be marked on the apparatus

- (a) the name of the responsible person;
- (b) the type identification of the apparatus; and
- (c) the batch or serial number assigned to the apparatus by the manufacturer.”.

(9) For regulation 13 there shall be substituted the following regulation:

“13.—(1) Subject to paragraph (7) below, each public telecommunications network operator shall, in relation to all interfaces in use by the operator at the time this regulation comes into force, notify such interfaces to the Director and publish within 90 days of this regulation coming into force, in an accurate and adequate manner, the technical specifications of the interfaces in accordance with paragraph (5) below.

(2) Before services are provided through any interface which is not published under paragraph (1) above the public telecommunications network operator shall

- (a) notify such interface to the Director; and
- (b) publish the technical specification of the interface in an accurate and adequate manner and in accordance with paragraph (5) below.

(3) Where any interface to which paragraph (1) or (2) above applies is modified by the public telecommunications network operator

- (a) he shall notify such modification to the Director and publish such modification in an accurate and adequate manner and in accordance with paragraph (5) below; and
- (b) the modification shall include any change in the description of any interface which may affect the maintenance of effective interoperability of services by means of the interface.

(4) Where any interface to which paragraph (1) or (2) above applies is withdrawn, the public telecommunications network operator shall notify such withdrawal to the Director and publish such withdrawal in accordance with paragraph (5) below.

(5) The requirements as to publication are that

- (a) the interface specification published shall
 - (i) be in sufficient detail to permit the design of telecommunications terminal equipment capable of utilising all services provided through the corresponding interface;
 - (ii) detail any changes in existing interfaces; and
 - (iii) include, inter alia, all the information necessary to allow manufacturers to carry out, at their choice, the relevant tests for the essential requirements applicable to the telecommunications terminal equipment; and
- (b) the interface specification shall be made readily available by the public telecommunications network operator.

(6) If, following any representation made to him the Director concludes that any interface specification contains insufficient information for its purpose, he may direct the public telecommunications network operator to

- (a) amend the interface specification in order to remedy the defect; and
- (b) publish the amended interface specification in accordance with the provisions of paragraph (5).

(7) Nothing in this regulation shall require the public telecommunications network operator to publish or send to the Director information which it has already published or sent to the Director.”.

(10) In regulation 14 the following paragraph shall be inserted:

- “(c) recognised for the purpose of carrying out those functions by inclusion in a mutual recognition agreement relating to the Directive or a similar agreement (including a Protocol to the Europe Agreement, or other Agreement, on Conformity Assessment and Acceptance of Industrial Products) which has been concluded between the European Union and a State other than an EEA State.”.

(11) Regulation 17 shall be deleted.

(12) In regulation 18:

- (a) in paragraph (1) for the words “subject to paragraph (2)” there shall be substituted the words “subject to paragraphs (2) and (5),”; and
- (b) the following paragraph shall be inserted:
 - “(5) sections 94–97 of the Communications Act 2003⁽⁹⁾ shall apply for the purposes of the enforcement of regulations 7 and 13 above as if the requirements in those regulations were conditions set under section 45 of that Act.”.

(13) In regulation 19:

- (a) paragraph number “(1)” shall be inserted at the beginning of the text; and
- (b) the words “(subject to paragraph (2))” shall be inserted at the beginning of sub-paragraph (a); and
- (c) the following paragraph shall be inserted:

“(2) No offence shall be committed merely by reason of failure to comply with regulation 12 in respect of equipment which uses frequency bands the use of which by that equipment is consistent with the United Kingdom Plan for Frequency Authorisation published under section 153 of the Communications Act 2003.”.

(14) Schedule 8 shall be deleted.

(15) In Schedule 9, in paragraph 1(2)(i) for the words “and (b)” there shall be substituted the words “(b) and (c)”.

Application of the Wireless Telegraphy Acts

3. In the application of the Wireless Telegraphy Acts 1949 to 1967, and of instruments made thereunder before 25th July 2003, to radio equipment as defined in regulation 2(1) of the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000, other than equipment to which those Regulations do not apply by virtue of regulation 3(4) and (5) thereof, references to the emission or reflection by such equipment of interference or undue interference shall be taken to be references to the emission or reflection thereby of harmful interference as defined in the said regulation 2(1).

17th July 2003

Stephen Timms,
Minister of State for Energy, E-Comm and Postal
Services,
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000 (“the RTTE Regulations”) which implemented Directive [1999/5/EC](#) of the European Parliament and of the Council on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (O.J. L91, 7.4.1999, p.10):

regulation 2(2) amends a disapplication of the Electromagnetic Compatibility Regulations 1992 (S.I. [1992/2372](#)) so that disapplication in those Regulations of certain regulations made under section 10 of the Wireless Telegraphy Act 1949 continues to be effective;

regulation 2(3)(a) inserts new definitions in regulation 2 of the RTTE Regulations;

regulation 2(3)(b) inserts a new paragraph (4) inserting the extension of the application of Directive [1999/5/EC](#) to the EEA as published in O.J. L237 of 2000, pp 58–59;

regulation 2(4) clarifies the application of the Regulations;

regulation 2(5)(a) and (c) has the effect that there is no prohibition on putting apparatus into service merely because inter alia, it does not bear the CE marking providing the essential requirements are met. (This exception does not apply in any case of placing on the market.);

regulation 2(5)(b) amends the requirement that apparatus must carry certain markings in addition to the CE marking;

regulation 2(6) amends the provision in the RTTE Regulations about display of apparatus at trade fairs, etc and the switching on of radio equipment so that it expressly states that no offence is committed by such display but an offence is committed if the apparatus is radio equipment and switching on causes interference or endangers public health;

regulation 2(6) also adds a new provision requiring the Director General of Telecommunications appointed under section 1 of the Telecommunications Act 1984 (“the Director”) and the Secretary of State to exercise their respective wireless telegraphy functions so as to restrict the putting into service of compliant radio equipment only for reasons of spectrum management, avoidance of interference or public health;

regulation 2(7) provides for operators of public telecommunications networks to connect and disconnect compliant apparatus under certain circumstances and for the Secretary of State and the Director to require an operator to connect or reconnect apparatus if they disagree with his assessment that it causes network damage, interference or harm to network functioning;

regulation 2(8) has the effect that markings on apparatus need to include the type as well as either of the batch or serial number;

regulation 2(9) provides for publication of information relating to technical specifications of interfaces;

regulations 2(7) and (9) reflect provisions that were previously contained in licences issued under the Telecommunications Act 1984 by virtue of regulation 17 and Schedule 8 of the RTTE Regulations. Following implementation of a series of EU Directives on electronic communications in the United Kingdom with effect from 25th July 2003 individual licences for the provision of electronic communications networks and services are no longer required; the effect of regulations 2(7) and (9) is to continue to apply the requirements set out therein to certain telecommunications operators;

regulation 2(10) inserts a provision for recognition of mutual recognition agreements with non-EEA states in relation to the appointment of notified bodies;

regulation 2(11) deletes regulation 17 of the RTTE Regulations;

regulation 2(12) provides for the requirements of regulations 7 and 13 to be enforced in accordance with sections 94–97 of the Communications Act 2003 as if they were conditions under section 45 of that Act;

regulations 2(13) provides that no offence is committed under the RTTE Regulations where notice has not been given to the Secretary of State under regulation 12 in respect of equipment which uses frequency bands consistent with the United Kingdom Plan for Frequency Authorisation published under section 153 of the Communications Act 2003;

regulation 2(14) provides for the deletion of Schedule 8;

regulation 2(15) amends Schedule 9 by removing a redundant cross-reference in the application by the RTTE Regulations of a provision of the Consumer Protection Act 1987.

These Regulations also provide that provisions in the Wireless Telegraphy Acts 1949 to 1967 about interference when applied to radio equipment covered by the RTTE Regulations are limited to harmful interference as defined in the RTTE Regulations, in implementation of Directive [1999/5/EC](#).