



Department of Trade and Industry

---

**The Radio Equipment and  
Telecommunications Terminal Equipment  
Regulations 2000  
SI 2000 No. 730**

**Proposal to Amend the Regulations**

---

**A Consultation Document**

---

**March 2003**

**URN 03/686**

**THE RADIO EQUIPMENT AND TELECOMMUNICATIONS TERMINAL  
EQUIPMENT REGULATIONS 2000**

**PROPOSAL TO AMEND THE REGULATIONS**

**A CONSULTATION DOCUMENT**

**Introduction**

1. The Department of Trade and Industry (DTI) would welcome your comments on consideration of a proposal to amend the Radio Equipment and Telecommunications Terminal Equipment Regulations S.I. 2000 No. 730.
2. The Radio Equipment and Telecommunications Terminal Equipment Regulations 2000 ("the Principal Regulations") implement Directive 1999/5/EC ("the Directive") and came into force on 8th April 2000.
3. The main reason for the amendments to the Principal Regulations is to take account of major changes to be introduced to the licensing of electronic communications networks and services under a package of European Directives, which are to take effect on 25 July 2003.
4. As part of the process of giving effect to these changes, the Office of Communications (Ofcom) was set up under the Office of Telecommunications Act 2002. It is intended that Ofcom will in due course exercise the functions of five existing regulatory bodies: The Independent Television Commission, The Broadcasting Standards Commission, Oftel, The Radio Authority and the Radiocommunications Agency. Ofcom will have regulatory powers covering broadcasting and electronic communications networks and the services delivered on them.
5. The amendments also clarify certain marking and user information requirements and the notification procedure for placing on the market certain radio equipment using non-harmonised spectrum.
6. In addition, the amendments provide for recognition of notified bodies appointed by states other than EEA States under Mutual Recognition Agreements for the purposes of the Regulations.
7. As part of the process of giving effect to the Directives, the Government introduced the Communications Bill into the House of Commons on 19 November 2002, and this Bill introduces a new regulatory framework for [electronic] communications. One of the central objectives of the Bill is the eventual transfer to Ofcom of the functions, property, rights and liabilities of the bodies and officeholders that currently regulate the communications sector, and who each operate within a separate strategic framework. Ofcom will then

develop and maintain new regulatory rules for the communications sector within the context of a single set of regulatory objectives, and in the light of the changing and converging market environment.

8. As indicated above, Ofcom will take over the regulatory role of the Radiocommunications Agency (RA). The RA is an executive agency of the Department of Trade and Industry and is responsible for the allocation, maintenance and supervision of most non-military radio spectrum in the United Kingdom. It exercises the Secretary of State's powers under the Wireless Telegraphy Acts 1949, 1967 and 1998 and related legislation. When Ofcom comes into being it will, because of its functions, also become a regulatory authority for the purposes of certain provisions of the Principal Regulations and will also have responsibility for enforcement of those provisions.
9. The Communications Bill also repeals those provisions of the Telecommunications Act 1984 relating to licence requirements for operators of public telecommunications networks and replaces them by a set of general conditions of entitlement. Accordingly the references to licences in the Principal Regulations have been removed. However the requirements of these operators under the Directive, that were previously contained in telecommunications licence conditions relating to Connection of Systems and Apparatus and Publication of Interfaces, continue to be effective and are now detailed in the body of these Regulations.
10. Should the Bill not be passed and/or OFCOM not be in a position to assume its duties at 25<sup>th</sup> July 2003, implementation of the Directives will still be necessary. In that situation appropriate alternative measures will be put in place to ensure that implementation of the Directives is effected but this will not affect the substance of this amendment.
11. By making the amendments to the Principal Regulations at this time, the continuance of enforcement and market surveillance will be maintained for the sector. There are no foreseen effects on costs for industry.
12. The DTI would be grateful for any comments you may have.  
**Please note:** we are looking for comments on the draft Amendment Regulations and how they transpose the Directive, not on the requirements of the Directive itself. If possible, please channel these through any trade associations or employers' bodies to which you may belong.
13. In making your comments, please:

- Make comments in the form of numbered bullet points with only one issue per point.
- If general comments are being made, give these comments before points of detail.
- Relate comments to specific paragraphs of the draft Regulations, in the order in which they appear.
- Ensure points made are unambiguous.
- Identify the organisation, or part thereof, on behalf of which the comments are made.
- Provide the name and full contact details of an individual who is able to deal with enquiries regarding the comments.

Comments are required by Monday 12<sup>th</sup> May 2003.

Co-ordinated responses should be sent to Diana Maxwell at the address below. If possible, an e-mail response would be preferred. Further hard copies of the consultation document or copies of the Directive or the Principal Regulations, can be obtained from the address below: -

Diana E Maxwell  
 Department of Trade and Industry  
 STRD 4  
 Bay 325, Red zone  
 151 Buckingham Palace Road,  
 LONDON SW1W 9SS  
 Telephone: 020 7215 4176 or 020 7215 1595  
 e-mail: <mailto:diana.maxwell@dti.gsi.gov.uk>  
 or <mailto:rtte@dti.gov.uk>

Further copies of this document, the U.K. Regulations (S.I. 2000 No. 730) and the RTTE Directive can be obtained in electronic form from the DTI web-site <http://www.dti.gov.uk/strd/> or by e-mail from <mailto:darryl.evans@dti.gsi.gov.uk>. Where electronic access is not possible, please contact:

Mr Darryl Evans  
 Department of Trade and Industry  
 Bay 328  
 151 Buckingham Palace Road  
 London SW1W 9SS  
 Tel: 020 7215 1817, Fax: 020 7215 1529

Please note that the replies will be treated as open, unless respondents state that they wish them, or any part of them (including the identity of the respondent), to be treated as confidential.

Department of Trade and Industry  
 London, March 2003

## **AMENDMENTS OF THE PRINCIPAL REGULATIONS**

These Regulations amend the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000 ("Principal 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 page 10).

These Regulations are cited as the Radio Equipment and Telecommunications Terminal Equipment (Amendment) Regulations 2003 and will come into force on 25<sup>th</sup> July 2003.

The proposed regulations extend references to Member States in the Principal Regulations to include the EEA States.

They clarify requirements relating to certain markings on radio and terminal equipment apparatus when placed on the market and remove the prohibition against putting apparatus into service (but not placing on the market) without inter-alia CE marking providing that the essential requirements are met.

A new provision provides that the Secretary of State and Ofcom may only restrict putting compliant radio equipment into service for the following reasons: spectrum management; avoidance of harmful interference or public health and safety.

The Principal Regulations previously imposed on operators of public telecommunications networks, in the form of conditions in telecommunications licences, requirements relating to the connection of apparatus and the publication of interfaces. As indicated above, once the Communications Bill comes into force all telecom licences will cease. The proposed regulations will have the effect of maintaining these particular requirements on operators of public telecommunications networks. These provisions will be enforced using Ofcom's powers under Clause 41 of the Communications Bill.

These Regulations make it unnecessary to give notice of placing on the market radio equipment operating in unharmonised frequency bands where use of such bands is consistent with the UK plan for frequency authorisation published under Clause 148 of the Communications Bill, or where the equipment is of a type identical in all material respects to equipment which had been placed on the market before 8 April 2001 and which complied with the provisions of certain legislation in force before 8 April 2000.

The Regulations also extend recognition to notified bodies appointed by non EEA states under mutual recognition agreements with those states.

## **DRAFT 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 [25 July 2003]

*Amendment to the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000*

2. (1) The Radio Equipment and Telecommunications Terminal Equipment Regulations 2000<sup>1</sup> 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
    - (a) paragraph (1) shall be amended as follows :

after the definition of "medical device" there shall be inserted the following definition:  
"Ofcom' means the Office of Communications";
    - (b) 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 –

      - (i) the "EEA" means the European Economic Area;
      - (ii) an "EEA State" means a State which is a contracting party to the EEA Agreement; and

---

<sup>1</sup> S.I. 2000/730.

(iii) the "EEA Agreement" means the Agreement on the European Economic Area signed at Oporto on 2<sup>nd</sup> May 1992 as adjusted by the Protocol signed at Brussels on 17<sup>th</sup> March 1993.<sup>2</sup>

(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 subparagraph (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 paragraph (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 Communications Act<sup>3</sup> or the Wireless Telegraphy Acts 1949 to 1967<sup>4</sup>, 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.

---

<sup>2</sup> 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.

<sup>3</sup> Communications Act 2003 (c.[ ]).

<sup>4</sup> 1949 c.54 and 1967 c.72.

(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 Ofcom 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 of harmful interference or 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 8<sup>th</sup> April 2001 and complied with the provisions of Directive 98/13/EC<sup>5</sup>, the Telecommunication Terminal Equipment Regulations 1992<sup>6</sup> or section 22 or 84 of the Telecommunications Act 1984 ;
- (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 and neither does it meet the requirements of regulation 4;
- (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

---

<sup>5</sup> O.J. L74, 12.3.1998, p.1.

<sup>6</sup> S.I. 1992/2423, amended by S.I. 1994/3129, 1995/144.

earliest practical opportunity informs the Secretary of State and Ofcom 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 Ofcom.

- (3) In any case in which a public telecommunications operator
  - i) refuses connection of apparatus declared to be compliant with the provisions of the Directive or
  - ii) disconnects such apparatus or
  - iii) withdraws it from service

The Secretary of State and Ofcom 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) In regulation 12

- (a) In paragraph (1) for the words "the Secretary of State at the Radiocommunications Agency" there shall be substituted "Ofcom"; and

- (b) the following paragraph shall be added :

"(3) This regulation does not apply where the equipment is of a type identical in all material respects to equipment which complied, with the provisions of Directive 98/13/EC<sup>7</sup>, the

---

<sup>7</sup> O.J. L74, 12.3.1998, p.1.

Telecommunication Terminal Equipment Regulations 1992<sup>8</sup> or section 22 or 84 of the Telecommunications Act 1984 and was placed on the market before 8<sup>th</sup> April 2001.”.

(10) 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 Ofcom 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 Ofcom; 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 paragraphs (1) or (2) apply is modified by the public telecommunications network operator :

- (a) he shall notify such modification to Ofcom 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 Ofcom and publish such withdrawal in accordance with paragraph (5) below.

(5) The requirements as to publication are that:

- (a) the interface specification published shall

---

<sup>8</sup> S.I. 1992/2423, amended by S.I. 1994/3129, 1995/144.

- (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 specifications shall be made readily available by the public telecommunications network operator.

(6) If, following any representation made to it, Ofcom concludes that any interface specification contains insufficient information for its purpose, it 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 Ofcom information which it has already published or sent to the Director."

(11) 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 Agreements, 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."

(12) Regulation 17 shall be deleted.

(13) 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)," .

(b) The following paragraph shall be inserted:

"(5) Sections 90-100 of the Communications Act 2003 shall apply for the purposes of providing for the enforcement of

any requirements imposed on public telecommunications operators under regulations 7 and 13 above and in respect of proceedings for contravention thereof."

(14) 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 subparagraph (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 148 of the Communications Act 2003.

(15) Schedule 8 shall be deleted.

(16) In Schedule 9 :

- (a) In paragraph 1 (1) there shall be inserted the word ", Ofcom" after the words "Secretary of State"; and at the end the following words shall be added "Provided that Ofcom and every weights and measures authority shall, before taking any such enforcement action, notify the Secretary of State of their intention to do so".
- (b) In paragraph 1 (2) (i) for the words "and (b)" there shall be substituted the words "(b) and (c)"

## Modification of the Wireless Telegraphy Acts

3. In the application of the Wireless Telegraphy Acts 1949 to 1967, and of instruments made thereunder before [*insert date of coming into force*], 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).

.....

## 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, p10):

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 OJ 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 Ofcom 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 Ofcom 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 include the type as well as either of the batch or serial number;

regulations 2(9) and (14) have the effect that the obligation to give notice of placing on the market of radio equipment using unharmonised frequency bands is removed in two cases;

regulation 2(10) provides for publication of information relating to technical specifications of interfaces

regulation 2(11) inserts a provision for recognition of mutual recognition agreements with non EEA states in relation to the appointment of notified bodies.

regulation 2(12) deletes regulation 17 of the RTTE Regulations  
Regulation 2(13) provides for enforcement of certain requirements as if they were conditions under S 41 of the Communications Act 2003.

regulation 2(15) provides for the deletion of Schedule 8.

regulation 2(16) amends Schedule 9 by including Ofcom as an enforcement authority in Great Britain and removes a redundant cross-reference in the application by the RTTE Regulations of a provision of the Consumer Protection Act 1987.

These Regulations also modify the Wireless Telegraphy Acts 1949 to 1967 in implementation of Directive 1999/5/EC:

regulation 3 modifies those Acts so that their provisions about interference when applied to radio equipment covered by the RTTE Regulations are limited to harmful interference as defined in the RTTE Regulations.

## Criteria for Government Consultations

The criteria in this code apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation

Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community law), they should otherwise generally be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure.

The criteria should be reproduced in consultation documents, with an explanation of any departure, and confirmation that they have otherwise been followed

1. Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage
2. It should be clear who is being consulted, about what questions, in what timescale and for what purpose
3. A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain
4. Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals
5. Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation
6. Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and reasons for decisions finally taken
7. Departments should monitor and evaluate consultations, designating a consultation coordinator who will ensure the lessons are disseminated