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# Notice of proposal to make the Wireless Telegraphy (Exemption) (Amendment) Regulations 2023

Implementing certain changes to Ofcom's licence  
exemption rules for wireless telegraphy devices

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**CONSULTATION:**

Publication date: 8 December 2022

Closing date for responses: 19 January 2023

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# 1. Overview

Ofcom is responsible for authorising use of the radio spectrum. Spectrum provides the radio waves that support wireless services used every day, including Wi-Fi. We permit the use of the radio spectrum by granting wireless telegraphy licences under the Wireless Telegraphy Act 2006 (the “WT Act”) or by making regulations exempting users of particular equipment from the requirement to hold such a licence.

As a result of a number of policy decisions we have made (and which we outline briefly below), we need to modify our existing licence exemption regulations. This document consults on draft regulations to do this, referred to as the Wireless Telegraphy (Exemption) (Amendment) Regulations 2023 (the “Proposed Regulations”). The Proposed Regulations would amend or revoke (some elements of) existing licence exemption regulations.

## What we are proposing – in brief

We are consulting on a draft of The Wireless Telegraphy (Exemption) (Amendment) Regulations 2023. These would:

**Amend the Wireless Telegraphy (Exemption) Regulations 2021:** to make changes to licence exemption rules regarding some Short Range Devices (“SRDs”), satellite terminal equipment and safety-related Intelligent Transport Systems (“ITS”), and to remove the licence exemption for higher power wideband data transmission systems (“WBDTS”) in the 57-71 GHz band.

**Amend the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) Regulations 2013:** to close the licence exemption for the deployment of any new devices in the 24.25-26.65 GHz band.

**Revoke the Wireless Telegraphy (Intelligent Transport Systems) (Exemption) Regulations 2011:** as the terms of this licence exemption will now be included in the Wireless Telegraphy (Exemption) Regulations 2021, consolidated with other licence exemption rules.

This is a statutory consultation. Ofcom invites comments on whether the Proposed Regulations correctly implement Ofcom’s policy decisions (outlined below), as well as any other comments that stakeholders might have on the Proposed Regulations. Any comments should be provided by 5pm on 19 January 2023.

**This overview is a simplified summary only. The proposals we are consulting on and our reasoning are set out in the full document.**

- 1.1 We have recently made a number of policy decisions regarding the use of equipment that do not need a WT Act licence (i.e., are authorised on a licence-exempt basis). These have not yet been implemented and require changes to some of our existing licence exemption regulations to take effect. Specifically, following consultation:
- in April 2021, we explained our decision to remove the existing licence exemption for higher power wideband data transmission systems in the 57-71 GHz band;
  - in December 2021, we explained our decision to remove the existing licence exemption for non-geostationary satellite user terminals operating in the Ka Band; and
  - in September 2022, we set out a number of decisions in relation to the licence-exemption of SRDs. These included decisions to:
    - i) provide an additional 20 MHz of spectrum for safety-related ITS;
    - ii) liberalise the use of 5150-5250 MHz for Wireless Access Systems (“WAS”) including Radio Local Area Networks (“RLAN”), for example Wi-Fi;
    - iii) close the 24 GHz Automotive Short-Range Radar (“SRR”) band to new applications in 24.25-26.65 GHz;
    - iv) make some technical and minor editorial changes to SRD applications in the 870/915 MHz bands; and
    - v) correct two errors in IR 2030 UK Interface Requirements 2030 Licence Exempt Short Range Devices (April 2021).
- 1.2 The Proposed Regulations are intended to implement these changes. A copy of the Proposed Regulations is included in Annex 1 of this notice. Section 122(4) and (5) of the WT Act sets out the process Ofcom must follow in order to make a statutory instrument. This notice is given in accordance with those provisions.
- 1.3 Comments on the Proposed Regulations are invited by 5pm on 19 January 2023. Subject to consideration of responses, we intend to bring the Proposed Regulations into force as soon as practical. Unless stated in this document, all other licence exemption provisions will remain unchanged.

## 2. Notice

### Notice of proposals

- 2.1 This notice is given in accordance with sections 122(4) and (5) of the WT Act and covers a proposal to make a statutory instrument (i.e., the Proposed Regulations). We have also published alongside this notice, on Ofcom’s website, the corresponding changes to various relevant Interface Requirements<sup>1</sup> (the “draft Interface Requirements”) which have already been consulted on previously.
- 2.2 The Proposed Regulations and the draft Interface Requirements set out how we are minded to implement Ofcom’s decisions, published in April 2021, December 2021 and September 2022, in regard to the establishment, installation and use of particular equipment on a licence-exempt basis.
- 2.3 A copy of the Proposed Regulations can be found in Annex A1.

### Comments and representations

- 2.4 We are inviting comments on our proposal to make the Proposed Regulations. Specifically, we are inviting stakeholders’ comments on whether the Proposed Regulations correctly implement Ofcom’s policy decisions, and any other comments that they might have on the Proposed Regulations. We are not requesting comments on the underlying policy decisions that the Proposed Regulations would implement.
- 2.5 Annexes 2 to 5 of this document set out the information needed to respond to this document.
- 2.6 Comments on the Proposed Regulations are invited by **5pm on 19 January 2023**.
- 2.7 Subject to our consideration of responses, we intend to bring the Proposed Regulations and the draft Interface Requirements into force in March 2023. A regulatory impact assessment for the Proposed Regulations will accompany the making of the regulations.

**Question 1)** Do you agree that the Proposed Regulations would correctly implement Ofcom’s policy decisions, and do you have any other comments? If you do not agree that the Proposed Regulations would correctly implement the policy decisions, please explain why not.

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<sup>1</sup> IR 2030 – UK Interface Requirements 2030 Licence Exempt Short Range Devices (April 2021) (“IR 2030”) (“IR 2030”); IR 2066 - UK Interface Requirements 2066 High Density Fixed Satellite Systems (HDFSS) (June 2021) (“IR 2066”); IR 2086 - UK Interface Requirement 2086 Safety Related Applications of Intelligent Transport Systems (January 2018) (“IR 2086”); and a UK Interface Requirement (IR) 2093 Earth Stations on Mobile Platforms (June 2021) (“IR 2093”).

## 3. Background to the Notice

### Relevant statutory framework

#### Ofcom's general duties

- 3.1 Ofcom's statutory powers and duties in relation to spectrum management are set out primarily in the Communications Act 2003 (the "2003 Act") and the WT Act. Amongst our functions are the making available of frequencies for use for particular purposes and the granting of rights of use of spectrum through wireless telegraphy licences and licence-exemptions.
- 3.2 Our principal duties under the 2003 Act, when carrying out our functions and exercising our powers, are to further the interests of citizens in relation to communication matters and consumers in relevant markets, where appropriate by promoting competition. In doing so, we are also required (among other things) to secure the optimal use of spectrum and the availability throughout the United Kingdom of a wide range of electronic communications services.
- 3.3 We must also have regard to: (i) the desirability of promoting competition in relevant markets; (ii) the desirability of encouraging investment and innovation in relevant markets; (iii) the different needs and interests, so far as the use of the electro-magnetic spectrum for wireless telegraphy is concerned, of all persons who may wish to make use of it; and (iv) the different interests of persons in the different parts of the United Kingdom, of the different ethnic communities within the United Kingdom and of persons living in rural and in urban areas.
- 3.4 Additionally, in carrying out our spectrum functions we have a duty under section 3 of the WT Act to have regard in particular to: (i) the extent to which the spectrum is available for use, or further use, for wireless telegraphy; (ii) the demand for use of that spectrum for wireless telegraphy; and (iii) the demand that is likely to arise in future for such use.
- 3.5 Under the WT Act Ofcom has a duty to have regard to the desirability of promoting: (i) the efficient management and use of the spectrum for wireless telegraphy; (ii) the economic and other benefits that may arise from the use of wireless telegraphy; (iii) the development of innovative services; and (iv) competition in the provision of electronic communications services.

#### Ofcom's role in the licensing of spectrum

- 3.6 Under section 8(1) of the WT Act, it is unlawful to establish or use a wireless telegraphy station or install or use wireless telegraphy apparatus except under and in accordance with a wireless telegraphy licence granted under the WT Act.
- 3.7 Under section 8(3) of the WT Act, Ofcom may make regulations exempting from the licensing requirements under section 8(1), the establishment, installation or use of wireless telegraphy stations or wireless telegraphy apparatus of such classes or description as may

be specified in the regulations, either absolutely or subject to such terms, provisions and limitations as may be specified.

3.8 Under section 8(4) of the WT Act, we must make regulations to exempt equipment if its installation or use is not likely to:

- involve undue interference with wireless telegraphy;
- have an adverse effect on technical quality of service;
- lead to inefficient use of the part of the electromagnetic spectrum available for wireless telegraphy;
- endanger safety of life;
- prejudice the promotion of social, regional or territorial cohesion; or
- prejudice the promotion of cultural and linguistic diversity and media pluralism.

3.9 In accordance with the requirements of section 8(3B) of the WT Act, the terms, provisions and limitations specified in the regulations must be:

- objectively justifiable in relation to the wireless telegraphy stations or wireless telegraphy apparatus to which they relate;
- not such as to discriminate unduly against particular persons or against a particular description of persons;
- proportionate to what they are intended to achieve; and
- transparent in relation to what they are intended to achieve.

3.10 We make exemption regulations by means of a statutory instrument. The regulations specify the type of equipment and the technical parameters it must meet in order to be exempt. Ofcom has made a number of licence exemption regulations but, of particular relevance to this consultation document, are the following:

- The Wireless Telegraphy (Intelligent Transport Systems) (Exemptions) Regulations 2011 ("the 2011 Regulations");
- The Wireless Telegraphy (Automotive Short Range Radar) (Exemption) Regulations 2013 ("the 2013 Regulations"); and
- The Wireless Telegraphy (Exemption) Regulations 2021 ("the 2021 Regulations"). Amongst other things, the 2021 Regulations set out the scope of the licence exemptions for SRDs (including higher power WBTDs) and non-geostationary satellite user terminals.

3.11 Before making any such regulations (including regulations which modify or revoke existing regulations), we are required by section 122(4) of the WT Act to give statutory notice of our proposal to do so. Under section 122(5), such notice must state that we propose to make the regulations in question, set out their general effects, specify an address from which a copy of the proposed regulations or order may be obtained, and specify a time period of at least one month during which any representations with respect to the proposal must be made to us.

3.12 As explained above, this consultation document is a notice under sections 122(4) and (5) of the WT Act.

## Policy background

- 3.13 We have recently made a number of policy decisions regarding the licence-exempt use of wireless telegraphy equipment which have not yet been implemented. The majority of these decisions concern the terms of the licence exemptions for SRDs, although some concern the licence exempt use of non-geostationary satellite user terminals operating in the Ka Band.
- 3.14 We provide a summary of these decisions below, together with links to the original policy statements (which set out Ofcom’s decisions and reasoning in full).

### Short Range Devices (SRDs)

- 3.15 Every day, most of us use one or more SRDs such as keyless entry fobs/cards, baby monitors, garage door openers and Wi-Fi systems. These are typically mass-market low power devices. Due to their low power, the radio signals do not travel far meaning that risk of interference between users is very low. This generally negates the need for us to coordinate use between users by issuing a WT Act licence.
- 3.16 The importance of SRDs for the economy and the growing range of applications for these devices means that we regularly update the terms of their licence exemption.
- 3.17 On 9 May 2022, we published a consultation (the “[May Consultation](#)”) which set out a number of proposals to change the technical conditions which apply to licence exempt SRDs. Specifically, the May Consultation set out the following five policy proposals that would require changes to be made to existing licence exemption regulations:
- a) Extend the spectrum available for safety related ITS by 20 MHz, from 5905-5925 MHz;
  - b) Liberalise the use of 5150-5250 MHz for WAS including RLAN<sup>2</sup> to allow mobile/nomadic use<sup>3</sup> outdoor, and airborne use of the 5170-5250 MHz part of the band; and clarify that there is no requirement for Dynamic Frequency Selection (DFS) and transmit power control (TPC) in the 5150-5250 MHz band;
  - c) Liberalise some of the technical conditions for some Ultra-Wide Band (UWB) devices;
  - d) Close the 24 GHz Automotive SRR band to new applications; and
  - e) Make some technical and minor editorial changes to SRD applications in the bands 870-874.4 MHz, 917.3-918.9 MHz and 917.4-919.4 MHz (the “870/915 MHz bands”).
- 3.18 After considering representations, we published a statement (the “[September Statement](#)”) on 28 September 2022. In this we confirmed our decision to proceed with implementing the changes that we had consulted on.
- 3.19 We also indicated that whilst reviewing the licence exemption technical conditions we had become aware of two errors in [IR 2030](#). The first related to an outdoor restriction for WAS

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<sup>2</sup> Wi-Fi is a type of RLAN technology.

<sup>3</sup> Nomadic use means the device can be move around but is stationary when used, for example, moving a laptop from one location and having to reconnect to the Wi-Fi hotspot in the new location.

in 5925-6425 MHz, an issue raised by BT in their consultation response. The second was an incorrect power limit for lower power wideband data transmission systems (WBDTS) in the 57-71 GHz band (which should refer to an e.i.r.p. density of 23 dBm/MHz but instead refers to an e.i.r.p. density of 13 dBm/MHz). We advised that we would correct these when updating the regulations.

- 3.20 We decided to make these changes as we believed that consumers are likely to benefit from our decision to update technical rules on spectrum for licence exempt devices, including increasing spectrum available for road safety, low power Wi-Fi, and drones as well as enabling use of spectrum for more secure keyless car-entry systems to reduce the risk of opportunistic thefts.
- 3.21 To implement the decisions set out in the September Statement we advised that we would need to consult on amending the existing licence exemption regulations. We also set out that given the number of different regulations that would need to be amended we would implement these changes in two main phases:
- a) Phase one would cover all changes on which a decision was made in the September Statement (including correcting the two errors identified in IR 2030), except for those relating to UWB equipment. The Proposed Regulations and the draft Interface Requirements in this consultation are intended to implement these Phase one changes.
  - b) Phase two would consult separately on draft regulations implementing the changes to UWB licence exemption. Accordingly, the Proposed Regulations in this consultation do not implement these changes. We plan to consult on phase two in spring 2023.

### **Non-geostationary satellite (“NGS”) user terminals**

- 3.22 Non-geostationary satellites move in relation to the earth's surface and can offer lower latency services because they are much closer to the earth (sometimes a few hundred kilometres). They can create new high-capacity connections for people and businesses across a range of services including home broadband, Wi-Fi onboard aircraft, ships and trains; backhaul for mobile phone services and Internet of Things for enterprises in remote areas.
- 3.23 In July 2021, we consulted on proposals to update our spectrum licensing processes and conditions for non-geostationary satellite systems in our consultation document entitled “*Non-geostationary satellite systems: licensing updates*” (the “[NGS consultation](#)”). The proposals were intended to manage the risk of radio interference between NGS satellite systems, which can impact the quality and viability of satellite services, as well as to safeguard competition. We considered it important and necessary to make these changes as NGS systems were beginning to be rolled out.
- 3.24 In section 7 of the NGS consultation we set out proposals to amend the 2021 Regulations. The proposed changes were to remove the licence exemption for High Density Fixed Satellite Services (HDFSS) and Earth Stations on Moving Platforms (now referred to as earth stations in motion - ESIM) that connect to NGS satellites in the Ka Band (27.5 – 27.8185 GHz, 28.4545 – 28.8265 GHz and 29.4625 – 30 GHz). Moving forward these devices would be authorised under a satellite network licence.

- 3.25 We set out our decision on these proposals in our statement published on 10 December 2021 Non-geostationary satellite systems: licensing updates (the “[NGS statement](#)”). In section 6 of the NGS statement we confirmed our decision to remove the licence exemption for HDFSS and ESIM operating in the Ka band. We considered that this change was needed in order to successfully manage future coexistence between networks. All parts of an NGS system, including its user terminals, would be authorised under the relevant network licence.
- 3.26 In line with this, these Proposed Regulations are intended to implement this change (i.e., to remove the current licence exemption for HDFSS and ESIMs operating in the Ka band).

## Higher Power Fixed Wireless Systems

- 3.27 WBDTS in the 57 to 71 GHz band is a class of SRDs. This covers radio devices that use wideband modulation techniques to access the spectrum and feature typical uses such as WAS/RLANs, wideband SRDs in data networks as well as Point to Point and Point to Multipoint fixed wireless systems.
- 3.28 Currently there are two sets of provisions in the 2021 Regulations for WBDTS equipment operating in the 57 to 71 GHz band on a licence exempt basis: (i) a provision for lower power use (40 dBm Effective Isotropic Radiated Power (e.i.r.p.)); and (ii) a provision for higher power use (55 dBm e.i.r.p.) restricted to fixed outdoor use only. However, in April 2021, we published a statement (the “[2021 Statement](#)”) which confirmed<sup>4</sup> our decision to remove the licence exemption for higher power WBDTS in the 57 to 71 GHz band<sup>5</sup>. We considered this to be the most appropriate way to ensure compliance with that the safeguards to protect the general public from exposure to electromagnetic fields (EMF). Our decision, going forward, was to authorise WBDTS via the Shared Access EHF licence.
- 3.29 For equipment already deployed under the existing licence-exemption framework we advised that we would provide a transition period to give stakeholders time to apply for and get a licence. Users of the equipment had until 30 November 2021 to obtain a licence. As this transitional period has expired, we are looking to make the necessary changes to the 2021 Regulations to remove the exemption. We will also be removing [IR 2078](#) from the Ofcom website (noting that [IR 2106](#) sets out the technical conditions which apply to the licensed use of these devices).
- 3.30 Lower power (40 dBm Effective Isotropic Radiated Power (e.i.r.p.)) WBDTS equipment remains licence exempt<sup>6</sup>. The technical conditions are set out in IR 2030.

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<sup>4</sup> Paragraphs 4.16 to 4.19 of the 2021 Statement.

<sup>5</sup> See regulation 5 of the 2021 Regulations for the licence exemption.

<sup>6</sup> See regulation 4 of the 2021 Regulations for this licence exemption.

## 4. General effect

4.1 In this section, we set out the general effects of the Proposed Regulations as required by section 122(5) of the WT Act (including, where relevant, the draft Interface Requirements to which the Proposed Regulations refer).

### Extent of application

4.2 The Proposed Regulations would extend to the United Kingdom, the Channel Islands and the Isle of Man.

### Overall general effect

4.3 The overall general effect of the Proposed Regulations and the draft Interface Requirements would be to implement decisions from the 2021 Statement, the NGS Statement and the September Statement.

4.4 The Proposed Regulations and the draft Interface Requirements would make changes to the terms, provisions and limitations of various licence exemptions (which are relevant to a number of wireless telegraphy stations or apparatus i.e., equipment/devices). Most of these are already licence exempt under the 2021 Regulations and the Proposed Regulations would update these.

4.5 However, Automotive SRR and safety related ITS licence exemption criteria are set out under different regulations. Automotive SRR are exempt under the 2013 Regulations and safety related ITS via the 2011 Regulations. Therefore, the Proposed Regulations would also amend the 2013 Regulations and revoke the 2011 Regulations.

4.6 The Proposed Regulations would make the following changes:

- i. Regulation 3 would revoke the 2011 Regulations, which exempt certain safety related ITS from the need for a wireless telegraphy licence. The licence exemption for safety-related ITS would instead be consolidated into the 2021 Regulations, as discussed below;
- ii. Regulation 4 would amend the 2013 Regulations for automotive SRR and introduce a closing date after which no new equipment using the band 24.25 to 26.65 GHz will be able to be established, installed or used in a vehicle without a wireless telegraphy licence.
- iii. Regulation 5 makes a number of changes to the 2021 Regulations. In particular:
  - a. Regulation 5(3) would update the publication date of IR 2030 in Regulation 4 of the 2021 Regulations, to give effect to the new technical parameters for SRDs in the 870/915 MHz band and WAS in the 5150-5250 MHz band (for which decisions were made in the September Statement), and to correct the errors identified in the September Statement (i.e., regarding licence exempt use of the 5925-6425 MHz band and the power limit for lower power WBDS in 57-71 GHz). For more

information on the specific updates to IR 2030 linked to this regulation, see paragraph 4.8 below;

- b. Regulation 5(4) would revoke Regulation 5 (Fixed Wireless Systems) of the 2021 Regulations. This means that fixed wireless systems (i.e., high power WBDTS in the 57-71 GHz band) could no longer be used on a licence exempt basis;
- c. Regulation 5(5) would modify Regulation 6 of the 2021 Regulations. In particular, by (i) updating the publication date for IR 2066 in relation to HDFSS to ensure the updated version is referenced, and (ii) adding a new Regulation 6(c) to ensure that equipment connecting to a non-geostationary satellite is no longer licence-exempt. For more information on the specific updates to IR 2066, see paragraph 4.9 below;
- d. Regulation 5(6) would modify Regulation 8 of the 2021 Regulations. In particular, by (i) updating the publication date for IR 2093 in relation to ESIMs to ensure the updated version is referenced, and (ii) adding a new Regulation 8(c) to no longer permit equipment to connect to a non-geostationary satellite on a licence exempt basis. For more information on the specific updates to IR 2093, see paragraph 4.10 below; and
- e. Regulation 5(7) would add a new Regulation 10 into the 2021 Regulations, to cover safety-related ITS systems, which were previously covered by the 2011 Regulations. By revoking the 2011 Regulations and moving the safety-related ITS exemption to the 2021 Regulations in this way, we hope the licence exemption rules will be easier for stakeholders to find. We are also incorporating IR 2086 into the statutory framework for the ITS licence exemption. Previously this Interface Requirement was for information only. This means that some of the conditions which were in the 2011 Regulations are now set out in IR 2086, although regulation 10 of the 2021 Regulations contains additional conditions (i.e., that the equipment relying on this exemption must be, or be part of, a safety-related ITS and must not cause or contribute undue interference to any wireless telegraphy). This particular change should not have any substantive impact on the scope of the exemption itself - the only substantive change which is being made through the Proposed Regulations is to ensure that 20 MHz of additional spectrum is available for safety-related ITS going forward. For more information on specific updates to IR 2086, see paragraph 4.11 below.

4.7 Aside from the amendments above, all the remaining licence-exemption provisions set out in the 2021 Regulations will remain the same. The draft Interface Requirements would make the following changes.

## IR 2030

4.8 To implement decisions made in the September Statement, the proposed changes to IR 2030<sup>7</sup> would:

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<sup>7</sup> A marked-up table setting out the proposed changes to IR 2030 can be found from page 16 of the May Consultation

- i) Clarify that there is no requirement for Dynamic Frequency Selection and transmit power control for WAS/RLAN use in the 5150-5250 MHz band (as this requirement only applies to the 5250-5350 MHz range);
- ii) amend the definition of certain SRDs, including for inductive devices and relax requirements applicable to devices in three bands (870 to 874.4 MHz, 917.3-918.9 MHz and 917.4 to 919.4 MHz) so that instead of all such devices having to be controlled by network access points, only mobile and nomadic devices should be controlled by a “master” network access point. These would be implementing changes as recommended in the [CEPT Report 77](#);
- iii) introduce a minimum channel bandwidth in 917.4 to 919.4 MHz to provide clarity and ensure it aligns with parameters for non-specific SRD bands;
- iv) address inconsistencies in wording relating to proposed restrictions for WAS/RLAN to remove outdoor restrictions as low power mobile devices are permitted;
- v) clarify that the application of WAS in 5150-5250 MHz covers equipment operating inside buildings, aircraft, trains or road vehicles;
- vi) include an attenuation limit of 12 dBm for WAS in 5150-5250 MHz to provide further clarity, and also confirm that if an installation cannot meet the attenuation limit set them a 40mW maximum mean e.i.r.p applies;
- vii) add a provision to allow limited outdoor use of WAS by allowing mobile/nomadic use in 5150-5250 MHz part of the band. This would be in line with the [ECC Decision \(04\)08](#) on the harmonized use of the 5 GHz frequency bands for WAS/RLAN; and
- viii) correct the power limit in wideband data transmission systems in the 57-71 GHz band from 13dBm/MHz e.i.r.p density to 23 dBm.

## IR 2066

4.9 To implement decisions made in the NGS Statement, the proposed changes to IR 2066 would:

- i) remove the inclusion of non-geostationary satellite terminals in the document so that the licence exemption only applies to HDFSS terminals that operate with geostationary satellites; and
- ii) change the minimum angle of elevation for the equipment antenna from a 10 degrees to three degrees.

## IR 2093

4.10 To implement decisions made in the NGS Statement, this would:

- i) Change references to “Earth Stations on Mobile Platforms” to “Earth Stations in Motion” to reflect the change in approach by International Telecommunication Union; and

- ii) make it clear in the table for ESIMs that transmit to non-geostationary satellite terminals, that a licence is required (i.e., this is no longer licence-exempt).

## IR 2086

- 4.11 The only proposed change to IR 2086 is to amend the frequency band for safety-related ITS from 5875-5905 MHz to 5875-5925 MHz.

## Entry into force of the Proposed Regulations and publication of the draft Interface Requirements

- 4.12 Following this consultation, we will publish a short statement on our final decisions. The Proposed Regulations are intended to come into force as soon as practicable after the making of the final Proposed Regulations, taking into consideration any comments received.<sup>8</sup>
- 4.13 The Interface Requirements will be published on Ofcom's website prior to the Proposed Regulations coming into force.

## Impact Assessments

- 4.14 Section 7 of the 2003 Act requires that, where we are proposing to do anything for the purposes of, or in connection with, the carrying out of our functions, and it appears to us that the proposal is important, we are required to carry out and publish an assessment of the likely impact of implementing the proposal, or a statement setting out our reasons for thinking that it is unnecessary to carry out such an assessment.
- 4.15 Ofcom is also required by statute to assess the potential impact of all its functions, policies, projects and practices on the following equality groups: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation. Equality Impact Assessments (EIAs) also assist us in making sure that we are meeting our principal duty of furthering the interests of citizens and consumers regardless of their background or identity.
- 4.16 The analysis presented in the December 2020 consultation dealing with the proposed changes in respect of WBDTS<sup>9</sup>, the analysis in the Annexes to the NGS statement in respect of NGS<sup>10</sup> and the analysis presented in the September Statement in respect of SRDs, constitute our general impact assessment and EIA.

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<sup>8</sup> Ofcom has notified the European Commission of the proposed amendments relating to ITS in respect of Northern Ireland and at the time of publication of this Notice is currently awaiting comments. The deadline for any comments is 01/03/2023.

<sup>9</sup> See [https://www.ofcom.org.uk/data/assets/pdf\\_file/0030/208857/licence-exemption-notice-2020-condoc.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0030/208857/licence-exemption-notice-2020-condoc.pdf)

<sup>10</sup> See [https://www.ofcom.org.uk/data/assets/pdf\\_file/0025/229309/annexes-statement-ngso-licensing.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0025/229309/annexes-statement-ngso-licensing.pdf)

# A1. Proposed Regulations

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## STATUTORY INSTRUMENTS

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**2023 No.**

### **ELECTRONIC COMMUNICATIONS**

#### **The Wireless Telegraphy (Exemption) (Amendment) Regulations 2023**

*Made* - - - - 2023

*Coming into force* 2023

The Office of Communications (“OFCOM”) make the following Regulations in exercise of the powers conferred by section 8(3) and section 122(7) of the Wireless Telegraphy Act 2006<sup>(1)</sup> (the “Act”).

Before making these Regulations, OFCOM gave notice of their proposal to do so in accordance with section 122(4)(a) of the Act, published notice of their proposal in accordance with section 122(4)(b) of the Act [*and have considered representations made to them before the time specified in that notice in accordance with section 122(4)(c) of the Act*].

#### **Citation and commencement**

1. These Regulations may be cited as the Wireless Telegraphy (Exemption) (Amendment) Regulations 2023 and shall come into force on [*21 days following the making of these Regulations*].

#### **Revocation of the Wireless Telegraphy (Intelligent Transport Systems) (Exemption) Regulations 2011**

2. The Wireless Telegraphy (Intelligent Transport Systems) (Exemption) Regulations 2011<sup>(2)</sup> are revoked.

#### **Amendment of the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) Regulations 2013**

3. In the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) Regulations 2013<sup>(3)</sup>, in regulation 5 (second exemption), in paragraph (2)(b), for “after IP completion day” substitute “during the period starting on IP completion day and ending on [*date to be specified in final SI – this will be the day after the day that these Regulations come into force*]”.

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<sup>(1)</sup> 2006 c. 36. Section 8(3) and section 122(7) were extended to the Bailiwick of Guernsey by Article 2 of the Wireless Telegraphy (Guernsey) Order 2006 (S.I. 2006/3324); and to the Isle of Man by Article 2 of the Wireless Telegraphy (Isle of Man) Order 2007 (S.I. 2007/278).

<sup>(2)</sup> S.I. 2011/2949.

<sup>(3)</sup> S.I. 2013/1437, amended by S.I. 2020/818 and S.I. 2020/1583.

## Amendment of the Wireless Telegraphy (Exemption) Regulations 2021

4.—(1) The Wireless Telegraphy (Exemption) Regulations 2021 are amended in accordance with paragraphs (2) to (7).

(2) In regulation 2 (interpretation), at the appropriate place insert—

““MHz” means megahertz; and

“non-geostationary satellite” means a satellite that does not remain fixed relative to a position on the surface of the earth.”

(3) In regulation 4 (short range devices) for “IR 2030 – UK Interface Requirements 2030 Licence Exempt Short Range Devices”, published by OFCOM in June 2021, are exempt” substitute “IR 2030 – UK Interface Requirements 2030 Licence Exempt Short Range Devices”, published by OFCOM in [X] 2023, is exempt”.

(4) Omit regulation 5.

(5) In regulation 6 (high density fixed satellite service systems)—

(a) for “IR 2066 – UK Interface Requirement 2066, High Density Fixed Satellite Service Systems (HDFSS)”, published by OFCOM in June 2021, are exempt” substitute “IR 2066- UK Interface Requirements 2066, High Density Fixed Satellite Service Systems (HDFSS)”, published by OFCOM in [X] 2023, is exempt”; and

(b) at the end of paragraph (a) omit “and”;

(c) at the end of paragraph (b) insert “; and” and

(d) after paragraph (b) insert—

“(c) it is not connected to a non-geostationary satellite.”

(6) In regulation 8 (earth stations on mobile platforms)—

(a) in the heading, for “on mobile platforms” substitute “in motion”;

(b) for “IR 2093 – UK Interface Requirement 2093 Earth Stations on Mobile Platforms”, published by OFCOM in June 2021”, substitute “UK Interface Requirement (IR) 2093 Earth Stations in Motion”, published by OFCOM in [X] 2023”;

(c) at the end of paragraph (b) omit “and”;

(d) at the end of paragraph (c) insert “; and”; and

(e) after paragraph (c) insert—

“(d) it is not connected to a non-geostationary satellite.”

(7) After regulation 9 insert—

### “Safety related intelligent transport systems

10.—(1) The establishment, installation and use of wireless telegraphy stations or wireless telegraphy apparatus within the frequency band 5875 MHz to 5925 MHz is exempt from the provisions of section 8(1) of the Act, if—

(a) it complies with the interface requirements which form part of the publication “IR 2086 – UK Interface Requirement 2086 Safety Related Applications of Intelligent Transport Systems”, published by OFCOM in [X] 2023;

(b) it does not cause or contribute to undue interference to any wireless telegraphy; and

(c) the wireless telegraphy stations or wireless telegraphy apparatus are, or are part of, a safety-related intelligent transport system.

(2) In paragraph (1)(c) “intelligent transport system” means a system or service, based on information and communications technologies, including processing, control, positioning, communication and electronics, that is applied to a road transportation system.”

Name

Group Director, Spectrum Group  
Office of Communications

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend and consolidate existing legislation which exempt the establishment, installation and use of wireless telegraphy stations or apparatus which comply with certain terms, provisions and limitations, from the requirement to be licensed under section 8(1) of the Wireless Telegraphy Act 2006 (c.36) (the “licensing requirement”).

Regulation 2 revokes the Wireless Telegraphy (Intelligent Transport Systems) (Exemption) Regulations 2011 (the “2011 Regulations”), which exempted the establishment, installation and use of certain wireless telegraphy stations or wireless telegraphy apparatus within the frequency band 5875 to 5905 MHz from the licensing requirement.

Regulation 3 amends the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) Regulations 2013 to limit the scope of the exemption at regulation 5(2)(b) so that short range radar equipment using the frequency band between 24.25 gigahertz and 26.65 gigahertz cannot be established or installed in a vehicle registered, placed on the market or put into service after XX/XX/.

Regulation 4 amends the Wireless Telegraphy (Exemptions) Regulations 2021 to update the publication dates and names of relevant Interface Requirement documents, in order to incorporate changes to some of the technical conditions in the Interface Requirements. It also revokes the previous exemption from the licencing requirement for fixed wireless systems, as well as high density fixed satellite systems and earth stations in motion (previously referred to as earth stations on mobile platforms) where these are connected to a non-geostationary satellite. In addition to this, regulation 4 re-enacts the provisions from the 2011 Regulations, with amendments made to extend the spectrum assignment to 5925 MHz and to refer to the Interface Requirement document for intelligent transport systems.

Technical requirements are set out in Interface Requirement documents. The Interface Requirements are published by OFCOM and available from OFCOM’s website at <https://www.ofcom.org.uk/home> or from the OFCOM library at Riverside House, 2a Southwark Bridge Road, London, SE1 9HA.

A full regulatory impact assessment of the effect of these Regulations is available to the public from OFCOM’s website at <https://www.ofcom.org.uk/home> or from the OFCOM library at Riverside House, 2a Southwark Bridge Road, London, SE1 9HA. Copies of the assessment have also been placed in the libraries of both Houses of Parliament.

## A2. Responding to this consultation

### How to respond

- A2.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 19 January 2023.
- A2.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-2/proposal-to-make-the-wireless-telegraphy-exemption-amendment-regulations-2023>. You can return this by email or post to the address provided in the response form.
- A2.3 If your response is a large file, or has supporting charts, tables or other data, please email it to [SRD@ofcom.org.uk](mailto:SRD@ofcom.org.uk), as an attachment in Microsoft Word format, together with the [cover sheet](#).
- A2.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- Paul Chapman  
Ofcom  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA
- A2.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- i) send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files; or
  - ii) upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A2.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A2.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt of a response submitted to us by email.
- A2.8 Your response to this consultation can focus on those parts of the Proposed Regulations (and modifications to the Interface Requirements) which you are most interested in; a short response on just one point is fine. We also welcome joint responses.
- A2.9 It would be helpful if your response could include a direct answer to the question asked in the consultation document. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.
- A2.10 If you want to discuss the issues and question raised in this consultation, please contact Paul Chapman on 020 79813069, or by email to [SRD@Ofcom.org.uk](mailto:SRD@Ofcom.org.uk).

## Confidentiality

- A2.11 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish responses on [the Ofcom website](#) at regular intervals during and after the consultation period.
- A2.12 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A2.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A2.14 To fulfil our pre-disclosure duty, we may share a copy of your response with the relevant government department before we publish it on our website. This is the Department for Business, Energy and Industrial Strategy (BEIS) for postal matters, and the Department for Culture, Media and Sport (DCMS) for all other matters.
- A2.15 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our [Terms of Use](#).

## Next steps

- A2.16 Following this consultation period, Ofcom plans to publish a statement in March 2023.
- A2.17 If you wish, you can [register to receive mail updates](#) alerting you to new Ofcom publications.

## Ofcom's consultation processes

- A2.18 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 3.
- A2.19 If you have any comments or suggestions on how we manage our consultations, please email us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk). We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A2.20 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:

Corporation Secretary  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA  
Email: [corporationsecretary@ofcom.org.uk](mailto:corporationsecretary@ofcom.org.uk)

## A3. Ofcom's consultation principles

### Ofcom has seven principles that it follows for every public written consultation:

#### Before the consultation

- A3.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

#### During the consultation

- A3.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A3.3 We will make the consultation document as short and simple as possible, with an overview of no more than two pages. We will try to make it as easy as possible for people to give us a written response.
- A3.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A3.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A3.6 If we are not able to follow any of these seven principles, we will explain why.

#### After the consultation

- A3.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish the responses on our website at regular intervals during and after the consultation period. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

## A4. Consultation coversheet

### BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

### CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? \_\_\_\_\_

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If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom aims to publish responses at regular intervals during and after the consultation period. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

## A5. Consultation question

- A5.1 As required by Section 122 of the Wireless Telegraphy Act 2006, we must give notice of proposals that we intend to make and consider any representations that we receive. This document gives notice of our proposal to make the Wireless Telegraphy (Exemption)(Amendment) Regulations 2023.

**Question 1)** Do you agree that the Proposed Regulations would correctly implement the policy decisions as set out in this document, and do you have any other comments? If you do not agree that the Proposed Regulations would correctly implement the policy decisions, please explain why not.