

2005 No. 3481

ELECTRONIC COMMUNICATIONS

The Wireless Telegraphy (Inspection and Restrictions on Use of Exempt Stations and Apparatus) Regulations 2005

<i>Made</i> - - - -	<i>17th December 2005</i>
<i>Laid before Parliament</i>	<i>20th December 2005</i>
<i>Coming into force</i> - -	<i>31st January 2006</i>

These Regulations are made in exercise of the powers conferred on the Office of Communications (“OFCOM”) by section 3(1)(a) and (b) of the Wireless Telegraphy Act 1949(a) (“the 1949 Act”);

Under section 403(4)(a) of the Communications Act 2003(b) (“the 2003 Act”), as applied by section 16(1A) of the 1949 Act, OFCOM have given notice of their proposal to make these Regulations;

Under section 403(4)(b) of the 2003 Act, as applied by section 16(1A) of the 1949 Act, OFCOM have published notice of their proposal;

Under section 403(4)(c) of the 2003 Act, as applied by section 16(1A) of the 1949 Act, OFCOM have considered the representations made to them before the time specified in the notice(c);

As required by section 3(2A)(d) of the 1949 Act, the Secretary of State has given his approval for the making of these Regulations by OFCOM;

Accordingly OFCOM makes the following Regulations—

Citation and commencement

1. These Regulations shall be cited as the Wireless Telegraphy (Inspection and Restrictions on Use of Exempt Stations and Apparatus) Regulations 2005 and shall come into force on 31st January 2006.

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- (a) 1949 c.54. Section 3(1) of the 1949 Act was extended to the Channel Islands by S.I. 1952/1900, as amended by S.I. 1967/1279, S.I. 1974/691 and S.I. 1997/284 and to the Isle of Man by S.I. 1952/1899, as amended by S.I. 1967/1280 and S.I. 1997/285. Section 3(1) of the 1949 Act was amended by section 406 of and paragraph 9 of Schedule 17 to the 2003 Act. That amendment was extended to Jersey by S.I. 2003/3197 article 6, to the Bailiwick of Guernsey by S.I. 2003/3195 article 6 and to the Isle of Man by S.I. 2003/3198 article 6.
- (b) 2003 c.21.
- (c) Section 16(1A) of the 1949 Act does not extend to the Channel Islands and therefore the procedures set out in section 403 of the 2003 Act, which it applies, are not requirements in so far as these Regulations extend to the Channel Islands.
- (d) Section 3(2A) of the 1949 Act was inserted by paragraphs 9(1) and (3) of Schedule 17 to the 2003 Act. That amendment was extended to Jersey by S.I. 2003/3197 article 6, to the Bailiwick of Guernsey by S.I. 2003/3195 article 6 and to the Isle of Man by S.I. 2003/3198 article 6.

Interpretation

2. In these Regulations—

“2003 Regulations” means the Wireless Telegraphy (Exemption) Regulations 2003(a);

“authorised person” means a person authorised by the Office of Communications for the purpose of these Regulations.

Revocation

3. Regulation 6 (inspection and restrictions on use) of the 2003 Regulations is revoked.

Inspection and restrictions on use of exempt stations and apparatus

4.—(1) This regulation applies where an authorised person has reasonable cause to believe that the establishment or use of any station for wireless telegraphy or the installation or use of any apparatus for wireless telegraphy which is exempt from the provisions of section 1(1) of the Wireless Telegraphy Act 1949 by virtue of—

(a) regulation 3 of the Wireless Telegraphy (Radio Frequency Identification Equipment) (Exemption) Regulations 2005(b); or

(b) regulation 4(1) of the 2003 Regulations,

does not comply with the terms, provisions or limitations of the exemption.

(2) Any person who is in possession or control of the station or apparatus shall, on the demand of that authorised person—

(a) permit and facilitate its inspection by that authorised person; and

(b) cause its use to—

(i) cease; or

(ii) be restricted in the manner specified by that authorised person,

for a period of time ending either on a date specified by that authorised person or on the occurrence of an event specified by that authorised person.

(3) An authorised person exercising powers under paragraph (2) shall produce evidence of his authority, if so required by the person in possession or control of the station or apparatus.

David Currie

Chairman of the Office of Communications

For and by authority of the Office of Communications

17th December 2005

I approve the making of these Regulations by the Office of Communications

Alun Michael

Minister of State for Industry and the Regions

Department of Trade and Industry

17th December 2005

(a) S.I. 2003/74, amended by S.I. 2003/2155.

(b) S.I. 2005/3471

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke regulation 6 of the Wireless Telegraph (Exemption) Regulations 2003 (S.I. 2003/74) (the “2003 Regulations”).

Under regulation 4 any person in possession or control of a station for wireless telegraphy or apparatus for wireless telegraphy which is exempt from licensing under section 1(1) of the Wireless Telegraphy Act 1949 by virtue of regulation 3 of the Wireless Telegraphy (Radio Frequency Identification Equipment) (Exemption) Regulations 2005 (S.I. 2005/) or by virtue of regulation 4(1) of the 2003 Regulations must, on the demand of an authorised person, permit and facilitate its inspection, and cause its use to cease or be restricted for a period of time.

An authorised person must have reasonable cause to believe that the relevant station or apparatus does not comply with the terms, provisions and limitations of the exemption.

A full regulatory impact assessment and report of the effect that these Regulations will have on the costs to business is available to the public from the OFCOM Library at Riverside House, 2a Southwark Bridge Road, London SE1 9HA (Tel: 020 7981 3000) or on the OFCOM internet web site at www.ofcom.org.uk. Copies of the report have also been placed in the libraries of both Houses of Parliament.

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