

2018 No. 1385

EXITING THE EUROPEAN UNION
ELECTRONIC COMMUNICATIONS

The Radio Spectrum (EU Exit) Regulations 2018

<i>Sift requirements satisfied</i>	<i>11th December 2018</i>
<i>Made - - - -</i>	<i>17th December 2018</i>
<i>Laid before Parliament</i>	<i>20th December 2018</i>
<i>Coming into force in accordance with regulation 1</i>	

The Secretary of State, in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018(a), makes the following Regulations.

The requirements of paragraph 3(2) of Schedule 7 to the Act (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

Citation and commencement

1. These Regulations may be cited as the Radio Spectrum (EU Exit) Regulations 2018 and come into force on exit day.

Amendment of the 5875-5905 MHz Frequency Band (Management) Regulations 2009

2. —(1) The 5875-5905 MHz Frequency Band (Management) Regulations 2009(b) are amended as follows.

(2) In regulation 3 (the 5875-5905 MHz frequency band)—

- (a) omit paragraph (1);
- (b) in paragraph (2), omit “, in particular”.

Amendment of the Authorisation of Frequency Use for the Provision of Mobile Satellite Services (European Union) Regulations 2010

3.—(1) The Authorisation of Frequency Use for the Provision of Mobile Satellite Services (European Union) Regulations 2010(c) are amended as follows.

(a) 2018 c.16 (“the Act”).
(b) S.I. 2009/11. These Regulations, which were made under section 2(2) of the European Communities Act 1972 (c.68), continue to have effect on and after exit day by virtue of section 2(1) of the Act.
(c) S.I. 2010/672; amended by S.I. 2013/174. These Regulations, which were made under section 2(2) of the European Communities Act 1972 (c.68), continue to have effect on and after exit day by virtue of section 2(1) of the Act.

- (2) In regulation 1 (citation, commencement and interpretation), in the definition of “common conditions”, for “Article 7(2) of the EU Decision” substitute “regulation 4(1) and (2)”.
- (3) In regulation 3 (granting of authorisations to the selected applicants)—
- (a) in paragraph (1), for “Article 3 of the Commission Decision” substitute “paragraph 2”;
 - (b) in paragraph (2), omit “in Article 3 of the Commission Decision”.
- (4) In regulation 4 (conditions of an authorisation), in paragraph (1), for “the common conditions” substitute “these common conditions”.
- (5) In regulation 5(2) (monitoring, reporting and information requirements), after sub-paragraph (b)—
- (a) for “OFCOM shall provide the European Commission”, substitute “OFCOM may provide the European Commission”;
 - (b) omit “within 12 months of such contravention or action”.
- (6) In regulation 5A (enforcement of the common conditions: notification)—
- (a) for paragraph (3) substitute—
 - “(3) OFCOM may notify the European Commission of a notification made under paragraph (2).”;
 - (b) omit paragraph (5).
- (7) In regulation 5B (enforcement of the common conditions: penalties)—
- (a) in paragraph (1), omit “Following the completion of the procedure set out in Article 3(2) and (3) of the 2011 Commission Decision,”;
 - (b) in paragraph (2)—
 - (i) after sub-paragraph (a), insert “and”;
 - (ii) in sub-paragraph (b), for “decision; and” substitute “decision.”;
 - (iii) omit sub-paragraph (c).
 - (c) after paragraph (2), insert a new paragraph—
 - “(2A) OFCOM may notify the European Commission of a notification made under paragraph (2).”.
- (8) In regulation 5C (enforcement of the common conditions: revocation of authorisation)—
- (a) in paragraph (1) omit, “Subject to paragraphs (2) and (3)”;
 - (b) in paragraph (2), for “they must” substitute “they may”;
 - (c) omit paragraph (3);
 - (d) in paragraph (4)—
 - (i) after sub-paragraph (a), insert “and”;
 - (ii) in sub-paragraph (b), for “authorisation; and” substitute “authorisation.”;
 - (iii) omit sub-paragraph (c).
 - (e) after paragraph (4), insert a new paragraph (5)—
 - “(5) OFCOM may notify the European Commission of a notification made under paragraph (4).”.
- (9) Omit regulation 5D (enforcement of the common conditions; notification by another member state).
- (10) In regulation 13 (complementary ground components)—
- (a) omit paragraph (1);
 - (b) in paragraph (2)—
 - (i) omit “in particular”;
 - (ii) for “that Act” substitute “the Wireless Telegraphy Act 2006”;

- (iii) for “Article 8(3) of the EU Decision” substitute “paragraph (4)”;
- (iv) after paragraph (3), insert a new paragraph—
 - “(4) In this regulation “common conditions” means—
 - (a) selected applicants must use the assigned radio spectrum for the provision of complementary ground components of mobile satellite systems;
 - (b) complementary ground components must constitute an integral part of a mobile satellite system and must be controlled by the satellite resource and network management mechanism; they must use the same direction of transmission and the same portions of frequency bands as the associated satellite components and must not increase the spectrum requirement of the associated mobile satellite system;
 - (c) independent operation of complementary ground components in case of failure of the satellite component of the associate mobile satellite system must not exceed 18 months;
 - (d) rights of use and authorisations must be granted for a period of time ending no later than the expiry of the authorisation of the associated mobile satellite system.”.

(11) In regulation 14 (review of the regulations), omit paragraph (2).

Amendment of the Wireless Telegraphy Act 2006 (Directions to OFCOM) Order 2010

4.—(1) The Wireless Telegraphy Act 2006 (Directions to OFCOM) Order 2010(a) is amended as follows.

(2) For Article 2 (purpose of directions) substitute—

“**2.** The Secretary of State gives these directions for the purposes of: ensuring the release of additional electromagnetic spectrum for use by providers of next generation wireless mobile broadband; allowing early deployment and maximising the coverage of those services and creating greater investment certainty for operators.”.

(3) In Article 3 (interpretation), omit the definition of “the Directive”.

Amendment of the 823-832 MHz and 1785-1805 MHz etc Frequency Bands (Management) Regulations 2015

5.—(1) The 823-832 MHz and 1785-1805 MHz etc Frequency Bands (Management) Regulations 2015(b) are amended as follows.

(2) In regulation 3 (designation of Spectrum for Wireless Audio PMSE Equipment)—

- (a) omit paragraph (1);
- (b) in paragraph (2), omit “, in particular”.

Amendment of the 1452-1492 MHz and 3400-3800 MHz Frequency Bands (Management) Regulations 2016

6.—(1) The 1452-1492 MHz and 3400-3800 MHz Frequency Bands (Management) Regulations 2016(c) are amended as follows.

(2) In regulation 4 (designation of the 1452-1492 MHz frequency band)—

- (a) omit paragraph (1);
- (b) in paragraph (2), omit “, in particular”.

(a) S.I. 2010/3024. This Order, which implemented Directive 2009/114/EC of the European Parliament and of the Council and Commission Decision 2009/766/EC, continues to have effect on and after exit day by virtue of section 2(1) of the Act.

(b) S.I. 2015/1658. These Regulations, which were made under section 2(2) of the European Communities Act 1972 (c.68), continue to have effect on and after exit day by virtue of section 2(1) of the Act.

(c) S.I. 2016/495. These Regulations, which were made under section 2(2) of the European Communities Act 1972 (c.68), continue to have effect on and after exit day by virtue of section 2(1) of the Act.

(3) In regulation 5 (designation of the 3400-3800 MHz frequency band)—

- (a) omit paragraph (1);
- (b) in paragraph (2), omit “In particular.”.

Amendment of the 2010-2025 MHz Frequency Band (Management) Regulations 2016

7. —(1) The 2010-2025 MHz Frequency Band (Management) Regulations 2016(a) are amended as follows.

(2) In regulation 2 (designation of the 2010-2025 MHz frequency band), omit paragraph (2).

Revocation of EU decisions and EU tertiary legislation

8. The EU decisions and EU tertiary legislation listed in, respectively, Schedule 1 and Schedule 2 are revoked.

17th December 2018

Margot James
Minister for Digital and the Creative Industries
Department for Digital, Culture, Media and Sport

SCHEDULE 1

Regulation 8

Revocation of EU decisions

1. Decision No 676/2002/EC of 7 March 2002 of the European Parliament and of the Council on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision).

2. Decision 626/2008/EC of the European Parliament and of the Council of 30 June 2008 on the selection and authorisation of systems providing mobile satellite services.

3. Decision 243/2012/EU of 14 March 2012 on the European Parliament and of the Council establishing a multi-annual radio spectrum policy programme.

4. Decision 2017/899/EU of the European Parliament and of the Council of 17 May 2017 on the use of the 470-790 MHz frequency band in the Union.

SCHEDULE 2

Regulation 8

Revocation of EU tertiary legislation

1. Commission Decision 2002/622/EC of 26 July 2002 establishing a Radio Spectrum Policy Group, as amended by Decision 2009/978/EC.

2. Commission Decision 2004/545/EC of 8 July 2004 on the harmonisation of radio spectrum in the 79 GHz range for the use of automotive short-range radar equipment in the Community.

(a) S.I. 2016/886. These Regulations, which were made under section 2(2) of the European Communities Act 1972 (c.68), continue to have effect on and after exit day by virtue of section 2(1) of the Act.

- 3.** Commission Decision 2005/50/EC of 17 January 2005 on the harmonisation of the 24GHz range radio spectrum band for the time-limited use by automotive short-range radar equipment in the Community.
- 4.** Commission Decision 2005/513/EC of 11 July 2005 on the harmonised use of radio spectrum in the 5 GHz frequency band for the implementation of Wireless Access Systems including Radio Local Area Networks.
- 5.** Commission Decision 2006/771/EC of 9 November 2006 on harmonisation of the radio spectrum for use by short-range devices.
- 6.** Commission Decision 2007/90/EC of 12 February 2007 amending Decision 2005/513/EC on the harmonised use of radio spectrum in the 5 GHz frequency band for the implementation of Wireless Access Systems including Radio Local Area Networks.
- 7.** Commission Decision 2007/98/EC of 14 February 2007 on the harmonised use of radio spectrum in the 2 GHz frequency bands for the implementation of systems providing mobile satellite services.
- 8.** Commission Decision 2007/131/EC of 21 February 2007 on allowing the use of the radio spectrum for equipment using ultra-wideband technology in the Community.
- 9.** Commission Decision 2007/344/EC of 16 May 2007 on harmonised availability of information regarding spectrum use within the Community.
- 10.** Commission Decision 2008/294/EC of 7 April 2008 on harmonised conditions of spectrum use for the operation of mobile communication services on aircraft (MCA services) in the Community.
- 11.** Commission Decision 2008/411/EC of 21 May 2008 on the harmonisation of the 3 400-3 800 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Community.
- 12.** Commission Decision 2008/432/EC of 23 May 2008 amending Commission Decision 2006/771/EC on harmonisation of the radio spectrum for use by short-range devices.
- 13.** Commission Decision 2008/477/EC of 13 June 2008 on the harmonisation of the 2500-2690 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Community.
- 14.** Commission Decision 2008/671/EC of 5 August 2008 on the harmonised use of radio spectrum in the 5875-5905 MHz frequency band for safety-related applications of Intelligent Transport Systems.
- 15.** Commission Decision 2008/673/EC of 13 August 2008 amending Decision 2005/928/EC on the harmonisation of the 169,4-169,8125 MHz frequency band in the Community.
- 16.** Commission Decision 2009/343/EC of 21 April 2009 amending Decision 2007/131/EC on allowing the use of the radio spectrum for equipment using ultra-wideband technology in a harmonised manner in the Community.
- 17.** Commission Decision 2009/381/EC of 13 May 2009 amending Decision 2006/771/EC on harmonisation of the radio spectrum for use by short-range devices.
- 18.** Commission Decision 2009/449/EC of 13 May 2009 on the selection of operators of pan-European systems providing mobile satellite services.
- 19.** Commission Decision 2009/766/EC of 16 October 2009 on the harmonisation of the 900 MHz and 1 800 MHz frequency bands for terrestrial systems capable of providing pan-European electronic communications services in the Community.
- 20.** Commission Decision 2009/978/EC of 16 December 2009 amending Decision 2002/622/EC establishing a Radio Spectrum Policy Group.

21. Commission Decision 2010/166/EU of 19 March 2010 on harmonised conditions of use of radio spectrum for mobile communication services on board vessels (MCV services) in the European Union.

22. Commission Decision 2010/267/EU of 6 May 2010 on harmonised technical conditions of use in the 790-862 MHz frequency band for terrestrial systems capable of providing electronic communications services in the European Union.

23. Commission Decision 2010/368/EU of 30 June 2010 amending Decision 2006/771/EC on harmonisation of the radio spectrum for use by short-range devices.

24. Commission Decision 2011/251/EU of 18 April 2011 amending Decision 2009/766/EC on the harmonisation of the 900 MHz and 1800 MHz frequency bands for terrestrial systems capable of providing pan-European electronic communications services in the Community.

25. Commission Implementing Decision 2011/485/EU of 29 July 2011 amending Decision 2005/50/EC of 17 January 2005 on the harmonisation of the 24 GHz range radio spectrum band for the time-limited use by automotive short-range radar equipment in the Community.

26. Commission Decision 2011/667 of 10 October 2011 on modalities for coordinated application of the rules on enforcement with regard to mobile satellite services (MSS) pursuant to Article 9(3) of Decision No 626/2008/EC of the European Parliament and of the Council.

27. Commission Implementing Decision 2011/829/EU of 8 December 2011 amending Decision 2006/771/EC on harmonisation of the radio spectrum for use by short-range devices.

28. Commission Implementing Decision 2012/688/EU of 5 November 2012 on the harmonisation of the frequency bands 1920-1980 MHz and 2110-2170 MHz for terrestrial systems capable of providing electronic communications services in the Union.

29. Commission Implementing Decision 2013/195/EU of 23 April 2013 defining the practical arrangements, uniform formats and a methodology in relation to the radio spectrum inventory established by Decision 243/2012/EU of the European Parliament and of the Council establishing a multiannual radio spectrum policy programme.

30. Commission Implementing Decision 2013/654/EU of 12 November 2013 amending Commission Decision 2008/294/EC to include additional access technologies and frequency bands for mobile communications services on aircraft.

31. Commission Implementing Decision 2013/752/EU of 11 December 2013 amending Decision 2006/771/EC on harmonisation of the radio spectrum for use by short-range devices and repealing Decision 2005/928/EC.

32. Commission Implementing Decision 2014/276/EU of 2 May 2014 on amending Decision 2008/411/EC on the harmonisation of the 3 400-3 800 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Community.

33. Commission Implementing Decision 2014/641/EU of 1 September 2014 on harmonised technical conditions of radio spectrum use by wireless audio programme making and special events equipment in the Union.

34. Commission Implementing Decision 2014/702/EU of 7 October 2014 amending Decision 2007/131/EC on allowing the use of the radio spectrum for equipment using ultra-wideband technology in a harmonised manner in the Community.

35. Commission Implementing Decision (EU) 2015/750 of 8 May 2015 on the harmonisation of the 1 452-1 492 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Union.

36. Commission Implementing Decision (EU) 2016/339 of 8 March 2016 on the harmonisation of the 2 010-2 025 MHz frequency band for portable or mobile wireless video links and cordless cameras used for programme making and special events.

37. Commission Implementing Decision (EU) 2016/687 of 28 April 2016 on the harmonisation of the 694-790 MHz frequency band for terrestrial systems capable of providing wireless broadband electronic communications services and for flexible national use in the Union.

38. Commission Implementing Decision (EU) 2016/2317 of 16 December 2016 amending Decision 2008/294/EC and Implementing Decision 2013/654/EU, in order to simplify the operation of mobile communications on board aircraft (MCA services) in the Union.

39. Commission Implementing Decision (EU) 2017/191 of 1 February 2017 amending Decision 2010/166/EU, in order to introduce new technologies and frequency bands for mobile communication services on board vessels (MCV services) in the European Union.

40. Commission Implementing Decision (EU) 2017/2077 of 10 November 2017 amending Decision 2005/50/EC on the harmonisation of the 24 GHz range radio spectrum band for the time-limited use by automotive short-range radar equipment in the Community.

41. Commission Implementing Decision (EU) 2017/1438 of 4 August 2017 amending Decision 2007/131/EC on allowing the use of the radio spectrum for equipment using ultra-wideband technology in a harmonised manner in the Community.

42. Commission Implementing Decision (EU) 2017/1483 of 8 August 2017 amending Decision 2006/771/EC on harmonisation of the radio spectrum for use by short-range devices and repealing Decision 2006/804/EC.

43. Commission Implementing Decision (EU) 2018/637 of 20 April 2018 amending Decision 2009/766/EC on the harmonisation of the 900 MHz and 1800 MHz frequency bands for terrestrial systems capable of providing pan-European electronic communications services in the Community as regards relevant technical conditions for the Internet of Things.

44. Commission Implementing Decision (EU) 2018/661 of 26 April 2018 amending Implementing Decision (EU) 2015/750 on the harmonisation of the 1452-1492 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Union as regards its extension in the harmonised 1427-1452 MHz and 1492-1517 MHz frequency bands.

45. Commission Implementing Decision (EU) 2018/1538 of 11 October 2018 on the harmonisation of radio spectrum for use by short-range devices within the 874-876 and 915-921 MHz frequency bands.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred in section 8 of the European Union (Withdrawal) Act 2018 (c.16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. The deficiencies addressed fall within paragraphs (a) and (g) of section 8(2) of the 2018 Act.

These Regulations make amendments to legislation in the field of radio spectrum and, in particular, amend legislation relating to the harmonised use of radio spectrum and the management of frequency bands.

A full impact assessment has not been produced for this instrument as no significant impact on the private, voluntary or public sectors is foreseen.

£6.90

UK201812181011 12/2018 19585

<http://www.legislation.gov.uk/id/uksi/2018/1385>

ISBN 978-0-11-117757-0



9 780111 177570