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# **Notice of proposals to make the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) Regulations 2020**

Changes to the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) Regulations arising as a result of the end of the transition period between the United Kingdom and the European Union

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**CONSULTATION:**

**Publication Date:** 12 November 2020

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# 1. Overview

## What we are consulting on – in brief

**Automotive Short Range Radars:** We are consulting on making an amendment to the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) Regulations 2013 (the “SRR Regulations”) due to the end of the transition period under the Withdrawal Agreement between the United Kingdom and the European Union at 11pm on 31 December 2020.

The SRR Regulations exempt the use of certain short range radar (SRR) equipment in the 24 GHz band that are installed, or replace equipment, in a vehicle that was registered, placed on the market or put into service in the Community (i.e. in the European Union) after 30 June 2013 from the need to hold a Wireless Telegraphy Act licence. If we do not amend the SRR Regulations they would no longer cover equipment in vehicles registered, placed on the market or put into service in the United Kingdom. To remedy this, we are proposing a minor amendment to the SRR Regulations so that the scope of the licence exemption continues to have the same scope and effect in the United Kingdom after the end of the transition period.

We are inviting comments on our proposals by 14 December 2020.

**This overview is a simplified high-level summary only. Our decision to make the regulations is set out in the full document.**

- 1.1 This document explains that Ofcom is consulting on amending the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) Regulations 2013 (the “SRR Regulations”) to make sure the scope of the Regulations remains the same after the end of the transition period between the United Kingdom (UK) and the European Union (EU) at 11pm on 31 December 2020. Our aim when making the proposed changes to the SRR Regulations was to make the minimum changes necessary to the text of the Regulations. We do not propose any policy changes as a result of the notice.
- 1.2 Ofcom has power to make regulations by way of statutory instrument that exempt the need for certain devices to obtain a licence under the Wireless Telegraphy Act 2006 (the “2006 Act”). The SRR Regulations exempt the use of certain short range radars (SRR) established or installed in motor vehicles in the 24 GHz band from the need to hold a Wireless Telegraphy Act licence. These devices are used in a variety of safety applications from autonomous emergency breaking, lane change assistance to parking assistance.
- 1.3 On 31 January 2020, the UK left the EU under the terms of a Withdrawal Agreement between the UK and the EU, with a transition period until 31 December 2020. During the transition period, the UK continues to be treated as if it were an EU member state. However, the transition period is due to end at 11pm on 31 December 2020 and from that point in time, the UK will no longer be treated as if it were an EU member state. The European Union (Withdrawal Agreement) Act 2020 refers to the date of the end of the

transition and implementation period as “IP completion day”<sup>1</sup> and this is the term we propose to use in the amended SRR Regulations to refer to this date.

- 1.4 If the SRR Regulations are not amended, this licence exemption would cease to apply to equipment in vehicles that are registered, placed on the market or put into service in the UK after the end of the transition period between the UK and the EU, since the UK would cease to be treated as if it were a member of the EU. It would therefore have become unlawful for such equipment to use the spectrum without a licence granted by Ofcom.
- 1.5 In order to make the necessary changes to ensure that exemption continues to apply to the UK we are proposing to make the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (Amendment) Regulations 2020 (the “Proposed Regulations”). As required by section 122(4) and (5) of 2006 Act, we are required to give statutory notice of our proposals to make the Proposed Regulations and give one month for any representations to be made. Comments on the Proposed Regulations are sort by 5pm on 14 December 2020.

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<sup>1</sup> See section 39(1) to (5) of the European Union (Withdrawal Agreement) Act 2020. Schedule 5, Part 2, paragraph 12(b) inserts an equivalent definition of “IP completion day” into Schedule 1 of the Interpretation Act 1978.

## 2. Notice

### General legislative background

- 2.1 Under section 8 (1) of the 2006 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 2006 Act.
- 2.2 Under section 8 (3) of that 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.
- 2.3 Under section 8(4) of the 2006 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.
- 2.4 In accordance with the requirements of section 8(3B) of the 2006 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.
- 2.5 We make exemption regulations by means of a statutory instrument. Before making any such regulations, we are required by section 122(4) of the 2006 Act to give notice of our proposal to do so. Under section 122(5), the 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.

## The SRR Regulations and the February 2019 consultation

- 2.6 The SRR Regulations transposed a 2005 European Commission decision<sup>2</sup>, as amended in 2011<sup>3</sup>, to harmonise the use of automotive SRR equipment in the 24 GHz spectrum band (21.65 to 26.65 GHz). They permit equipment that is installed, or that is replacing equipment so installed, in a vehicle that was registered, placed on the market or put into service in the Community (i.e. in the European Union) after 30 June 2013 to operate in the 24.25 to 26.65 GHz part of the 24 GHz band on a licence-exempt basis (subject to compliance with various terms, provisions and limitations).<sup>4</sup> Specifically:
- a) Regulation 5(1) provides that the establishment or installation of automotive SRR equipment in a vehicle and the use of equipment so established or installed is exempt from the provisions of section 8(1) of the 2006 Act where the terms, provisions and limitations in regulation 5 are met.
  - b) Regulation 5(2) provides that the establishment or installation of the equipment must be in a vehicle which was registered, placed on the market or put into service in the Community after 30 June 2013, or must be in a vehicle in which equipment was so established or installed in order to replace that equipment.
- 2.7 On 21 February 2019, we published a consultation proposing to make the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (Amendment) Regulations 2019 (the “Amendment Regulations”).<sup>5</sup> In our consultation, we proposed to amend the SRR Regulations so that, in the event the UK left the EU without a withdrawal agreement being in place, the SRR Regulations would have continued to permit the operation of automotive SRR equipment in the 24.25 to 26.65 GHz part of the 24 GHz band on a licence exempt basis, where such equipment is installed in a vehicle which was registered, placed on the market or put into service in the UK or in the EU after Exit Day. We received no comments on the proposed regulations.
- 2.8 Although the UK left the EU on 31 January 2020, it was not necessary for Ofcom to proceed to make these changes as a result of the Withdrawal Agreement being reached between the UK and EU, and the passing of the European Union (Withdrawal Agreement) Act 2020.<sup>6</sup> This meant the UK continued to be treated as if it were an EU member state during the transition period.

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<sup>2</sup> European Commission Decision (2005/50/EC) <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:021:0015:0020:EN:PDF>

<sup>3</sup> European Commission Decision (2011/458/EU) <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32011D0485:EN:PDF>

<sup>4</sup> The SRR Regulations also permit automotive SRR equipment that was installed, or that is replacing equipment so installed, in a vehicle that was registered, placed on the market or put into service in the Community between 1 July 2005 and 30 June 2013 are permitted to continue to use the 21.65 and 24.25 GHz part of the 24 GHz band on a licence-exempt basis (subject to complying with various terms, provisions and limitations), but this was closed to new deployments from 30 June 2013. This exemption is not affected by the decision set out in this document.

<sup>5</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-3/consultation-notice-of-proposal-to-make-the-wireless-telegraphy-automotive-short-range-radar-exemption-regulations-2019>.

<sup>6</sup> Which amended the European Union (Withdrawal) Act 2018.

2.9 However, the transition period is due to end at 11pm on 31 December 2020 (“IP completion day”) and from that point in time, the UK will no longer be treated as if it were an EU member state.

## Consultation on the Proposed Regulations

2.10 In light of the forthcoming end of the transition period between the UK and the EU, we have revisited whether we need to amend the SRR Regulations. Our view is that we should proceed to make the changes so that they apply from the end of the transition period (i.e. IP completion day).

2.11 However, after reviewing the Amendment Regulations it became clear to us that further drafting changes were necessary. The term ‘exit day’ needed to be replaced with ‘IP completion day’ (meaning the date on which the transition period ends). As a result of this we needed to draft a new set of regulations and reconsult on our proposals to amend the SSR Regulations.

2.12 If the SRR Regulations are not amended, this licence exemption would cease to apply to equipment in vehicles that are registered, placed on the market or put into service in the UK after the end of the transition period between the UK and the EU, since the UK would cease to be treated as if it were a member of the EU. It would therefore have become unlawful for such equipment to use the spectrum without a licence granted by Ofcom.

2.13 We therefore propose to amend the SRR Regulations so that they would continue to permit the operation of automotive SRR equipment in the 24.25 to 26.65 GHz part of the 24 GHz band on a licence exempt basis, where such equipment is installed in a vehicle which is registered, placed on the market or put into service in the UK or in the EU after IP completion day. To give effect to the changes, we propose to make the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (Amendment) Regulations 2020 (the “Proposed Regulations”).

2.14 We have considered whether to amend this exemption so that it would apply only in relation to equipment installed in vehicles which are registered, placed on the market or put into service in the UK. However, this would have amounted to a narrowing in scope of application of the exemption. We are not proposing to change the scope of any regulatory conditions or implement any changes of regulatory policy through our consultation.

2.15 Given that the changes are intended merely to ensure the current effect and scope of the SRR Regulations is maintained after the end of the transition period, we do not anticipate the changes will have any impact on stakeholders. Therefore, we do not consider it necessary to carry out a formal regulatory impact assessment.

## Notice of proposals

2.16 In accordance with the requirements of section 122(4) and (5) of 2006 Act, we are required to give statutory notice of our proposals to make the Proposed Regulations and give one month for any representations to be made.

- 2.17 The Notice sets out our proposals to amend regulation 5(2) of the SRR Regulations to replace the existing wording, which specifies that, in order for the licence exemption to apply, the establishment or installation of equipment must be in a vehicle which is registered, placed on the market or put into service in the Community.
- 2.18 In its place, the Proposed Regulations would substitute new wording for regulation 5(2) which would require that the equipment must be established or installed in a vehicle which was registered, placed on the market or put into service: (a) in the EU during the period starting on 1 July 2013 and ending immediately before IP completion day; or (b) in the UK or in the EU after IP completion day. The proposed new wording would also continue to exempt equipment in a vehicle in which equipment was so established or installed in order to replace that equipment.
- 2.19 Subject to our consideration of responses we would intend for the Proposed Regulations to come into force on IP completion day, i.e. 11pm on 31 December 2020.

## Comments and representations

- 2.20 We are seeking comments on the drafting of the Proposed Regulations and whether they correctly implement our proposals to maintain the scope and effect of the SRR Regulations after the UK leaves the EU. We are not seeking comments on any potential changes to the scope or policy, which will be considered at a later date, if appropriate.

Question: Do you have any comments on the drafting of the Proposed Regulations?

- 2.21 Comments on the Proposed Regulations are invited by 5pm on 14 December 2020.

# A1. Proposed Regulations

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## STATUTORY INSTRUMENTS

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**2020 No. 0000**

### **ELECTRONIC COMMUNICATIONS**

#### **The Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (Amendment) Regulations 2020**

*Made* - - - - *XXXX 2020*

*Coming into force in accordance with regulation 1*

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

Before making these Regulations OFCOM have given 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 the representations made to them before the time specified in the notice in accordance with section 122(4)(c) of the Act.

#### **Citation and commencement**

1. These Regulations may be cited as the Wireless Telegraphy (Automotive Short Range Radar) (Exemption) (Amendment) Regulations 2020 and shall come into force on IP completion day<sup>(8)</sup>.

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

2.—(1) The Wireless Telegraphy (Automotive Short Range Radar) (Exemption) Regulations 2013<sup>(9)</sup> are amended in accordance with this regulation.

(2) In regulation 5 (second exemption), for paragraph 2 substitute—

“(2) The establishment or installation must be in a vehicle which was registered, placed on the market or put into service—

- (a) in the European Union during the period starting on 1 July 2013 and ending immediately before IP completion day; or
- (b) in the United Kingdom or in the European Union after IP completion day,

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<sup>(7)</sup> 2006 c.36.

<sup>(8)</sup> As defined in section 39(1) to (5) of the European Union (Withdrawal Agreement) Act 2020 c. 1. Schedule 5, Part 2, paragraph 12(b) of that Act inserts an equivalent definition of “IP completion day” into Schedule 1 of the Interpretation Act 1978.

<sup>(9)</sup> S.I. 2013/1437

or must be in a vehicle in which equipment was so established or installed in order to replace that equipment.”

## 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 14 December 2020.
- A2.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-3/wireless-telegraphy-asrr-exemption-regulations>. You can return this by email 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 [Paul.Chapman@ofcom.org.uk](mailto:Paul.Chapman@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:
- 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
  - 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 if your response is submitted via the online web form, but not otherwise.
- A2.8 You do not have to answer all the questions in the consultation if you do not have a view; 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 direct answers to the questions asked in the consultation document. The question is set out in Section 2. 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 questions raised in this consultation, please contact Paul Chapman by email to [Paul.Chapman@ofcom.org.uk](mailto:Paul.Chapman@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 all responses on [the Ofcom website](#) as soon as we receive them.
- 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 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

- A2.15 Following this consultation period, Ofcom plans to publish a statement in December 2020.
- A2.16 If you wish, you can [register to receive mail updates](#) alerting you to new Ofcom publications.

## Ofcom's consultation processes

- A2.17 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 3.
- A2.18 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.
- A2.19 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 a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- 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 all the responses on our website as soon as we receive them. 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 seeks to publish responses on receipt. 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)