



STATUTORY INSTRUMENTS

**S.I. No. 178 of 2008**

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WIRELESS TELEGRAPHY ACT 1926 (SECTION 3) (EXEMPTION OF  
APPARATUS FOR MOBILE COMMUNICATION SERVICES ON  
AIRCRAFT) ORDER 2008

**(Prn. A8/0762)**

WIRELESS TELEGRAPHY ACT 1926 (SECTION 3) (EXEMPTION OF  
APPARATUS FOR MOBILE COMMUNICATION SERVICES ON  
AIRCRAFT) ORDER 2008

The Commission for Communications Regulation, in exercise of the powers conferred on it by section 3(6) of the Wireless Telegraphy Act, 1926 (No. 45 of 1926) (inserted by section 11(c) of the Wireless Telegraphy Act, 1972 (No. 5 of 1972)), transferred to it by section 9(1) of the Communications Regulation Act 2002 (No. 20 of 2002) as amended, hereby makes the following Order:

1. This Order may be cited as the Wireless Telegraphy Act, 1926 (section 3) (Exemption of Apparatus for Mobile Communication Services on Aircraft) Order 2008.

2. In this Order—

“Apparatus for Mobile Communication Services on Aircraft” means apparatus for wireless telegraphy, providing mobile communication services on aircraft fulfilling all of the requirements set out in the Schedule to this Order;

“Apparatus for Wireless Telegraphy” has the same definition herein as in the Wireless Telegraphy Act 1926, (No. 45 of 1926);

“CEPT” means the European Conference of Postal and Telecommunications Administrations;

“ComReg” means the Commission for Communications Regulation, established under part 2 of the Communications Regulation Act 2002, (No. 20 of 2002);

“EASA” means the European Aviation Safety Agency;

“EN 301 502” means a harmonised standard being a Harmonised EN for the Global System for Mobile communications (GSM); Base Station and Repeater equipment covering the essential requirements of Article 3.2 of the R&TTE Directive;

“EN 301 511” means a harmonised standard being a Harmonised EN for mobile stations in the GSM 900 and GSM 1800 bands covering the essential requirements of Article 3.2 of the R&TTE Directive;

“EN 302 480” means a harmonised standard being a Harmonised EN for the GSM onboard aircraft system covering the essential requirements of Article 3.2 of the R&TTE Directive;

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 13th June, 2008.*

“Electronic communications service” has the same definition herein as in the Framework Regulations;

“Framework Regulations” means the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2003 S.I. No. 307 of 2003;

“Harmonised Standard” means a technical specification adopted by a recognised standards body under a mandate from the European Commission in uniformity with the procedures laid down in Directive 98/34/EC, as amended from time to time, for the purpose of establishing a European requirement, compliance with which is not compulsory;

“MCA” means Mobile Communication Services on Aircraft;

“MCA Decision” means the decision of the European Commission on harmonised conditions of spectrum use for the operation of mobile communication services on aircraft (MCA services) in the Community, 2008/294/EC;

“Mobile Communication Services on Aircraft” means an electronic communication service as defined in Regulation 2 of the Framework Regulations provided by an undertaking to enable airline passengers to use public communication networks during the flight without establishing direct connections with terrestrial mobile networks;

“Mobile terminal” means a user’s GSM terminal (mobile station) as defined in EN 301 511;

“NCU” means the Network Control Unit located in the Aircraft which prevents direct connection of the onboard mobile terminals with terrestrially based mobile networks;

“OBTS” means an On board Base Transceiver System capable of supporting an electronic communications service using the harmonised standards and frequency bands defined in Table 1 of the Schedule to this Order;

“Public communications network” has the same definition herein as in the Framework Regulations;

“R&TTE Directive” means Directive 1999/5/EC of the European Parliament and of the Council, of 9 March 1999, on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity;

“Regulations” means the European Communities (Radio Equipment and Telecommunications Terminal Equipment) Regulations 2001 (S.I. No. 240 of 2001);

“Undertaking” means a person engaged or intending to engage in the provision of electronic communications networks or services or associated facilities.

3. This Order only applies within the jurisdiction of Ireland and is subject to prior and continuing approval of the EASA and conformance with any subsequent provisions; in terms of equipment, in flight operation and the use of mobile terminals.

4. The classes of apparatus for wireless telegraphy described in the Schedule to this Order are hereby declared to be classes of apparatus for wireless telegraphy to which section 3 of the Wireless Telegraphy Act 1926 does not apply.

#### SCHEDULE

Apparatus for wireless telegraphy to which Section 3 of the Wireless Telegraphy Act 1926 does not apply

(1) Apparatus for Mobile Communication Services On Aircraft which:

- (a) is described in column 1 of Table 1;
- (b) fulfils the requirements laid down in the harmonised standards and decisions set out in Column 2 and otherwise meets the essential requirements of the Regulations;
- (c) operates in the frequency bands in column 3 in Table 1.

(2) In addition to paragraph 1 of this Schedule:

- (a) the undertaking must obtain all approvals and licences necessary prior to operating within the jurisdiction of other administrations;
- (b) the MCA system may only be used at cruising heights above ground greater than 3000m and operation of the system must be immediately terminated below this level;
- (c) the MCA system on each Aircraft must be fully conformant with the MCA Decision and operation must be immediately terminated should any malfunction or situation occur;
- (d) a malfunctioning MCA system must be disabled for the remainder of the flight and may not be used again until it is fully certified as being conformant with the MCA Decision and otherwise operating correctly;
- (e) on receipt of a complaint ComReg reserves the right to inspect the aircraft and MCA installation at the licensee's own expense prior to and during operation if necessary.

Table 1: Class of Apparatus		
Column 1	Column 2	Column 3
Apparatus Type	Harmonised Standards/EC Decisions	Frequency Bands
OBTS	EN 302 480, EN 301 502, EN 301 511 and 2008/294/EC	1710-1785MHz and 1805-1880MHz
NCU	EN 302 480 and 2008/294/EC	460-470MHz, 921-960MHz, 1805-1880MHz and 2110-2170MHz



GIVEN under the official seal of the Commission for Communications Regulation,  
11 June 2008

JOHN DOHERTY,  
Chairperson For and on behalf of the Commission for Communications Regulation

EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

This Order provides for the exemption of certain wireless telegraphy apparatus, associated with the provision of mobile communication services on board aircraft, from the requirement to be licensed under the Wireless Telegraphy Act 1926.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
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