



STATUTORY INSTRUMENTS.

S.I. No. *218* of 2017

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WIRELESS TELEGRAPHY ACT 1926 (SECTION 3) (EXEMPTION OF  
APPARATUS FOR MOBILE COMMUNICATION SERVICES ON  
AIRCRAFT) ORDER 2017

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The Commission for Communications Regulation, in exercise of the powers conferred on it by section 3(6)(a) of the Wireless Telegraphy Act 1926 (No. 45 of 1926) (amended by section 11(c) of the Wireless Telegraphy Act 1972 (No. 5 of 1972)) for the purpose of giving effect to European Commission Decision 2008/294/EU of 7 April 2008 as amended by European Commission Implementing Decision 2013/654/EU of 12 November 2013 and European Commission Implementing Decision (EU) 2016/2317 of 16 December 2016, hereby makes the following Order:

*Citation*

1. This Order may be cited as the Wireless Telegraphy Act 1926 (section 3) (Exemption of Apparatus for Mobile Communication Services on Aircraft) Order 2017.

*Interpretation*

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 Annex to the MCA Decision;

“Act of 1972” means the Wireless Telegraphy Act 1972 (No. 5 of 1972);

“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;

“EASA” means the European Aviation Safety Agency;

“Framework Regulations” means the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011 S.I. No. 333 of 2011;

“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 2015/1535/EU, 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 European 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 (O.J. L 98, 10.4.2008), as amended by the European Commission Implementing Decision 2013/654/EU of 12 November 2013 (O.J. L 303, 14.11.2013), the European Commission Implementing Decision (EU) 2016/2317 of 16 December 2016 (O.J. L 345, 20.12.2016), and as may be amended by the European Commission from time to time, and which amendment has legal effect in the State;

“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;

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

“Radio Equipment Directive” means Directive 2014/53/EU of the European Parliament and of the Council, of 16 April 2014, on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity;

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

#### *Limitation*

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

#### *Applicability*

4. Section 3 of the Wireless Telegraphy Act 1926 (No. 45 of 1926) does not apply to classes of Apparatus for Mobile Communication Services on Aircraft described as, and fulfilling the requirements set out in, the MCA Decision, the Annex to that Decision, and otherwise meeting the essential requirements of the Radio Equipment Directive and this Order.

#### *Conditions*

5. In addition to Article 4 of this Order:

- (a) the Apparatus for Mobile Communication Services on Aircraft may only be used at altitudes greater than 3000 metres and operation of the system must be immediately terminated below this level;

- (b) the Apparatus for Mobile Communication Services on Aircraft must be fully conformant with the MCA Decision and should any malfunction occur operation must be immediately terminated for the remainder of the flight or until such time as the apparatus is fully repaired and otherwise operating correctly in conformance with the MCA Decision; and
- (c) ComReg reserves the right to inspect the aircraft and Apparatus for Mobile Communication Services on Aircraft at the licensee's own expense prior to and during operation if necessary.

*Revocation*

6. Statutory Instrument Number 178 of 2008, Wireless Telegraphy Act 1926 (section 3) (Exemption of Apparatus for Mobile Communication Services on Aircraft) Order 2008 is hereby revoked.

GIVEN under the official seal of the Commission for  
Communications Regulation,

this 26<sup>th</sup> day of May 2017.



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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 gives effect to European Commission Decisions to provide 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.

Statutory Instrument Number 78 of 2008, Wireless Telegraphy Act, 1926 (section 3) (Exemption of Apparatus for Mobile Communication Services on Aircraft) Order 2008 is revoked.

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