EXPLANATORY MEMORANDUM TO

THE 1452-1492 MHZ AND 3400-3800 MHZ FREQUENCY BANDS (MANAGEMENT) REGULATIONS 2016

2016 No. 495

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument implements in the United Kingdom the requirements of the following two Commission Implementing Decisions:

- Commission Implementing Decision (EU) 2015/750 of 8th May 2015 on the harmonisation of the 1452–1492 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Union ("the 1452–1492 MHz Decision"); and
- Commission Decision 2008/411/EC of 21st May 2008 on the harmonisation of the 3400-3800 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Community, as amended by Commission Implementing Decision 2014/276/EU of 2nd May 2014 ("the 3400–3800 MHz Decision").

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Commission Decision 2008/411/EC took effect on 21st May 2008, and was implemented in the UK by S.I. 2008/2794. It aims to harmonise the 3400-3800 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Community. A Decision making amendments to Commission Decision 2008/411/EC took effect on 2nd May 2014.

4.2 This instrument revokes S.I. 2008/2794 and implements Commission Decision 2008/411/EC, as now amended.

4.3 Commission Decision (EU) 2015/750 took effect on 8th May 2015. It aims to harmonise the 1452–1492 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Union.

4.4 The national regulatory authority with responsibility for the management of radio spectrum in the UK is the Office of Communications ("OFCOM"), established by the Office of Communications Act 2002.

4.5 The Wireless Telegraphy Act 2006 ("the 2006 Act") provides OFCOM with the necessary powers to give effect to the requirements of both the 1452–1492 MHz Decision, and the 3400–3800 MHz Decision in the UK through e.g. designation of the frequency bands in the UK Plan for Frequency Allocation (see section 2 of the 2006 Act). This instrument is intended to place OFCOM under a legal duty to exercise the powers under the 2006 Act in a way that fulfils the obligations of the UK under both the 1452–1492 MHz Decision, and the 3400–3800 MHz Decision.

5. Extent and Territorial Application

5.1 The extent of this instrument is the whole of the United Kingdom.

5.2 The territorial application of this instrument is the whole of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 The European Commission has issued Implementing Decisions designed to ensure harmonised conditions across the Union for the availability and efficient use of the 1492–1492 and 3400–3800 MHz frequency bands.

7.2 OFCOM is already acting in accordance with the 1452–1492 MHz Decision and the 3400–3800 MHz Decision. However, to ensure the proper transposition of both the Decisions in the UK, the government considers that it should expressly provide for Ofcom to be placed under a duty to exercise their existing powers under the 2006 Act to give effect to the requirements of both Commission Decisions.

Consolidation

7.3 These regulations revoke and replace 'The 3400-3800 MHz Frequency Band (Management) Regulations 2008' (S.I. 2008/2794).

8. Consultation outcome

8.1 No formal consultation was carried out as the government is obliged to implement both the 1452–1492 MHz Decision and the 3400–3800 MHz Decision.

9. Guidance

9.1 Guidance has not been issued because the obligations under the instrument are placed upon OFCOM.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 OFCOM will, from time to time, review the use of the bands covered by this instrument to ensure their efficient use, and will monitor and review the effectiveness of the Annexes to both the 1452–1492 MHz Decision and the 3400–3800 MHz Decision.

13. Contact

13.1 Rob Griffiths at the Department for Culture, Media and Sport (Telephone: 0207 211 2867 or email: robert.griffiths@culture.gov.uk) can answer any queries regarding the instrument.