



Notification Number: 2015/390/UK

## Draft Regulations: The Telecommunications Restriction Orders (Custodial Institutions) (England and Wales), 2015

Date received : 17/07/2015

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### Message

Message 001

Communication from the Commission - TRIS/(2015) 02237

Directive 98/34/EC

Notificación - Oznámení - Notifikation - Notifizierung - Teavitamine - Γνωστοποίηση - Notification - Notification - Notifica - Pietiekums - Pranešimas - Bejelerentes - Notifika - Kennisgeving - Zawiadomienie - Notificacão - Hlášenie-Obvestilo - Ilmoitus - Anmälan - Нотификация : 2015/0390/UK - Notificare.

No abre el plazo - Nezahtuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késéket - Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Nao inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - He ce предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 201502237.EN)

#### 1. Structured Information Line

MSG 001 IND 2015 0390 UK EN 17-07-2015 UK NOTIF

#### 2. Member State

UK

#### 3. Department Responsible

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#### **4. Notification Number**

2015/0390/UK - V00T

#### **5. Title**

Draft Regulations: The Telecommunications Restriction Orders (Custodial Institutions) (England and Wales), 2015

#### **6. Products Concerned**

The draft regulations "The Telecommunications Restriction Orders (Custodial Institutions) (England and Wales) Regulations 2015" will confer on the civil courts of England and Wales the powers to compel Mobile Network Operators to disconnect unauthorised mobile phones that are found by a Judge to be in use inside custodial institutions without authorisation. These regulations are enabled by Section 80 of the Serious Crime Act 2015. Whilst Section 80 provided for regulations to be made in Scotland and England and Wales, the territorial scope of these regulations is limited to custodial institutions in England and Wales only.

#### **7. Notification Under Another Act**

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#### **8. Main Content**

The use of unauthorised mobile phones in custodial institutions can enable prisoners to continue their offending whilst in custody. Prisoners have used unauthorised mobile phones to import firearms and drugs into the UK, and they present a significant threat to prison security. In 2013, the National Offender Management Service (NOMS) recovered over 7,400 mobile phone handsets and SIM cards from custodial institutions in England and Wales. The use or possession of a mobile phone in custodial institutions is a criminal offence and although NOMS operates a wide range of effective security measures to identify and prevent their use, it is not always possible to attribute phone use to individuals and prosecutions are rare. The size of handsets is also decreasing and as such, it is not always possible to firstly take physical possession of the unauthorised handset or SIM cards in use inside custodial institutions. The Telecommunications Restriction Orders (Custodial Institutions) (England and Wales) Regulations 2015, provide for NOMS, The Commissioners of Her Majesty's Revenue and Customs, The National Crime Agency and the police to use technology to identify those handsets and SIM cards in use inside custodial institutions without authorisation. NOMS (or other applicant), will then make a court order application for a Telecommunications Restriction Order. If a County Court Judge is satisfied (at the civil standard of proof) that the handset and/or SIM card is in use inside a custodial institution without authorisation, then the Judge will issue a Telecommunications Restriction Order. The telecommunications service provider will be obliged to disconnect that handset or SIM card from the UK mobile network. This action effectively puts that handset or SIM card beyond normal use and prevents that handset or SIM card from connecting to any UK or international mobile network. There is no requirement for NOMS (or other applicant) to firstly take physical possession of the handset or SIM card before making an application for the Telecommunications Restriction Order. These draft regulations place regulatory measures onto Mobile Network Operators (MNOs) as they will be required to take whatever action is necessary to disconnect handsets and SIM cards from their networks. The regulations provide for the MNOs to ask a court to award any costs that the MNOs incur in complying with the court order.



## 9. Brief Statement of Grounds

The grounds for introducing the regulatory measure onto Mobile Network Operators are:

There are no existing legal powers to compel telecommunications providers to discontinue the provision of telecommunications services to unauthorised mobile phones in custodial institutions.

It is not always possible to firstly take physical possession of handsets or SIM cards and other ways of putting unauthorised devices beyond normal use is needed.

The regulatory measure has been assessed as having a zero net cost to business and provides a cost efficient solution to the problem of unauthorised mobile phone use in custodial institutions.

## 10. Reference Documents - Basic Texts

No Basic Text exists

## 11. Invocation of the Emergency Procedure

No

## 12. Grounds for the Emergency

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## 13. Confidentiality

No

## 14. Fiscal measures

No

## 15. Impact assessment

Yes

## 16. TBT and SPS aspects

TBT aspect

No - The draft is not a technical regulation nor a conformity assessment

SPS aspect

No - The draft is not a sanitary or phytosanitary measure

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European Commission

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**EUROPEAN COMMISSION**  
GROWTH DIRECTORATE-GENERAL

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