

MOBILE TELEPHONES (RE- PROGRAMMING) ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 1: Re-programming mobile telephone etc.

7. This section creates the offence of changing or interfering with a unique device identifier. The offence is triable either way. The offence is punishable on conviction on indictment by up to 5 years' imprisonment or a fine or both. The offence is punishable on summary conviction by up to 6 months' imprisonment or a fine not exceeding the statutory maximum (currently £5,000) or both.
8. *Subsection (2)* defines a unique device identifier as an electronic equipment identifier which is unique to a mobile wireless communications device. The offence is defined in terms which ensure that it will still be relevant to future generations of mobile communications devices which may have different electronic equipment identifiers.
9. *Subsection (3)* makes it clear that no offence is committed where the manufacturer, or someone with the manufacturer's written consent, changes or interferes with the operation of a unique device identifier. Other than the manufacturers themselves, only a very limited and strictly controlled number of service centres have express authorisation to change the IMEI number.

Section 2: Possession or supply of anything for re-programming purposes

10. This section creates a number of offences ancillary to the offence created by section 1. These linked offences are having custody or control of the equipment for the purpose of unauthorised reprogramming (*subsection 1*), and supplying (*subsection 2*) or offering to supply (*subsection 3*) the equipment to someone for that purpose.
11. The equipment required to reprogramme the IMEI number may also be used for other legitimate purposes. The section makes it clear that the offences are committed only if the person intends to use the equipment or allow it to be used for the purposes of making an unauthorised change to the IMEI number, or knows that the person to whom he supplies it or offers to supply it intends to use it or allow it to be used for that purpose.
12. The effect of subsection (5) is that possession by, supply to, or the offer to supply to the manufacturer of a mobile telephone, or someone with his written consent, does not amount to an offence under subsections (1), (2) and (3).
13. Unique device identifier has the same definition as in section 1. The penalties for each of these offences are the same as for the offence created by section 1.

Section 3: Citation etc.

14. This section gives the short title of the Act; it also provides for commencement. The Act extends to the United Kingdom.