

EXPLANATORY MEMORANDUM TO
THE BROADCASTING ACT 1990 (INDEPENDENT RADIO SERVICES EXCEPTIONS)
ORDER 2007

2007 No. 272

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. Description

2.1 This instrument creates an exemption from the offence of broadcasting without a Broadcasting Act licence for Community Audio Distribution Systems (“CADS”).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 The Broadcasting Act 1990 makes it an offence for any person to broadcast an independent radio service without a licence. However, the legislation also allows for an exemption from this offence for services specified by order. This instrument has been made using these powers of the Secretary of State, under section 97 (2) of the Broadcasting Act 1990.

5. Territorial Extent and Application

5.1 This instrument applies to all 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

7.1 Community Audio Distribution Systems are an onward transmission of a live community event, such as a religious service. These broadcasts are made solely via the UK Citizen Band’s allocated spectrum and to a small geographic local area.

7.2 Section 97 (2) of the Broadcasting Act 1990 gives the Secretary of State the power to exempt defined services from the offence of broadcasting without a licence, subject to consultation with OFCOM. This instrument uses these powers to make an exemption in relation to CADS.

7.3 The purpose of the order is to provide an appropriate regulatory regime for CADS to recognise that the nature of these services and the spectrum on which they are carried are notably different from traditional licensed broadcast services. CADS services are broadcast using the UK Citizen Band frequencies which affords no protection against interference and are available to users on a first come first served basis. The legislation also recognises that CADS are not-for-profit services and in many instances the costs associated with holding a normal radio broadcast licence would prevent CADS from being able to broadcast. In addition, this instrument will bring CADS into line with other users of the Citizen Band spectrum.

7.4 This legislation was subject to consultation with OFCOM and a wider public consultation. The consultation document was placed on the DCMS website and hard copies were sent to over 100 interested individuals and groups, including CADS operating under the pilot scheme. In total the DCMS received 22 public responses. All 22 respondents agreed with the proposals for a permanent scheme for CADS and that the definition of CADS set out in this instrument was appropriate. OFCOM were in agreement with the proposal.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

9.1 John Mottram at the Department for Culture, Media and Sport Tel: 0207 211 6414 or e-mail: John.Mottram@culture.gsi.gov.uk can answer any queries regarding the instrument.