



Wireless Telegraphy Act 1998

1998 CHAPTER 6

An Act to make provision about the grant of, and sums payable in respect of, licences under the Wireless Telegraphy Act 1949 other than television licences, and about the promotion of the efficient use and management of the electro-magnetic spectrum for wireless telegraphy; and for connected purposes. [18th March 1998]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Charges for wireless telegraphy licences

- (1) In this Act “wireless telegraphy licence” means any licence under the Wireless Telegraphy Act 1949 other than a television licence as defined in section 1(7) of that Act.
- (2) On the issue or renewal of a wireless telegraphy licence and, where regulations under this section so provide, subsequently at such times during the term of the licence as may be prescribed by the regulations, there shall be paid to the Secretary of State by the person to whom the licence is issued—
 - (a) such sums as may be prescribed by the regulations, or
 - (b) if the regulations so provide, such sums (whether on the issue or renewal of the licence or subsequently) as the Secretary of State may in the particular case determine.
- (3) Regulations under this section—
 - (a) may make different provision for different cases (including, in particular, different provision for different areas),
 - (b) may confer exemptions from provisions of the regulations or provide for such exemptions to be conferred by the Secretary of State in particular cases,
 - (c) may provide for sums paid to be refunded, in whole or in part, in such cases as may be specified in the regulations or in such cases as the Secretary of State thinks fit, and

- (d) may include such transitional provision as the Secretary of State thinks fit.
- (4) Where sums will or may become payable under regulations under this section subsequently to the issue or renewal of a licence, the Secretary of State may, on the issue or renewal of the licence, require such security to be given, by way of deposit or otherwise, for the payment of the sums which will or may become payable as he thinks fit.
- (5) Regulations under this section shall not apply in relation to any licence granted in accordance with regulations under section 3.
- (6) Any regulations under section 2(1) of the Wireless Telegraphy Act 1949 which—
- (a) relate to wireless telegraphy licences within the meaning of this Act, and
 - (b) are in force immediately before the commencement of this section,
- shall be taken to have been made under this section; and accordingly may be amended or revoked by regulations under this section.
- (7) Any reference in a wireless telegraphy licence granted before the commencement of this section to section 2(1) of the Wireless Telegraphy Act 1949 shall be construed, in relation to any time after that commencement, as a reference to this section.

2 Matters to be taken into account

- (1) In exercising his powers under section 1 to prescribe sums payable in respect of wireless telegraphy licences of any description, the Secretary of State shall have regard, in particular, to the matters specified in subsection (2); and accordingly may, if he thinks fit, prescribe sums which are greater than would be necessary for the purposes of recovering costs incurred by him in connection with any functions relating to wireless telegraphy.
- (2) Those matters are—
- (a) the extent of the part of the electro-magnetic spectrum available for use under licences of that description,
 - (b) the demand and likely future demand for the use of the part of the electro-magnetic spectrum to be used under licences of that description, and
 - (c) the desirability of promoting—
 - (i) the efficient use and management of the electro-magnetic spectrum,
 - (ii) any economic benefits arising from the use of wireless telegraphy,
 - (iii) the development of innovative services, and
 - (iv) competition in the provision of telecommunication services.
- (3) In this section—
- “prescribe” means prescribe by regulations or determine in accordance with regulations;
 - “telecommunication service” means a service falling within paragraph (a) of the definition of such a service in section 4(3) of the Telecommunications Act 1984.

3 Bidding for licences

- (1) Having regard to the desirability of promoting the optimal use of the electro-magnetic spectrum, the Secretary of State may by regulations provide that, in such cases as may

- be specified in or determined by him under the regulations, applications for the grant of wireless telegraphy licences must be made in accordance with a procedure which—
- (a) is set out in a notice issued by him under the regulations, and
 - (b) involves the making by the applicant of a bid specifying an amount which he is willing to pay to the Secretary of State in respect of the licence.
- (2) Regulations under this section shall—
- (a) make provision with respect to the issue of notices by the Secretary of State for the purposes of subsection (1)(a),
 - (b) provide for the matters to be dealt with in any such notice, and
 - (c) require any such notice to be published in such manner as may be prescribed.
- (3) Regulations under this section may make provision with respect to the grant of the licences to which they apply and the terms, provisions and limitations subject to which such licences are issued and may, in particular—
- (a) require the applicant's bid to specify the amount which he is willing to pay—
 - (i) as a cash sum or by reference to a variable to be determined in accordance with the regulations (such as, for example, his income attributable wholly or in part to the holding of the licence), and
 - (ii) as the amount of a single payment or as the amount of a periodic payment,
 - (b) specify requirements (such as, for example, technical or financial requirements, requirements relating to fitness to hold the licence and requirements intended to restrict the holding of two or more wireless telegraphy licences by any one person) which must be met by applicants for a licence,
 - (c) require any such applicant to pay a deposit to the Secretary of State,
 - (d) specify circumstances in which such a deposit is, or is not, to be refundable,
 - (e) specify matters to be taken into account by the Secretary of State (in addition to the bids made in accordance with the prescribed procedure) in deciding whether, or to whom, to grant a licence,
 - (f) specify the other terms, provisions and limitations subject to which any licence is to be issued,
 - (g) make any provision referred to in section 1(3), and
 - (h) enable provision (including provision falling within any of paragraphs (a) to (g)) to be made by the Secretary of State in a notice for the purposes of subsection (1)(a).
- (4) Except to the extent that regulations under this section or a notice issued for the purposes of subsection (1)(a) otherwise provides, the issue of such a notice in respect of a particular licence does not bind the Secretary of State, on the completion of the procedure specified in the notice, to grant the licence.
- (5) A wireless telegraphy licence granted in accordance with regulations under this section shall specify, or specify the method for determining, the sum or sums payable in accordance with the applicant's bid for the licence; and those sums shall be paid to the Secretary of State by the person to whom the licence is issued in accordance with the terms of the licence.
- (6) Subsection (4) of section 1 shall apply in relation to sums that will or may become payable under regulations under this section subsequently to the issue of a licence.

- (7) Section 1(2) of the Wireless Telegraphy Act 1949 (powers of Secretary of State in relation to grant of licences) and regulations under section 3 of that Act (regulations as to wireless telegraphy) shall have effect subject to regulations under this section.
- (8) In this section “grant”, in relation to a licence, includes renewal.

4 Restriction on revocation or variation of licences

- (1) The Secretary of State may include in any wireless telegraphy licence terms restricting the exercise by him of his power under section 1(4) of the Wireless Telegraphy Act 1949 to revoke or vary the licence.
- (2) The terms that may be included in a wireless telegraphy licence by virtue of subsection (1) include, in particular, terms providing that the licence may not be revoked or varied except with the consent of the licence holder or in such other circumstances and on such grounds as may be specified in the licence.
- (3) Any such circumstances or grounds may relate to matters relevant for the purposes of any other enactment (and may, in particular, be dependent on the exercise of a statutory discretion under any other enactment).
- (4) A wireless telegraphy licence containing any terms included in the licence by virtue of subsection (1) may also provide that regulations made under section 3 of the Wireless Telegraphy Act 1949—
- (a) shall not apply in relation to any station or apparatus to which the licence relates, or
 - (b) shall apply in relation to any such station or apparatus to such an extent only, or subject to such modifications, as may be specified in the licence.
- (5) Notwithstanding any terms or provisions included in a wireless telegraphy licence in accordance with this section, the Secretary of State may at any time by a notice in writing served on the holder of the licence, revoke the licence or vary its terms, provisions or limitations, if it appears to him to be requisite or expedient to do so—
- (a) in the interests of national security, or
 - (b) for the purposes of complying with a Community obligation of the United Kingdom or with any international agreement or arrangements to which the United Kingdom is a party.

5 Promotion of efficient use and management of spectrum

- (1) The Secretary of State may undertake, or arrange for the carrying out by any other person of, any research and development work which is intended to promote the efficient use or management of the electro-magnetic spectrum for wireless telegraphy.
- (2) The Secretary of State may, with the consent of the Treasury, make grants to any persons (whether or not holding wireless telegraphy licences) where, in his opinion, the making of the grant is likely to promote the efficient use or management of the electro-magnetic spectrum for wireless telegraphy.
- (3) Grants under this section may be given subject to such conditions as the Secretary of State with the consent of the Treasury may determine.

6 Regulations

- (1) Any power of the Secretary of State to make regulations under this Act shall be exercisable by statutory instrument.
- (2) Before making regulations under any provision of this Act, the Secretary of State shall—
 - (a) publish in the London, Edinburgh and Belfast Gazettes a notice—
 - (i) stating that he proposes to make regulations under that provision,
 - (ii) setting out the general effect of the proposed regulations,
 - (iii) specifying an address from which copies of the proposed regulations may be obtained, and
 - (iv) specifying a time (not being less than 28 days from the date of publication of the notice) within which representations with respect to the proposed regulations may be made to him, and
 - (b) consider any representations which are made to him within that time.
- (3) Subsection (2) does not apply in respect of any regulations if it appears to the Secretary of State that by reason of the urgency of the matter it is inexpedient to publish a notice under that subsection.
- (4) Any statutory instrument containing regulations under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

7 Minor and consequential amendments and repeals

Schedule 1 (minor and consequential amendments) and Schedule 2 (repeals and revocations) shall have effect.

8 Interpretation

In this Act—

“wireless telegraphy” has the same meaning as in the Wireless Telegraphy Act 1949;

“wireless telegraphy licence” has the meaning given by section 1.

9 Extent and application

- (1) This Act extends to Northern Ireland.
- (2) The provisions capable of being extended to the Isle of Man or any of the Channel Islands under section 20(3) of the Wireless Telegraphy Act 1949 include the provisions of this Act amending that Act.
- (3) Her Majesty may by Order in Council direct that all or any of the other provisions of this Act shall extend to the Isle of Man or any of the Channel Islands with such adaptations and modifications, if any, as may be specified in the Order.

10 Short title and commencement

- (1) This Act may be cited as the Wireless Telegraphy Act 1998.

Status: This is the original version (as it was originally enacted).

- (2) This Act shall come into force at the end of the period of three months beginning with the day on which it is passed.

SCHEDULES

SCHEDULE 1

Section 7.

MINOR AND CONSEQUENTIAL AMENDMENTS

The Wireless Telegraphy Act 1949 (c. 54)

- 1 In section 2 of the Wireless Telegraphy Act 1949 (fees and charges for telegraphy licences), in subsection (1)—
- (a) for “wireless telegraphy licence” there is substituted “television licence”,
 - (b) for the words from “paid” to “by the person” there is substituted “paid to the BBC by the person”, and
 - (c) in the proviso, for the words from “licences of any type” to the end there is substituted “licences in respect of the use of television receivers by any person in a private dwelling-house without any charge being made to other persons”.
- 2 Section 4 (experimental licences) of that Act shall cease to have effect.

The Continental Shelf Act 1964 (c. 29)

- 3 In section 6 of the Continental Shelf Act 1964 (wireless telegraphy) for “and regulations made thereunder” there is substituted “and the Wireless Telegraphy Act 1998 and any regulations made under either of those Acts”.

The Broadcasting Act 1990 (c. 42)

- 4 In section 180 of the Broadcasting Act 1990 (functions of the BBC with respect to television licences), for subsection (2) there is substituted—
- “(2) Refunds of sums paid to the BBC under subsection (1) of section 2 of the 1949 Act (fees and charges for television licences) may be made by the BBC out of sums received under that subsection in such cases or classes of case as they may determine.”

Status: This is the original version (as it was originally enacted).

SCHEDULE 2

Section 7.

REPEALS AND REVOCATIONS

PART I

REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1949 c. 54.	The Wireless Telegraphy Act 1949.	Sections 3A and 4.
1969 c. 48.	The Post Office Act 1969.	Section 3(2) to (5).
1984 c. 12.	The Telecommunications Act 1984.	Section 74.
1990 c. 42.	The Broadcasting Act 1990.	In Schedule 18, in Part I, paragraph 2(2).

PART II

REVOCATIONS

<i>Number</i>	<i>Title</i>	<i>Extent of revocation</i>
S.I. 1988/93.	The Department of Trade and Industry (Fees) Order 1988.	Article 8. In Schedule 1, Part V.