
STATUTORY INSTRUMENTS

2018 No. 86

The Wireless Telegraphy (Licence Award) Regulations 2018

PART 7

Assignment stage

CHAPTER 1

Assignment stage: Preliminary

Assignment stage

65.—(1) Where there are no winning bidders following completion of the principal stage and either—

- (a) the pre-existing licence holder is not a bidder; or
- (b) the pre-existing licence holder is a bidder but did not apply for a replacement licence,

there shall be no assignment stage and no licences shall be granted.

(2) Where—

- (a) there are winning bidders following completion of the principal stage; or
- (b) the pre-existing licence holder is a bidder and did apply for a replacement licence,

OFCOM shall assign lots in a single assignment stage round in accordance with the procedure set out in chapters 2 to 6.

CHAPTER 2

Assignment without bidding

Assignment of numbered 2.3 GHz lots without bidding

66. Where there is only one winning bidder for all of the 2.3 GHz lots, OFCOM shall assign all of the 2.3 GHz lots to that winning bidder.

Assignment of numbered 3.4 GHz lots without bidding

67.—(1) Where the pre-existing licence holder is a bidder and—

- (a) did apply for a replacement licence, and
- (b) is the winning bidder for all of the 3.4 GHz lots,

OFCOM shall assign all of the 3.4 GHz lots to the pre-existing licence holder.

(2) Where—

- (a) the pre-existing licence holder—
 - (i) is not a bidder; or
 - (ii) is a bidder but did not apply for a replacement licence; and

- (b) there is only one winning bidder for 3.4 GHz lots; and
- (c) that winning bidder won thirty 3.4 GHz lots,

OFCOM shall assign the lower 3.4 GHz frequency range and the upper 3.4 GHz frequency range to that winning bidder.

(3) Where—

- (a) the pre-existing licence holder—
 - (i) is not a bidder; or
 - (ii) is a bidder but did not apply for a replacement licence; and
- (b) there are two winning bidders for 3.4 GHz lots; and
- (c) one winning bidder won fourteen 3.4 GHz lots and the other winning bidder won sixteen 3.4 GHz lots,

OFCOM shall assign the lower 3.4 GHz frequency range to the bidder who won fourteen 3.4 GHz lots, and the upper 3.4 GHz frequency range to the bidder who won sixteen 3.4 GHz lots.

CHAPTER 3

Assignment by bidding

Assignment of numbered 2.3 GHz lots by bidding

68. Except where regulation 66 applies, the particular numbered 2.3 GHz lots that are to be assigned to the winning bidder or bidders for the 2.3 GHz lots shall be determined by bidding in one further round of bidding (the “assignment stage round”) in accordance with the procedure set out in regulations 70 to 76.

Assignment of numbered 3.4 GHz lots by bidding

69. Except where regulation 67 applies, the particular numbered 3.4 GHz lots that are to be assigned to the winning bidder or bidders for the 3.4 GHz lots shall be determined by bidding in the assignment stage round in accordance with the procedure set out in regulations 70, 71 and 77 to 84.

Assignment stage round

70.—(1) Only the following bidders may bid in the assignment stage round—

- (a) winning bidders for 2.3 GHz lots; and
- (b) winning bidders for 3.4 GHz lots.

(2) The assignment stage round shall begin and end at the times notified by OFCOM under regulation 85.

Assignment stage form

71.—(1) OFCOM shall provide each winning bidder with an assignment stage form.

(2) To bid in the assignment stage round, a bidder must specify on the assignment stage form—

- (a) the bidder’s 2.3 GHz assignment stage bids, if any, in accordance with regulation 74; and
- (b) the bidder’s 3.4 GHz assignment stage bids, if any, in accordance with regulation 80.

(3) An assignment stage form is a valid assignment stage form if—

- (a) the bidder has complied with regulations 74(1) and 74(2) or regulations 80(1) and 80(2) in respect of all assignment stage bids specified on the form; and

(b) the bidder has submitted the form in accordance with regulation 86 or 87.

(4) Where a bidder submits an assignment stage form which is not a valid assignment stage form, OFCOM shall, after the end of the assignment stage round, notify the bidder of that fact and shall give the reasons why the assignment stage form is not a valid assignment stage form.

CHAPTER 4

2.3 GHz frequency assignments determined by bidding

Bidding for numbered 2.3 GHz lots in the assignment stage

72.—(1) A 2.3 GHz assignment stage bid shall be a bid for one or more licences that authorise the use of frequencies corresponding to the particular numbered 2.3 GHz lots comprised in a block of numbered 2.3 GHz lots.

(2) OFCOM shall determine which blocks of numbered 2.3 GHz lots a bidder may bid for, and notify that bidder of its determination.

(3) The list of possible blocks of numbered 2.3 GHz lots provided to each bidder may be different for each bidder.

(4) The list shall be known as the “2.3 GHz assignment stage option list” and each block of 2.3 GHz lots in that list shall be known as a “2.3 GHz assignment stage option”.

Preparing a 2.3 GHz assignment stage option list for each bidder

73.—(1) OFCOM shall determine which 2.3 GHz assignment stage options shall be included in the 2.3 GHz assignment stage option list for each bidder which is eligible to bid in accordance with regulation 70.

(2) A bidder’s 2.3 GHz assignment stage options shall be each of those blocks of numbered 2.3 GHz lots which satisfy the following conditions—

- (a) the number of 2.3 GHz lots contained in the block is equal to the number of that bidder’s winning principal stage bids for 2.3 GHz lots; and
- (b) if that bidder were assigned the 2.3 GHz lots contained in the block the following conditions would be satisfied—
 - (i) each other bidder could be assigned 2.3 GHz lots contained in a block that, in respect of that other bidder’s winning principal stage bids for 2.3 GHz lots, satisfies the condition in sub-paragraph (a); and
 - (ii) the 2.3 GHz lots not assigned to that bidder or any other bidder would form a single block of numbered 2.3 GHz lots.

2.3 GHz assignment stage bids

74.—(1) In order to bid for a 2.3 GHz assignment stage option, a bidder must, on the assignment stage form, specify an amount in whole thousands of pounds that it is willing to pay, in addition to the total 2.3 GHz base price A and the total 2.3 GHz base price B for that bidder’s winning principal stage bids for 2.3 GHz lots, for one or more licences that authorise the use of the frequencies corresponding to the block of numbered 2.3 GHz lots that is the 2.3 GHz assignment stage option.

(2) A bidder may make no more than one 2.3 GHz assignment stage bid for each 2.3 GHz assignment stage option.

(3) A bidder is not required to make a 2.3 GHz assignment stage bid.

(4) A 2.3 GHz assignment stage bid is a valid 2.3 GHz assignment stage bid if—

- (a) the bid is specified on a valid assignment stage form; and

(b) the bidder has paid the full sum of the required assignment stage deposit by the deadline specified by OFCOM.

(5) Where a bidder does not make a valid 2.3 GHz assignment stage bid for a 2.3 GHz assignment stage option that bidder will be deemed to have made a valid 2.3 GHz assignment stage bid with a value of zero pounds for that 2.3 GHz assignment stage option.

Determination of the winning 2.3 GHz assignment stage bids

75.—(1) OFCOM shall determine the winning 2.3 GHz assignment stage bids in accordance with this regulation after the deadline for paying the required assignment stage deposit under regulation 89.

(2) The winning 2.3 GHz assignment stage bids shall be those valid 2.3 GHz assignment stage bids that comprise the winning combination of valid 2.3 GHz assignment stage bids.

(3) The winning combination of valid 2.3 GHz assignment stage bids shall be the valid combination of 2.3 GHz assignment stage bids having the highest total value of amounts bid.

(4) A combination of valid 2.3 GHz assignment stage bids is a valid combination of 2.3 GHz assignment stage bids if—

- (a) within that combination there is one valid 2.3 GHz assignment stage bid from each winning bidder for 2.3 GHz lots;
- (b) each of those valid 2.3 GHz assignment stage bids is for a 2.3 GHz assignment stage option as determined by OFCOM for the bidder;
- (c) no numbered 2.3 GHz lot is included in more than one of the 2.3 GHz assignment stage bids included in the combination of valid 2.3 GHz assignment stage bids; and
- (d) the numbered 2.3 GHz lots not included in that combination of valid 2.3 GHz assignment stage bids, taken together, form a single block of numbered 2.3 GHz lots.

(5) Where there is more than one valid combination of 2.3 GHz assignment stage bids for which the total value is equal highest, OFCOM shall employ a method of random selection from amongst those valid combinations of 2.3 GHz assignment stage bids for which the value is equal highest to determine the winning combination of valid 2.3 GHz assignment stage bids.

Determination of 2.3 GHz additional prices

76. In respect of each winning 2.3 GHz assignment stage bid, OFCOM shall determine an amount in whole pounds (“2.3 GHz additional price”) which shall be payable by the relevant winning bidder in accordance with Schedule 5.

CHAPTER 5

3.4 GHz frequency assignments determined by bidding

Bidding for numbered 3.4 GHz lots in the assignment stage

77.—(1) A 3.4 GHz assignment stage bid shall be a bid for one or more licences that authorise the use of the frequencies corresponding to the particular numbered 3.4 GHz lots comprised in a block or pair of blocks of numbered 3.4 GHz lots.

(2) OFCOM shall determine the blocks and pairs of blocks of numbered 3.4 GHz lots a bidder may bid for, and notify that bidder of its determination.

(3) The list of possible blocks and pairs of blocks of numbered 3.4 GHz lots provided to each bidder may be different for each bidder.

(4) The list shall be known as the “3.4 GHz assignment stage option list” and each block or pair of blocks of numbered 3.4 GHz lots in that list shall be known as a “3.4 GHz assignment stage option”.

Preparing a 3.4 GHz assignment stage option list for each bidder if the pre-existing licence holder is a bidder and did apply for a replacement licence

78.—(1) This regulation applies where the pre-existing licence holder is a bidder and did apply for a replacement licence.

(2) The 3.4 GHz assignment stage options for the pre-existing licence holder which applied for a replacement licence shall be each of those blocks of numbered 3.4 GHz lots which satisfy the following conditions—

- (a) the number of 3.4 GHz lots contained in the block is equal to the sum of the number of 3.4 GHz lots won by the pre-existing licence holder as a consequence of bidding in the principal stage (the “additional 3.4 GHz lots”), if any, and the number eight; and
- (b) if the pre-existing licence holder were assigned the 3.4 GHz lots contained in the block the following conditions would be satisfied—
 - (i) each other bidder could be assigned the number of 3.4 GHz lots, contained in a block, that is equal to the number of that other bidder’s winning principal stage bids for 3.4 GHz lots; and
 - (ii) the 3.4 GHz lots not assigned to the pre-existing licence holder or any other bidder (the “leftover 3.4 GHz lots”) would form a single block of numbered 3.4 GHz lots.

(3) The 3.4 GHz assignment stage options for a bidder which is not the pre-existing licence holder shall be each of those blocks of numbered 3.4 GHz lots which satisfy the following conditions—

- (a) the number of 3.4 GHz lots contained in the block is equal to the number of that bidder’s winning principal stage bids for 3.4 GHz lots; and
- (b) if that bidder were assigned the 3.4 GHz lots contained in the block the following conditions would be satisfied—
 - (i) subject to sub-paragraph (ii), each other bidder could be assigned the number of 3.4 GHz lots, contained in a block, that is equal to the number of that other bidder’s winning principal stage bids for 3.4 GHz lots;
 - (ii) the pre-existing licence holder could be assigned the number of 3.4 GHz lots, contained in a block, that is equal to the sum of the number of additional 3.4 GHz lots, if any, and the number eight; and
 - (iii) the leftover 3.4 GHz lots would form a single block of numbered 3.4 GHz lots.

Preparing a 3.4 GHz assignment stage option list for each bidder if the pre-existing licence holder is not a bidder or is a bidder but did not apply for a replacement licence

79.—(1) This regulation applies where the pre-existing licence holder—

- (a) is not a bidder; or
- (b) is a bidder but did not apply for a replacement licence.

(2) A bidder’s 3.4 GHz assignment stage options shall be each of those blocks of numbered 3.4 GHz lots which satisfy the following conditions—

- (a) the number of 3.4 GHz lots contained in the block is equal to the number of that bidder’s winning principal stage bids for 3.4 GHz lots;
- (b) the block does not contain the 3.4 GHz lots numbered 15 to 18 and 35 to 38; and

- (c) if that bidder were assigned the 3.4 GHz lots contained in the block the following conditions would be satisfied—
 - (i) each other bidder could be assigned 3.4 GHz lots contained in a block that, in respect of that other bidder's winning principal stage bids for 3.4 GHz lots, satisfies the conditions in sub-paragraphs (a) and (b); and
 - (ii) the leftover 3.4 GHz lots are contained in at most two blocks of numbered 3.4 GHz lots, where one of those blocks is located in the lower 3.4 GHz frequency range and the other block is located in the upper 3.4 GHz frequency range.
- (3) If there are no 3.4 GHz assignment stage options which satisfy the conditions set out in paragraph (2), then the bidder's 3.4 GHz assignment stage options shall be each of those blocks or pairs of blocks of numbered 3.4 GHz lots which satisfy the following conditions—
 - (a) the number of 3.4 GHz lots contained in the block or pair of blocks is equal to the number of that bidder's winning principal stage bids for 3.4 GHz lots;
 - (b) the block or pair of blocks does not contain the 3.4 GHz lots numbered 15 to 18 and 35 to 38;
 - (c) where the number of the bidder's winning principal stage bids for 3.4 GHz lots is less than eight, the numbered 3.4 GHz lots contained in the option together form a single block of numbered 3.4 GHz lots;
 - (d) where the number of the bidder's winning principal stage bids for 3.4 GHz lots is eight or more, the numbered 3.4 GHz lots contained in the option are included in at most two blocks of numbered 3.4 GHz lots, where—
 - (i) one of those blocks is located in the lower 3.4 GHz frequency range and the other block is located in the upper 3.4 GHz frequency range; and
 - (ii) the number of 3.4 GHz lots contained in each of the two separate blocks of numbered 3.4 GHz lots is at least four; and
 - (e) if that bidder were assigned the 3.4 GHz lots contained in the block or pair of blocks, the following conditions would be satisfied—
 - (i) each other bidder could be assigned 3.4 GHz lots contained in a block or pair of blocks that, in respect of that other bidder's winning principal stage bids for 3.4 GHz lots, satisfies the conditions in sub-paragraphs (a) to (d);
 - (ii) the number of separate blocks of numbered 3.4 GHz lots assigned to all bidders considered together is no more than necessary to meet the conditions set out in sub-paragraphs (a) to (e)(i); and
 - (iii) the leftover 3.4 GHz lots are contained in at most two blocks of numbered 3.4 GHz lots, where one of those blocks is located in the lower 3.4 GHz frequency range and the other block is located in the upper 3.4 GHz frequency range.
- (4) If there are no 3.4 GHz assignment stage options which satisfy the conditions set out in paragraph (2) or (3) above, then the bidder's 3.4 GHz assignment stage options shall be each of those blocks or pairs of blocks of numbered 3.4 GHz lots which satisfy the following conditions—
 - (a) the number of 3.4 GHz lots contained in the block or pair of blocks is equal to the number of that bidder's winning principal stage bids for 3.4 GHz lots;
 - (b) the block or pair of blocks does not contain the 3.4 GHz lots numbered 15 to 18 and 35 to 38;
 - (c) the numbered 3.4 GHz lots are included in at most two separate blocks of numbered 3.4 GHz lots, where one of those blocks is located in the lower 3.4 GHz frequency range and the other block is located in the upper 3.4 GHz frequency range; and

- (d) if that bidder were assigned the 3.4 GHz lots contained in the block or pair of blocks, the following conditions would be satisfied—
 - (i) each other bidder could be assigned 3.4 GHz lots contained in a block or pair of blocks that, in respect of that other bidder's winning principal stage bids for 3.4 GHz lots, satisfies the conditions in sub-paragraphs (a) to (c);
 - (ii) the number of separate blocks of numbered 3.4 GHz lots assigned to all bidders considered together is no more than necessary to meet the conditions set out in sub-paragraphs (a) to (d)(i); and
 - (iii) the leftover 3.4 GHz lots are contained in at most two blocks of numbered 3.4 GHz lots, where one of those blocks is located in the lower 3.4 GHz frequency range and the other block is located in the upper 3.4 GHz frequency range.

3.4 GHz assignment stage bids

80.—(1) In order to bid for a 3.4 GHz assignment stage option, a bidder must, on the assignment stage form, specify an amount in whole thousands of pounds that it is willing to pay, in addition to the total 3.4 GHz base price A and the total 3.4 GHz base price B for that bidder's winning principal stage bids for 3.4 GHz lots, for one or more licences that authorise the use of the frequencies corresponding to the block or pair of blocks of numbered 3.4 GHz lots that is the 3.4 GHz assignment stage option.

(2) A bidder may make no more than one 3.4 GHz assignment stage bid for each 3.4 GHz assignment stage option.

(3) A bidder is not required to make a 3.4 GHz assignment stage bid.

(4) A 3.4 GHz assignment stage bid is a valid 3.4 GHz assignment stage bid if—

- (a) the bid is specified on a valid assignment stage form; and
- (b) the bidder has paid the full sum of the required assignment stage deposit by the deadline specified by OFCOM.

(5) Where a bidder does not make a valid 3.4 GHz assignment stage bid for a 3.4 GHz assignment stage option that bidder will be deemed to have made a valid 3.4 GHz assignment stage bid with a value of zero pounds for that 3.4 GHz assignment stage option.

Determination of the winning 3.4 GHz assignment stage bids

81.—(1) OFCOM shall determine the winning 3.4 GHz assignment stage bids in accordance with this regulation, regulation 82 and regulation 83 after the deadline for paying the required assignment stage deposit.

(2) The winning 3.4 GHz assignment stage bids shall be those valid 3.4 GHz assignment stage bids that comprise the winning combination of valid 3.4 GHz assignment stage bids.

(3) The winning combination of valid 3.4 GHz assignment stage bids shall be the valid combination of 3.4 GHz assignment stage bids, determined in accordance with regulation 82 or regulation 83, having the highest total value of amounts bid.

(4) Where there is more than one valid combination of 3.4 GHz assignment stage bids for which the total value is equal highest, OFCOM shall employ a method of random selection from amongst those valid combinations of 3.4 GHz assignment stage bids for which the value is equal highest to determine the winning combination of valid 3.4 GHz assignment stage bids.

Valid combinations of 3.4 GHz assignment stage bids where the pre-existing licence holder is a bidder and did apply for a replacement licence

82.—(1) This regulation applies where the pre-existing licence holder is a bidder and did apply for a replacement licence.

(2) A combination of valid 3.4 GHz assignment stage bids is a valid combination of 3.4 GHz assignment stage bids if—

- (a) within that combination there is one valid 3.4 GHz assignment stage bid from each winning bidder for 3.4 GHz lots;
- (b) each of those valid 3.4 GHz assignment stage bids is for a 3.4 GHz assignment stage option as determined by OFCOM for the bidder under regulation 78;
- (c) no numbered 3.4 GHz lot is included in more than one of the 3.4 GHz assignment stage bids included in the combination of valid 3.4 GHz assignment stage bids; and
- (d) the numbered 3.4 GHz lots not included in that combination of valid 3.4 GHz assignment stage bids together form a single block of numbered 3.4 GHz lots.

Valid combinations of 3.4 GHz assignment stage bids where the pre-existing licence holder is not a bidder or is a bidder but did not apply for a replacement licence

83.—(1) This regulation applies where the pre-existing licence holder—

- (a) is not a bidder; or
- (b) is a bidder but did not apply for a replacement licence.

(2) A combination of valid 3.4 GHz assignment stage bids is a valid combination of 3.4 GHz assignment stage bids if—

- (a) within that combination there is one valid 3.4 GHz assignment stage bid from each winning bidder for 3.4 GHz lots;
- (b) each of those valid 3.4 GHz assignment stage bids is for a 3.4 GHz assignment stage option as determined by OFCOM for the bidder under regulation 79;
- (c) no numbered 3.4 GHz lot is included in more than one of the 3.4 GHz assignment stage options included in the combination of valid 3.4 GHz assignment stage bids; and
- (d) the numbered 3.4 GHz lots not included in that combination of valid assignment stage bids together form at most one single block of numbered 3.4 GHz lots in the lower 3.4 GHz frequency range and at most one single block of numbered 3.4 GHz lots in the upper 3.4 GHz frequency range.

Determination of 3.4 GHz additional prices

84. In respect of each winning 3.4 GHz assignment stage bid, OFCOM shall determine an amount in whole pounds (“3.4 GHz additional price”) which shall be payable by the relevant winning bidder in accordance with Schedule 6.

CHAPTER 6**Procedure and further deposit for assignment stage****Notice to bidders before the assignment stage round**

85. Before the start of the assignment stage round, OFCOM shall notify each bidder that may make an assignment stage bid in the assignment stage round of—

- (a) the 2.3 GHz and 3.4 GHz assignment stage options that are available to that bidder in the assignment stage round; and
- (b) the date on which, and the times on that date within which, the assignment stage round will take place.

Submission of assignment stage form to OFCOM

86.—(1) A bidder must submit the completed assignment stage form to OFCOM by using the electronic auction system, except as provided for in regulation 87.

(2) The completed assignment stage form must be received by OFCOM by the time notified to bidders under regulation 85(b) as the end of the assignment stage round.

Alternative method for submission of assignment stage form

87.—(1) Where OFCOM are satisfied that a bidder is unable to submit an assignment stage form by using the electronic auction system because of technical failure (or an event or circumstance with similar effect on the bidder's ability to use the electronic auction system), OFCOM shall notify the bidder of an alternative method of submitting the assignment stage form and any requirements relating to the authentication of communications made by means of the alternative method.

(2) The bidder must submit the assignment stage form by means of the alternative method and must comply with any requirements which have been notified to it under paragraph (1) relating to the authentication of communications.

Incomplete or defective assignment stage form

88.—(1) Where, due to the manner of completion, an assignment stage form is incomplete or defective but OFCOM believe that they can ascertain the bidder's intention in relation to the making of assignment stage bids, OFCOM shall ask the bidder to confirm in a notice to OFCOM by a deadline specified by OFCOM that OFCOM have correctly ascertained the bidder's intention in relation to the making of assignment stage bids.

(2) Where the bidder confirms in a notice given to OFCOM by the deadline which is signed by two authorised persons that OFCOM have correctly ascertained the bidder's intention, the assignment stage form in its entirety shall be accepted by OFCOM on that basis.

(3) Where the bidder does not give such confirmation, the assignment stage form in its entirety shall be rejected by OFCOM and none of the assignment stage bids made on that assignment stage form shall be valid, and regulation 74(5) or regulation 80(5) shall apply.

Required assignment stage deposit

89.—(1) A further sum in pounds must be paid into OFCOM's bank account, with accompanying information which identifies the bidder, by a deadline specified by OFCOM (the "required assignment stage deposit").

(2) The required assignment stage deposit shall be an amount such that the total amount that the bidder has on deposit is not less than the amount which is the sum of—

- (a) the bidder's total 2.3 GHz base price A;
- (b) the bidder's total 3.4 GHz base price A;
- (c) one half of the bidder's total 2.3 GHz base price B;
- (d) one half of the bidder's total 3.4 GHz base price B;
- (e) the amount which is the bidder's highest 2.3 GHz assignment stage bid for a 2.3 GHz assignment stage option; and

- (f) the amount which is the bidder's highest 3.4 GHz assignment stage bid for a 3.4 GHz assignment stage option.

Notification of results of the assignment stage

90. After the determination of the winning assignment stage bids, and the determination of the additional price for each winning assignment stage bid, OFCOM shall notify each winning bidder of—

- (a) the 2.3 GHz and 3.4 GHz assignment stage options for which the bidder made winning assignment stage bids; and
- (b) the additional price determined for each winning assignment stage bid made by the bidder.