



# Wireless Telegraphy Act 2006

## 2006 CHAPTER 36

### PART 2

#### REGULATION OF RADIO SPECTRUM

### CHAPTER 1

#### WIRELESS TELEGRAPHY LICENCES

##### *Licensing of wireless telegraphy*

## 8 Licences and exemptions

- (1) It is unlawful—
  - (a) to establish or use a wireless telegraphy station, or
  - (b) to instal or use wireless telegraphy apparatus,except under and in accordance with a licence (a “wireless telegraphy licence”) granted under this section by OFCOM.
- (2) Subsection (1) does not apply to—
  - (a) the use of a television receiver (within the meaning of Part 4 of the Communications Act 2003) for receiving a television programme; or
  - (b) the installation of a television receiver for use solely for that purpose.
- (3) OFCOM may by regulations exempt from subsection (1) the establishment, installation or use of wireless telegraphy stations or wireless telegraphy apparatus of such classes or descriptions as may be specified in the regulations, either absolutely or subject to such terms, provisions and limitations as may be so specified.
- (4) If OFCOM are satisfied that the condition in subsection (5) is satisfied as respects the use of stations or apparatus of a particular description, they must make regulations under subsection (3) exempting the establishment, installation and use of a station or apparatus of that description from subsection (1).

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- (5) The condition is that the use of stations or apparatus of that description is not likely to involve undue interference with wireless telegraphy.

## **9 Terms, provisions and limitations**

- (1) A wireless telegraphy licence may be granted subject to such terms, provisions and limitations as OFCOM think fit.
- (2) In the case of a licence to establish a station, the limitations may, in particular, include limitations as to—
- (a) the position and nature of the station;
  - (b) the purpose for which, the circumstances in which and the persons by whom the station may be used;
  - (c) the apparatus that may be installed or used in the station.
- (3) In the case of any other licence, the limitations may, in particular, include limitations as to—
- (a) the apparatus that may be installed or used;
  - (b) the places where, the purposes for which, the circumstances in which and the persons by whom the apparatus may be used.
- (4) The terms, provisions and limitations may also include, in particular—
- (a) terms, provisions and limitations as to strength or type of signal, as to times of use and as to the sharing of frequencies;
  - (b) terms, provisions or limitations imposing prohibitions on the transmission or broadcasting of particular matters by the holder of the licence;
  - (c) terms or provisions requiring the transmission or broadcasting of particular matters by that person.
- (5) A wireless telegraphy licence may be granted—
- (a) in relation to a particular station or particular apparatus; or
  - (b) in relation to any station or apparatus falling within a description specified in the licence;
- and such a description may be expressed by reference to such factors (including factors confined to the manner in which it is established, installed or used) as OFCOM think fit.
- (6) The terms, provisions and limitations of a wireless telegraphy licence granted to a person must not duplicate obligations already imposed on him by general conditions set under section 45 of the Communications Act 2003 (c. 21) (power of OFCOM to set conditions in relation to electronic communications networks and services).
- (7) In imposing terms, provisions or limitations on a wireless telegraphy licence, OFCOM may impose only those that they are satisfied are—
- (a) objectively justifiable in relation to the networks and services to which they relate;
  - (b) not such as to discriminate unduly against particular persons or against a particular description of persons;
  - (c) proportionate to what they are intended to achieve; and
  - (d) in relation to what they are intended to achieve, transparent.
- (8) This section has effect subject to regulations under section 14.

## **10 Procedure**

Schedule 1 (which makes provision about the grant, revocation and variation of wireless telegraphy licences) has effect.

## **11 Surrender of licence**

- (1) Where a wireless telegraphy licence has expired or has been revoked, it is the duty of—
  - (a) the person to whom the licence was granted, and
  - (b) any other person in whose possession or under whose control the licence may be,to cause it to be surrendered to OFCOM if required by them to do so.
- (2) Subsection (1) does not apply to a licence that relates solely to receiving apparatus.
- (3) A person commits an offence if—
  - (a) he has a duty under subsection (1) to cause a wireless telegraphy licence to be surrendered to OFCOM; and
  - (b) without reasonable excuse he fails or refuses to do so.
- (4) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### *Charges etc*

## **12 Charges for grant of licence**

- (1) A person to whom a wireless telegraphy licence is granted must pay to OFCOM—
  - (a) on the grant of the licence, and
  - (b) if regulations made by OFCOM so provide, subsequently at such times during its term and such times in respect of its variation or revocation as may be prescribed by the regulations,the sums described in subsection (2).
- (2) The sums are—
  - (a) such sums as OFCOM may prescribe by regulations, or
  - (b) if regulations made by OFCOM so provide, such sums (whether on the grant of the licence or subsequently) as OFCOM may determine in the particular case.
- (3) Regulations under this section may—
  - (a) confer exemptions from provisions of the regulations in particular cases; and
  - (b) 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 OFCOM think fit.
- (4) On the grant of a licence in respect of which sums will or may subsequently become payable under regulations under this section, OFCOM may require such security to be given, by way of deposit or otherwise, for the payment of those sums as they think fit.
- (5) Regulations under this section do not apply in relation to a licence granted in accordance with regulations under section 14.

### **13 Matters taken into account**

- (1) This section applies where OFCOM exercise a power under section 12 to prescribe sums payable in respect of wireless telegraphy licences, other than a power to prescribe sums payable where a licence is varied or revoked at the request or with the consent of the holder of the licence.
- (2) OFCOM may, if they think fit in the light (in particular) of the matters to which they must have regard under section 3, prescribe sums greater than those necessary to recover costs incurred by them in connection with their radio spectrum functions.
- (3) “Prescribe” means prescribe by regulations or determine in accordance with regulations.

### **14 Bidding for licences**

- (1) Having regard to the desirability of promoting the optimal use of the electromagnetic spectrum, OFCOM may by regulations provide that, in such cases as may be specified in the regulations, applications for wireless telegraphy licences must be made in accordance with a procedure that involves the making by the applicant of a bid specifying an amount that he is willing to pay to OFCOM in respect of the licence.
- (2) The regulations may make provision with respect to—
  - (a) the grant of the licences to which they apply; and
  - (b) the terms, provisions and limitations subject to which such licences are granted.
- (3) The regulations may, in particular—
  - (a) require the applicant’s bid to specify the amount he is willing to pay;
  - (b) require that amount to be expressed—
    - (i) as a cash sum;
    - (ii) as a sum determined by reference to a variable (such as income attributable wholly or in part to the holding of the licence);
    - (iii) as a combination of the two; or
    - (iv) (at the applicant’s choice) in any one of the ways falling within subparagraphs (i) to (iii) that is authorised by the regulations;
  - (c) require that amount to be expressed in terms of—
    - (i) the making of a single payment;
    - (ii) the making of periodic payments;
    - (iii) a combination of the two; or
    - (iv) (at the applicant’s choice) any one of the ways falling within subparagraphs (i) to (iii) that is authorised by the regulations;
  - (d) specify requirements (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;
  - (e) require an applicant to pay a deposit to OFCOM;
  - (f) specify circumstances in which a deposit is, or is not, to be refundable;
  - (g) specify matters to be taken into account by OFCOM (in addition to the bids made in accordance with the procedure provided for in the regulations) in deciding whether, or to whom, to grant a licence;

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- (h) specify the other terms, provisions and limitations subject to which a licence to which the regulations apply is to be granted;
  - (i) make any provision referred to in section 12(3).
- (4) Regulations do not require OFCOM to grant a wireless telegraphy licence on the completion of the procedure provided for in the regulations, except in such circumstances as may be provided for in the regulations.
- (5) A wireless telegraphy licence granted in accordance with the regulations must specify—
  - (a) the sum or sums which in consequence of the bids made are, in accordance with the regulations, to be payable in respect of the licence; or
  - (b) the method for determining that sum or those sums;and that sum or those sums must be paid to OFCOM by the person to whom the licence is granted in accordance with the terms of the licence.
- (6) In determining the sum or sums payable in respect of a wireless telegraphy licence, regard may be had to bids made for other wireless telegraphy licences and for grants of recognised spectrum access.
- (7) The regulations may provide that where a person—
  - (a) applies for a licence in accordance with a procedure provided for in the regulations, but
  - (b) subsequently refuses the licence applied for,that person must make such payments to OFCOM as may be determined in accordance with the regulations by reference to bids made for the licence.
- (8) Section 12(4) applies in relation to sums that will or may become payable under regulations under this section after the grant of a wireless telegraphy licence as it applies in relation to sums that will or may become payable under regulations under section 12.

## **15 Recovery**

- (1) This section applies in the case of a sum which is to be paid to OFCOM—
  - (a) under any provision of sections 12 to 14;
  - (b) in pursuance of any provision of any regulations under those sections; or
  - (c) because of any terms contained as a result of those sections in a wireless telegraphy licence.
- (2) The sum must be paid to OFCOM as soon as it becomes due in accordance with that provision or those terms and, if it is not paid, it is to be recoverable by them accordingly.

## **16 Regulations**

- (1) In its application to the powers of OFCOM to make regulations under sections 12 to 14, section 122 is subject to the following provisions of this section.
- (2) Subsections (4) to (6) of section 122 do not apply in any case in which it appears to OFCOM that by reason of the urgency of the matter it is inexpedient to publish a notice in accordance with section 122(4)(b).

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- (3) Subsections (4) to (6) of section 122 do not apply in the case of any regulations under section 14 modifying previous regulations under section 14 in a case not falling within subsection (2) of this section, if it appears to OFCOM—
- (a) that the modifications would not adversely affect the interests of any person or otherwise put him in a worse position or, as regards someone else, put him at a disadvantage; and
  - (b) in so far as the modifications affect a procedure that has already begun, that no person would have acted differently had the modifications come into force before the procedure began.

**17 Sections 12 to 16: interpretation**

References in sections 12 to 16 to the grant of a wireless telegraphy licence include references to the grant of a licence by way of renewal of a previous licence.