



Digital Economy Act 2010

2010 CHAPTER 24

Access to electromagnetic spectrum

38 Payment for licences

- (1) Section 12 of the Wireless Telegraphy Act 2006 (charges for grant of licence) is amended as follows.
- (2) In subsection (5) at the end insert “, but this is subject to subsection (6).”
- (3) After subsection (5) insert—
 - “(6) Regulations under or for the purposes of subsection (1)(b), so far as it relates to payments during the term of a licence, may be made so as to apply in relation to a licence granted in accordance with regulations under section 14, but only in the following cases—
 - (a) where provision included in the licence with the consent of the holder of the licence provides for the regulations to apply;
 - (b) where the licence includes terms restricting the exercise by OFCOM of their power to revoke the licence before the end of a period and that period has expired;
 - (c) where the licence would, but for a variation, have ceased to have effect at the end of a period and that period has expired;
 - (d) where the licence is a surrendered-spectrum licence.
- (7) Provision may not be made by virtue of subsection (6)(c) or (d) without the consent of the Secretary of State.
- (8) A wireless telegraphy licence is a “surrendered-spectrum licence” if—
 - (a) it is granted under arrangements involving (before the grant or later) the variation, revocation or expiry of another wireless telegraphy licence;
 - (b) the arrangements are with a view to enabling the holder of that other licence to comply with a limit applying to frequencies in respect of which a person may hold licences; and

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- (c) it authorises the use after that variation, revocation or expiry of a frequency whose use until then was or is authorised by that other licence.
- (9) In relation to a surrendered-spectrum licence there may be more than one such other licence (“predecessor licence”) and a licence may be a predecessor licence to more than one surrendered-spectrum licence.”
- (4) Section 14 of the Wireless Telegraphy Act 2006 (bidding for licences) is amended as follows.
- (5) In subsection (5) after “those sums must” insert “ , subject to subsection (5A), ”.
- (6) After subsection (5) insert—
 - “(5A) The regulations may, with the consent of the Secretary of State, make provision permitting or requiring a surrendered-spectrum licence to which the regulations apply to include—
 - (a) provision requiring all or part of a sum that would otherwise be payable to OFCOM under subsection (5) to be paid to a person who was or is the holder of a predecessor licence;
 - (b) provision requiring a sum in addition to that payable to OFCOM under subsection (5) to be paid to such a person;
 - (c) provision specifying any such sum or part or the method for determining it.”
- (7) After subsection (8) insert—
 - “(9) In subsection (5A) “surrendered-spectrum licence” and “predecessor licence” have the meaning given by section 12(8) and (9).”

F139 Enforcement of licence terms etc

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Textual Amendments

F1 S. 39 omitted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), **ss. 9(12)**, 118(2) (with s. 9(13))

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