

2018 No. 1368

ELECTRONIC COMMUNICATIONS

**The Wireless Telegraphy (Licence Charges for the 900 MHz
Frequency Band and the 1800 MHz Frequency Band)
Regulations 2018**

Made - - - - *14th December 2018*

Coming into force

for the purpose of regulation 3 *30th October 2019*

for the purpose of the remainder *31st January 2019*

The Office of Communications (“OFCOM”) make the following Regulations in exercise of the powers conferred by sections 12, 13(2) and 122(7) of the Wireless Telegraphy Act 2006(a), (the “Act”) and as required by article 6(1) and (2) of the Wireless Telegraphy Act (Directions to OFCOM) Order 2010(b).

Before making these Regulations, OFCOM have given notice of their proposal to do so in accordance with section 122(4)(a) of the Act, published notice of their proposal in accordance with section 122(4)(b) of the Act, and have considered the representations made to them before the time specified in the notice in accordance with section 122(4)(c) of the Act.

Citation and commencement

1.—(1) These Regulations may be cited as the Wireless Telegraphy (Licence Charges for the 900 MHz Frequency Band and the 1800 MHz Frequency Band) Regulations 2018.

(2) Regulation 3 shall come into force on 30th October 2019 and all other regulations shall come into force on 31st January 2019.

Interpretation

2. In these Regulations—

“concurrent licence” means a licence held by two or more persons;

“kHz” means kilohertz;

“licence” means a wireless telegraphy licence of the Public Wireless Networks licence class;

“licensee” means a person who is the holder of a licence authorising use of national channels within the 900 MHz frequency band or national channels within the 1800 MHz frequency band;

“MHz” means megahertz;

(a) 2006 c. 36.
(b) S.I. 2010/3024.

“OFCOM” means the Office of Communications;
“paired 200 kHz channel” means two associated blocks of frequencies of 200 kHz each;
“payment date” means 31st October in any year;
“900 MHz frequency band” means the frequencies from 880.0 to 960.0 MHz;
“1800 MHz frequency band” means the frequencies from 1710.0 to 1880.0 MHz; and
“2011 Regulations” means the Wireless Telegraphy (Licence Charges) Regulations 2011(a).

Amendment to the 2011 Regulations

3.—(1) The 2011 Regulations shall be amended in accordance with paragraph (2).

(2) In Schedule 2 (licence charges and payment intervals), under the heading “Public Wireless Networks”, omit the following entries—

“Public Wireless Networks	(a)	£142,560 for each 2 x 12 months 200 kHz national channel in the band 880.0–960.0 MHz
	(b)	£110,880 for each 2 x 12 months” 200 kHz national channel in the band 1710.0–1880.0 MHz.

Licence charges payable for the 900 MHz frequency band

4.—(1) On 31st October 2019 and on each payment date thereafter, the holder of a licence authorising the use of frequencies in the 900 MHz frequency band shall pay to OFCOM a total sum which comprises the amount in pounds sterling calculated in accordance with paragraphs (2) and (3), for each authorisation under its licence of use of a paired 200 kHz channel in that band.

(2) The formula to calculate the total sum mentioned in paragraph (1) is—

$$S = £437,200 \times (CPI_t \div CPI_0)$$

where—

“S” means the total sum;

“CPI_t” means the most recent CPI value that is available on 30th September of the year in which the charges are due;

“CPI₀” means the CPI value for April 2018; and

“CPI value” means the number given in respect of that month in the monthly all items consumer prices index published by the Statistics Board.

(3) If the total sum calculated in accordance with paragraph (2) is a fraction of a whole number, it shall be rounded down to the nearest whole number.

Licence charges payable for the 1800 MHz frequency band

5.—(1) On 31st October 2019 and on each payment date thereafter, the holder of a licence authorising the use of frequencies in the 1800 MHz frequency band shall pay to OFCOM a total sum which comprises the amount in pounds sterling calculated in accordance with paragraphs (2) and (3), for each authorisation under its licence of use of a paired 200 kHz channel in that band.

(2) The formula to calculate the total sum mentioned in paragraph (1) is—

(a) S.I. 2011/1128, amended by S.I. 2012/1075, 2013/917, 2014/1295, 2015/1334, 2015/1995, 2016/643. S.I. 2015/1709 amended SI 2011/1128 but was quashed by an order of the Court of Appeal on 22nd November 2017.

$$S = \text{£}322,000 \times (CPI_t \div CPI_0)$$

where—

“S” means the total sum;

“CPI_t” means the most recent CPI value that is available on 30th September of the year in which the charges are due;

“CPI₀” means the CPI value for April 2018; and

“CPI” means the number given in respect of that month in the monthly all items consumer prices index published by the Statistics Board.

(3) If the total sum calculated in accordance with paragraph (2) is a fraction of a whole number, it shall be rounded down to the nearest whole number.

Payment by instalments

6.—(1) If OFCOM receive notice from a licensee of the licensee’s intention to make payment in ten equal instalments of the total sum prescribed in either regulation 4 or regulation 5, the licensee—

(a) shall not be required to make payment at the prescribed time other than in accordance with this paragraph; and instead

(b) shall make payment of the sum in ten equal instalment payments with the first instalment to be paid to OFCOM on the payment date and each subsequent instalment to be paid on the same day in each of the nine consecutive months thereafter (or in a month in which there is no such day, on the last day of the month).

(2) Where at any time the licensee fails to make payment in accordance with paragraph (1)(b), all of the outstanding instalment payments, if any, shall become immediately due for payment.

One-off licence charge payable in instalments by holders of licences for the 900 MHz and the 1800 MHz frequency bands

7.—(1) Each holder of a licence on 31st January 2019 authorising the use of frequencies in the 900 MHz frequency range shall pay to OFCOM £331,322.00 for each authorisation of use of a paired 200 kHz channel in that range.

(2) The total sum due under paragraph (1) is “total x”.

(3) Each holder of a licence on 31st January 2019 authorising the use of frequencies in the 1800 MHz frequency range shall pay to OFCOM £244,020.00 for each authorisation of use of a paired 200 kHz channel in that range.

(4) The total sum due under paragraph (3) is “total y”.

(5) Total x shall be divided into seven equal portions and one portion shall be paid on each of the 31st January 2019, 28th February 2019, 31st March 2019, 30th April 2019, 31st May 2019, 30th June 2019 and 31st July 2019.

(6) Total y shall be divided into seven equal portions and one portion shall be paid on each of the 31st January 2019, 28th February 2019, 31st March 2019, 30th April 2019, 31st May 2019, 30th June 2019 and 31st July 2019.

(7) If any instalment payment under paragraph (5) or (6) is not paid on the day it falls due all of the outstanding instalment payments, if any, under both paragraph (5) and paragraph (6) shall become immediately due for payment.

(8) Sums payable under this regulation are in addition to any sums which may be payable to OFCOM under regulation 4 of the 2011 Regulations.

Concurrent licences

8. In the case of a concurrent licence, the “holder of a licence” or “licensee” in these Regulations shall refer to all the concurrent holders of the licence.

Philip Marnick

Group Director, Spectrum Group

14th December 2018

For and by the authority of the Office of Communications

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations increase the level of fees payable to OFCOM in respect of the licences of the Public Wireless Networks licence class granted under section 8 of the Wireless Telegraphy Act 2006 (c. 36) for the use of the frequencies in the bands 880.0–960.0 MHz and 1710.0–1880.0 MHz.

Regulation 3 removes the charges for these licences from Schedule 2 of the Wireless Telegraphy (Licence Charges) Regulations (S.I. 2011/1128, amended by S.I. 2012/1075, S.I. 2013/917, S.I. 2014/1295, S.I. 2015/1334, S.I. 2015/1995 and S.I. 2016/643) with effect from 30th October 2019.

In relation to the definition of these regulations in regulation 2, the footnote mentions an amending statutory instrument which was quashed by an order of the Court of Appeal on 22nd November 2017. The judgment was in the case of *EE Limited v Office of Communications* [2017] EWHC Civ 1873 and may be found at www.bailii.org.

Regulations 4 and 5 prescribe the fees payable on each 31st October after these Regulations commence.

The Statistics Board is at 1 Drummond Gate, London, SW1V 2QQ. Its executive function is known as the Office of National Statistics and the monthly all items consumer prices index is available on its website at www.ons.gov.uk. Telephone number: 0845 604 1857.

Regulation 6 allows the holders of these licences to pay fees by ten equal monthly instalments.

Regulation 7 prescribes additional fees payable from 31st January 2019 by instalments.

A regulatory impact assessment of the effect of these Regulations has been prepared. Copies of the impact assessment are available to the public from the Ofcom library at Riverside House, 2a Southwark Bridge Road, London SE1 9HA, telephone 020 7981 3000 or on the OFCOM website at <http://www.ofcom.org.uk>. Copies of this assessment have also been placed in the library of the Houses of Parliament.

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