



# Wireless Telegraphy Act 2006

## 2006 CHAPTER 36

### PART 2

#### REGULATION OF RADIO SPECTRUM

### CHAPTER 3

#### MANAGEMENT OF RADIO SPECTRUM

#### *General*

#### **27 Conversion into and from wireless telegraphy licences**

OFCOM may by regulations make provision for—

- (a) the conversion, on the application of the licence holder, of a wireless telegraphy licence into a grant of recognised spectrum access; and
- (b) the conversion, on the application of the holder of the grant, of a grant of recognised spectrum access into a wireless telegraphy licence.

#### **28 Payments by the Crown**

- (1) The Secretary of State may, out of money provided by Parliament, make payments to OFCOM of such amounts as he considers appropriate in respect of—
  - (a) the establishment and use, by or on behalf of the Crown, of a wireless telegraphy station;
  - (b) the installation and use, by or on behalf of the Crown, of wireless telegraphy apparatus;
  - (c) any grant of recognised spectrum access made to the Crown.
- (2) The payments made under this section are to be made—
  - (a) at such times, and
  - (b) so far as made in relation to use, in relation to such periods,

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as the Secretary of State considers appropriate.

## **29 Limitations on authorised spectrum use**

- (1) If they consider it appropriate to impose limitations on the use of particular frequencies for the purpose of securing the efficient use of the electromagnetic spectrum, OFCOM must make an order imposing the limitations.
- (2) An order under this section may do one or both of the following—
  - (a) specify frequencies for the use of which OFCOM will grant or make only a limited number of wireless telegraphy licences and grants of recognised spectrum access; or
  - (b) specify uses for which, on specified frequencies, OFCOM will grant or make only a limited number of wireless telegraphy licences and grants of recognised spectrum access.
- (3) Where OFCOM make an order under this section, it must set out the criteria which OFCOM will apply in determining in accordance with the order—
  - (a) the limit on the number of wireless telegraphy licences and grants of recognised spectrum access to be granted or made for the specified frequencies or uses;
  - (b) the persons to whom licences will be granted or grants of recognised spectrum access made.
- (4) OFCOM must satisfy themselves that any criteria set out as a result of subsection (3) are—
  - (a) objectively justifiable in relation to the frequencies or uses 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.
- (5) OFCOM must exercise—
  - (a) their powers under Chapter 1 of this Part with respect to wireless telegraphy licences, and
  - (b) their powers under Chapter 2 of this Part with respect to grants of recognised spectrum access,in accordance with the orders for the time being in force under this section.
- (6) OFCOM must keep under review any order for the time being in force under this section.
- (7) OFCOM must make an order revoking or amending the provisions of an order under this section if, on reviewing it, they consider it necessary to do so for the purpose of securing the efficient use of the electromagnetic spectrum.
- (8) An order under this section may make provision by reference to determinations which—
  - (a) are made from time to time by OFCOM in accordance with the provisions of such an order; and

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- (b) are published by them from time to time in such manner as may be provided for in such an order.

### **30 Spectrum trading**

- (1) OFCOM may by regulations authorise the transfer to another person by—
  - (a) the holder of a wireless telegraphy licence, or
  - (b) the holder of a grant of recognised spectrum access,of rights and obligations arising as a result of such a licence or grant.
- (2) The transfers that may be so authorised are—
  - (a) transfers of all or any of the rights and obligations under a licence or grant such that the rights and obligations of the person making the transfer become rights and obligations of the transferee to the exclusion of the person making the transfer;
  - (b) transfers of all or any of those rights and obligations such that the transferred rights and obligations become rights and obligations of the transferee while continuing, concurrently, to be rights and obligations of the person making the transfer; and
  - (c) transfers falling within either of paragraphs (a) and (b) under which the rights and obligations that are acquired by the transferee take effect—
    - (i) if they are rights and obligations under a wireless telegraphy licence, as rights and obligations under a grant of recognised spectrum access; and
    - (ii) if they are rights and obligations under a grant of recognised spectrum access, as rights and obligations under a wireless telegraphy licence.
- (3) Regulations authorising the transfer of rights and obligations under a wireless telegraphy licence or a grant of recognised spectrum access may—
  - (a) authorise a partial transfer—
    - (i) to be made by reference to such factors and apportionments, and
    - (ii) to have effect in relation to such matters and periods,as may be described in, or determined in accordance with, the regulations;
  - (b) by reference to such factors (including the terms and conditions of the licence or grant in question) as may be specified in or determined in accordance with the regulations, restrict the circumstances in which, the extent to which and the manner in which a transfer may be made;
  - (c) require the approval or consent of OFCOM for the making of a transfer;
  - (d) provide for a transfer to be effected by the surrender of a wireless telegraphy licence or grant of recognised spectrum access and the grant or making of a new one in respect of the transfer;
  - (e) confer power on OFCOM to direct that a transfer must not be made, or is to be made only after compliance with such conditions as OFCOM may impose in accordance with the regulations;
  - (f) authorise OFCOM to require the payment to them of such sums as may be determined by or in accordance with the regulations—
    - (i) in respect of determinations made by OFCOM for the purposes of the regulations, or
    - (ii) in respect of an approval or consent given for those purposes;

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- (g) make provision for the giving of security (whether by the giving of deposits or otherwise) in respect of sums payable in pursuance of any regulations under this section;
  - (h) make provision as to the circumstances in which security given under such regulations is to be returned or may be retained;
  - (i) impose requirements as to the procedure to be followed for the making of a transfer and, in particular, as to the notification about a transfer that must be given to OFCOM, or must be published, both in advance of its being made and afterwards;
  - (j) impose requirements as to the records to be kept in connection with any transfer, and as to the persons to whom such records are to be made available;
  - (k) set out the matters to be taken into account in the making of determinations under regulations under this section.
- (4) The transfer of rights and obligations under a wireless telegraphy licence or grant of recognised spectrum access is void except to the extent that it is made—
- (a) in accordance with regulations under this section; or
  - (b) in accordance with a provision falling within subsection (5).
- (5) The provision is one which—
- (a) is contained in a wireless telegraphy licence granted before 29th December 2003 or in the first or any subsequent renewal on or after that date of a licence so granted; and
  - (b) allows the holder of the licence to confer the benefit of the licence on another in respect of any station or apparatus to which the licence relates.
- (6) A transfer is also void if it is made in contravention of a direction given by OFCOM in exercise of a power conferred by regulations under this section.

### *Wireless telegraphy register*

## **31 Wireless telegraphy register**

- (1) OFCOM may by regulations make provision for the establishment and maintenance of a register of relevant information.
- (2) OFCOM may include relevant information in the register if, and only if, it is relevant information of a description prescribed by regulations under this section.
- (3) Information is relevant information for the purposes of subsection (1) if it relates to—
  - (a) the grant, renewal, transfer, variation or revocation of wireless telegraphy licences; or
  - (b) the making, renewal, transfer, modification or revocation of grants of recognised spectrum access.
- (4) Subject to such conditions (including conditions as to payment) as may be prescribed by regulations under this section, a register established by virtue of subsection (1) is to be open to inspection by the public.

### *Statistical information*

#### **32 Statistical information**

- (1) OFCOM may require a person who is using or has established, installed or used a wireless telegraphy station or wireless telegraphy apparatus to provide OFCOM with all such information relating to—
  - (a) the establishment, installation or use of the station or apparatus, and
  - (b) any related matters,as OFCOM may require for statistical purposes.
- (2) Subsection (1) has effect subject to the following provisions of this section.
- (3) OFCOM may not require the provision of information under this section except—
  - (a) by a demand for information that sets out OFCOM's reasons for requiring the information and the statistical purposes for which it is required; and
  - (b) where the making of a demand for that information is proportionate to the use to which the information is to be put in the carrying out of OFCOM's functions.
- (4) A demand for information required under this section must be contained in a notice given to the person from whom the information is required.
- (5) A person required to give information under this section must provide it in such manner and within such reasonable period as may be specified by OFCOM.

#### **33 Failure to provide information etc**

- (1) A person commits an offence if he fails to provide information in accordance with a requirement of OFCOM under section 32.
- (2) In proceedings against a person for an offence under subsection (1) it is a defence for the person to show—
  - (a) that it was not reasonably practicable for him to comply with the requirement within the period specified by OFCOM; but
  - (b) that he has taken all reasonable steps to provide the required information after the end of that period.
- (3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) A person commits an offence if—
  - (a) in pursuance of a requirement under section 32, he provides information that is false in any material particular; and
  - (b) at the time he provides it, he knows it to be false or is reckless as to whether or not it is false.
- (5) A person who commits an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **34 Statement of policy**

- (1) OFCOM must prepare and publish a statement of their general policy with respect to—

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- (a) the exercise of their powers under section 32; and
  - (b) the uses to which they are proposing to put information obtained under that section.
- (2) OFCOM may from time to time revise that statement as they think fit.
- (3) Where OFCOM make a statement under this section (or revise it), they must publish the statement (or the revised statement) in such manner as they consider appropriate for bringing it to the attention of persons who, in their opinion, are likely to be affected by it.
- (4) OFCOM must, in exercising their powers under section 32, have regard to the statement for the time being in force under this section.