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STATUTORY INSTRUMENTS

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**2011 No. 1128**

**The Wireless Telegraphy (Licence Charges) Regulations 2011**

**Citation and commencement**

1. These Regulations may be cited as the Wireless Telegraphy (Licence Charges) Regulations 2011 and shall come into force on 3rd May 2011.

**Interpretation**

2.—(1) In these Regulations—

“the 2004 Regulations” means the Wireless Telegraphy (Spectrum Trading) Regulations 2004<sup>(1)</sup>;

“the Act” means the Wireless Telegraphy Act 2006;

“apparatus” means apparatus for wireless telegraphy;

“Band I” means the band 55.750–68.00 MHz, with the exception of the sub-bands 60.750–62.750 MHz and 67.750–67.8375 MHz;

“base station” means a station which facilitates or controls communications between a mobile station and—

- (a) itself;
- (b) another mobile station;
- (c) a fixed mobile station; or
- (d) any electronic communications network;

“channel” means a part of the electromagnetic spectrum intended to be used for a transmission of signals and defined by—

- (a) two specified frequency limits;
- (b) its centre frequency and the associated bandwidth; or
- (c) an indication equivalent to (a) or (b);

“co-channel” means apparatus operating in an identical frequency or channel;

“core London area” means the area within a circle which has a 22 kilometre radius from Charing Cross, London which is located at grid square reference TQ 302 805;

“cross-polar” means the use of orthogonal polarisation to permit the re-use of identical frequencies or channels in the same area;

“earth station” means a radio station situated either on the earth’s surface or within the earth’s atmosphere and is intended for communication with one or more—

- (a) radio stations which are situated beyond, or are intended to be situated beyond, the earth’s atmosphere; or
- (b) radio stations of the same kind by means of one or more reflecting satellites or other objects in space;

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(1) S.I. 2004/3154, amended by S.I. 2006/339, 2006/1807, 2007/380, 2007/3387, 2008/688, 2008/2105 and 2008/3192

“erp” means effective radiated power of transmission;

“exclusive basis” means authorised use of a channel which is not shared with any other licensee;

“fixed link” means a connection by wireless telegraphy designed for use between two fixed points;

“fixed mobile station” means a control point configured to operate in the manner of a mobile station;

“grid square” means a National Grid square of the 2<sup>nd</sup> series of Landranger maps published by the Ordnance Survey;

“heavy congestion area” means such part of the British Islands being in an area listed in Schedule 8 and identified by reference to a grid square which is considered by OFCOM to have a heavily congested use of the electromagnetic spectrum for a specified class of licence;

“high population area” means such part of the British Islands being in an area listed in Schedule 5 and identified by reference to a grid square which is considered by OFCOM to have a high proportion of the population;

“high usage bands” mean any of UHF Band I, UHF Band II and the VHF High Band;

“hub” means a single fixed site connected to more than one fixed station via wireless telegraphy links operating in the same frequency bands;

“large coverage area” means—

- (a) in relation to a Coastal Station Radio (International) licence an area within which wireless telegraphy is authorised under a licence condition permitting one or more of—
  - (i) erp greater than or equal to 24 Watts where antenna height is greater than or equal to 10 metres above mean sea level;
  - (ii) erp greater than or equal to 10 Watts where antenna height is greater than or equal to 20 metres above mean sea level;
  - (iii) erp greater than or equal to 5 Watts where antenna height is greater than or equal to 30 metres above mean sea level;
- (b) in relation to a Coastal Station Radio (UK) licence an area within which wireless telegraphy is authorised under a licence condition permitting—
  - (i) erp greater than 5 Watts where antenna height is greater than 10 metres above ground level; or
  - (ii) erp less than or equal to 5 Watts where antenna height is greater than 30 metres above ground level; and
- (c) in relation to any other licence an area within which wireless telegraphy is authorised under a licence condition permitting one or more of—
  - (i) erp greater than 5 Watts where antenna height is greater than 10 metres above ground level;
  - (ii) erp less than or equal to 5 Watts where antenna height is greater than 30 metres above ground level;
  - (iii) transmission within a circular area which has a radius greater than 15 kilometres but less than or equal to 30 kilometres;

“licence” means a wireless telegraphy licence;

“light congestion area” means such part of the British Islands being in an area listed in Schedule 8 and identified by reference to a grid square which is considered by OFCOM to have a lightly congested use of the electromagnetic spectrum for a specified class of licence;

“low population area” means such part of the British Islands being an area listed in Schedule 5 and identified by reference to a grid square which is considered by OFCOM to have a low proportion of the population;

“low usage bands” mean the band 133 kHz–147 kHz, the 26.225 MHz band, the 49.49375 MHz band, VHF Band I and the VHF Low Band;

“medium congestion area” means such part of the British Islands being in an area listed in Schedule 8 and identified by reference to a grid square which is considered by OFCOM to have a medium level of congested use of the electromagnetic spectrum for a specified class of licence;

“medium coverage area” means—

- (a) in relation to a Coastal Station Radio (International) licence an area within which wireless telegraphy is authorised under a licence condition permitting one or more of—
  - (i) erp greater than 10 Watts where antenna height is less than 10 metres above mean sea level;
  - (ii) erp greater than 7 Watts but less than 24 Watts where antenna height is greater than 5 metres above mean sea level but less than 20 metres above mean sea level;
  - (iii) erp greater than 3 Watts but less than 10 Watts where antenna height is greater than 10 metres above mean sea level but less than 30 metres above mean sea level;
  - (iv) erp greater than 1.5 Watts but less than 5 Watts where antenna height is greater than 20 metres above mean sea level;
  - (v) erp less than 5 Watts where antenna height is greater than 30 metres above mean sea level;
- (b) in relation to a Coastal Station Radio (UK) licence an area within which wireless telegraphy is authorised under a licence condition permitting—
  - (i) erp less than or equal to 5 Watts where antenna height is greater than 10 metres above ground level and less than or equal to 30 metres above ground level; or
  - (ii) erp greater than 5 Watts where antenna height is less than or equal to 10 metres above ground level; and
- (c) in relation to any other licence an area within which wireless telegraphy is authorised under a licence condition permitting one or more of—
  - (i) erp less than or equal to 5 Watts where antenna height is greater than 10 metres above ground level and less than or equal to 30 metres above ground level;
  - (ii) erp greater than 5 Watts where antenna height is less than or equal to 10 metres above ground level;
  - (iii) transmission within a circular area which has a radius greater than 3 kilometres but less than or equal to 15 kilometres;

“medium frequency” means that part of the electromagnetic spectrum between 531 kHz and 1602 kHz;

“medium population area” means such part of the British Islands being an area listed in Schedule 5 and identified by reference to a grid square which is considered by OFCOM to have a medium proportion of the population;

“medium usage bands” mean VHF Band II and the VHF Mid Band;

“medium wave broadcasting band” means that part of the electromagnetic spectrum between 526.5 kHz and 1606.5 kHz;

“mobile station” means a station (other than a base station) intended to be used while in motion or during halts at unspecified points;

“national channel” means a channel which the licensee is authorised to use throughout the United Kingdom;

“non-congestion area” means such part of the British Islands being in an area listed in Schedule 8 and identified by reference to a grid square which is considered by OFCOM not to have a congested use of the electromagnetic spectrum for a specified class of licence;

“outer London area” means all of the area, other than the core London area, which is within a circle having a 112 kilometre radius from Charing Cross, London which is located at grid square reference TQ 302 805;

“prescribed payment interval” has the meaning given by regulation 4(1);

“prescribed sum” means a fixed sum and/or a variable sum which is payable to OFCOM under regulation 4(1)(c) and/or (d);

“prescribed time” means the time when a sum is payable to OFCOM under regulation 4(1);

“shared basis” means authorised use of a channel which is shared with another licensee;

“slot” means the smallest unit of the electromagnetic spectrum used in the construction of a frequency plan, such that all bands, sub-bands, blocks and channels which are used in such plan are integer multiples of the slot size;

“small coverage area” means—

- (a) in relation to a Coastal Station Radio (International) licence an area within which wireless telegraphy is authorised under a licence condition permitting one or more of—
  - (i) erp less than or equal to 10 Watts where antenna height is less than or equal to 5 metres above mean sea level;
  - (ii) erp less than or equal to 7 Watts where antenna height is less than or equal to 10 metres above mean sea level;
  - (iii) erp less than or equal to 3 Watts where antenna height is less than or equal to 20 metres above mean sea level;
  - (iv) erp less than or equal to 1.5 Watts where antenna height is less than or equal to 30 metres above mean sea level;
- (b) in relation to a Coastal Station Radio (UK) licence an area within which wireless telegraphy is authorised under a licence condition permitting erp less than or equal to 5 Watts where antenna height is less than or equal to 10 metres above ground level; and
- (c) in relation to any other licence an area within which wireless telegraphy is authorised under a licence condition permitting one or more of—
  - (i) erp less than or equal to 5 Watts where antenna height is less than or equal to 10 metres above ground level;
  - (ii) transmission within a circular area which has a radius less than or equal to 3 kilometres;

“station” means a station for wireless telegraphy;

“UHF Band I” means that part of the electromagnetic spectrum between 410.00000 MHz and 449.49375 MHz;

“UHF Band II” means that part of the electromagnetic spectrum between 453.00625 MHz and 466.08750 MHz;

“VHF Band I” means that part of the electromagnetic spectrum between 55.75 MHz and 68.0 MHz;

“VHF Band II” means that part of the electromagnetic spectrum between 177.20625 MHz and 207.49375 MHz;

“VHF broadcasting band” means that part of the electromagnetic spectrum between 87.5 MHz and 108.0 MHz;

“VHF High Band” means that part of the electromagnetic spectrum between 165.04375 MHz and 173.09375 MHz;

“VHF Low Band” means that part of the electromagnetic spectrum between 68.08125 MHz and 87.49375 MHz; and

“VHF Mid Band” means that part of the electromagnetic spectrum between 137.96250 MHz and 165.04375 MHz.

(2) Where these Regulations provide for the prescribed sum to be calculated by reference to a number of any of the following things—

- (a) base stations;
- (b) channels;
- (c) congestion areas;
- (d) fixed links;
- (e) grid squares;
- (f) mobile stations;
- (g) national channels;
- (h) population;
- (i) regional channels;
- (j) slots;
- (k) stations,

the number shall be taken to be the number the use of which is authorised by the licence at the prescribed time.

(3) In relation to a Transmission of National and Local Radio Broadcasting Services licence and a Community Radio licence, a reference to the licensee’s coverage is a reference to the total population covered by the transmitters which the licensee is authorised to use in the medium wave broadcasting band or the VHF broadcasting band (as the case may be) as specified in the licence granted to the licensee, and “covered” shall be construed accordingly.

(4) In relation to a Coastal Station Radio (International) licence, a Coastal Station Radio (UK) licence, a Coastal Station Radio (International) Area Defined licence and a Coastal Station Radio (UK) Area Defined licence—

- (a) “excluded channels” means—
  - (i) channels 0 (156.000 MHz), 00 (160.600 MHz), 10 (156.500 MHz), 67 (156.375 MHz) and 73 (156.675 MHz) and the channel on 161.225 MHz, when used solely to assist Her Majesty’s Coastguard, and when used solely to assist the Secretary of State with oil pollution control activities; and
  - (ii) channels 6 (156.300 MHz), 8 (156.400 MHz), 13 (156.650 MHz), 15 (156.750 MHz), 16 (156.800 MHz), 17 (156.850 MHz), 23 (157.150 and 161.750 MHz), 70 (156.525 MHz), 72 (156.625 MHz), 75 (156.775 MHz), 76 (156.825 MHz), 77 (156.875 MHz), 84 (157.225 and 161.825 MHz) and 86 (157.325 and 161.925 MHz); and

(b) a reference to an international maritime channel means a channel specified in the table in Appendix 18 to the 2008 edition of the Radio Regulations<sup>(2)</sup>.

(5) In relation to a Programme Making and Special Events Fixed Site licence, a Programme Making and Special Events Link licence, a Programme Making and Special Events Low Power licence, a UK Wireless Microphone (Annual) licence and a UK Wireless Microphone (Biennial) licence—

- (a) “area” in relation to a channel specified in such a licence refers to an area with a population coverage below three million individuals;
- (b) “designated website” means the website address (at [www.jfmg.co.uk](http://www.jfmg.co.uk) or at such other website address as may be notified by OFCOM to persons who, in their opinion, are likely to be affected by any change of address by publishing such a notice on OFCOM’s website, [www.ofcom.org.uk](http://www.ofcom.org.uk)) of OFCOM’s agents managing and licensing in the classes of licence set out under the heading of Programme Making and Special Events in Schedule 2;
- (c) “multi use type (1)” in relation to a channel specified in such a licence refers to a maximum of 60 periods with each such period not exceeding 48 hours;
- (d) “multi use type (2)” in relation to a channel specified in such a licence refers to a maximum of 480 periods with each such period not exceeding 48 hours;
- (e) “occasional use” in relation to a channel specified in such a licence refers to a period not exceeding 48 hours;
- (f) “premium case” means a case where at the applicant’s request a licence is granted or varied outside office hours; and for the purposes of this definition “office hours” means 09.00 to 17.00 hours from Monday to Friday other than on a day which is a bank holiday in England and Wales;
- (g) “primary” in relation to a channel specified in such a licence refers to use at any time;
- (h) “programme making” includes the making of a programme for broadcast, the making of a film presentation, advertisement or audio or video tape, and the staging or performance of an entertainment, sporting or other public event;
- (i) “programme sound link” in relation to a channel specified in such a licence refers to a channel used to transmit the material produced in programme making from a fixed transmission station to a fixed receiving station;
- (j) “restricted service programme sound link” in relation to a channel specified in such a licence refers to a channel used to transmit the material produced in programme making from a fixed transmission station to a fixed receiving station where the transmission is for a period not exceeding thirty consecutive days;
- (k) “secondary” in relation to a channel specified in such a licence refers to use when the channel or band is not being used by another licensee under a licence which authorises such use as a primary channel;
- (l) “shared” in relation to a channel specified in such a licence refers to use at the same time as such a channel may be used by a licensee under another licence; and
- (m) “variation” in relation to such a licence refers to the addition of a channel to the channel specified in such licence;

and for the purpose of determining “population coverage” as referred to above, reference shall be made as appropriate to—

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(2) The Radio Regulations are made under Article 13 of the Constitution of the International Telecommunication Union (“the ITU”); the Constitution and Convention of the ITU were adopted in Geneva in 1992 and ratified by the United Kingdom in 1994 (Cm 3145).

- (i) the estimated mid-year resident population for England and Wales for 2000 as shown in the “Office of National Statistics Population Estimates Mid-2000 for England and Wales” published in August 2001;
  - (ii) the estimated mid-year resident population for Scotland for 2000 as shown in the “Mid-Year Population Estimates, Scotland” published in June 2001; and
  - (iii) the estimated mid-year resident population for Northern Ireland for 2000 as shown in the “Annual Report of the Registrar General for Northern Ireland” published in November 2001.
- (6) In relation to a Satellite (Earth Station Network) licence “network” means a one-way or two-way service from any number of earth station terminals to a single geo-stationary orbit satellite transponder transmitting in the earth to space direction.

### **Revocation**

3. The Regulations set out in Schedule 1 are hereby revoked.

### **Licence charges and time of payment**

4.—(1) Subject to paragraphs (2) to (11) and to regulations 5 and 6, there shall be paid to OFCOM by the licensee—

- (a) on the issue of the licence and on the variation of the licence where such variation is prescribed in Schedule 2; and
- (b) on the last day of the period of twelve, twenty-four, thirty-six or (as the case may be) sixty months prescribed in Schedule 2, if any, in respect of the class of licence in question (the “prescribed payment interval”) and on the last day of each subsequent prescribed payment interval thereafter (the first prescribed payment interval having begun on the day of the issue of the licence) for which the licence continues in force,

in relation to a licence of a class listed in Schedule 2—

- (c) the fixed sum, if any, specified in; and
- (d) the variable sum, if any, determined in accordance with the provisions of,

that Schedule.

(2) Paragraph (4) shall apply to a licence where—

- (a) the licence is of any class other than:
  - (i) those listed under the heading “Programme Making and Special Events” in Schedule 2;
  - (ii) the Self Co-ordinated Links licence class (which is listed under the heading “Fixed Links” in Schedule 2); and
  - (iii) the Non-Operational Temporary Use licence class (which is listed under the heading “Science and Technology” in Schedule 2); and
- (b) the sum otherwise payable for such licence is £75 or more per annum.

(3) Paragraph (4) shall also apply to a licence within the Point to Point Fixed Links licence class (which is listed under the heading “Fixed Links” in Schedule 2)) where the sum otherwise payable for such licence is less than £75 per annum.

(4) Where a licence to which this paragraph applies is issued for a period of less than one year the sum payable shall, subject to paragraph (5), be such sum as represents one-twelfth of the prescribed sum multiplied by the number of complete and part-complete months to the expiry of the licence.

(5) The sum payable in accordance with paragraph (4) shall—

- (a) where such sum represents a fraction of a whole pound sterling be rounded up to the nearest pound sterling; and
  - (b) be subject to a minimum of £20.
- (6) Paragraph (8) shall apply to a licensee where—
- (a) a prescribed sum is payable by that licensee in respect of a licence under paragraph (1);
  - (b) the licence is of one of the following classes—
    - (i) the classes listed under the heading “Broadcasting” in Schedule 2;
    - (ii) the classes listed under the heading “Business Radio” in Schedule 2;
    - (iii) the classes listed under the heading “Fixed Links” in Schedule 2;
    - (iv) the classes listed under the heading “Public Wireless Networks” in Schedule 2; or
    - (v) the classes listed under the heading “Satellite Services” in Schedule 2;
  - (c) the licence is granted for a period of a year or longer; and
  - (d) the prescribed sum due for payment by the licensee is in excess of £100,000.
- (7) Paragraph (8) shall also apply to a licensee where—
- (a) prescribed sums are payable by that licensee under paragraph (1) in respect of more than one licence where all of those licences are of the same class and that class is one of the classes listed in paragraph (6)(b);
  - (b) each of those prescribed sums is due for payment by the licensee at the same prescribed time in accordance with paragraph (1);
  - (c) each of the prescribed sums is in respect of licences granted for a period of a year or longer; and
  - (d) the total of the prescribed sums due for payment by the licensee is in excess of £100,000.
- (8) If OFCOM receive notice from a licensee to which this paragraph applies of the licensee’s intention to make payment in ten equal instalments of a sum equal to the prescribed sum referred to in paragraph (6) or equal to the total of the prescribed sums referred to in paragraph (7)(d), the licensee—
- (a) shall not be required to make payment at the prescribed time other than in accordance with this paragraph; and
  - (b) shall make payment of the sum in ten equal instalment payments with the first instalment to be paid to OFCOM on the day which shall be the same day as the prescribed time when the prescribed sum or the prescribed sums were to be paid to OFCOM 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).
- (9) Where at any time the licensee fails to make payment in accordance with paragraph (8), the total of the outstanding instalment payments shall become immediately due for payment.
- (10) No sums shall be payable to OFCOM in respect of the issue of a licence in order to effect a transfer of rights and obligations under a licence to another person under regulation 8(5) of the 2004 Regulations.
- (11) For any licence issued in order to effect a transfer under the 2004 Regulations, the prescribed payment interval shall be treated so as to commence and expire at the times when the corresponding prescribed payment interval would have commenced and expired under the licence from which the rights and obligations were transferred had the transfer not been made.



### Concessionary licence charges

5.—(1) This regulation applies where a relevant licence is granted to an applicant, or held by a licensee, which—

- (a) is a charity; and
- (b) has as its object the safety of human life in an emergency.

(2) The sum to be paid by a qualifying charity to OFCOM on the issue of a relevant licence, and on the last day of each of the prescribed payment intervals (if any), shall be one half of the prescribed sum. Where the sum so payable to OFCOM represents a fraction of a whole pound sterling then the sum payable by the qualifying charity shall be rounded up to the nearest whole pound sterling.

(3) In this regulation—

“charity” means a person who—

- (a) being subject to the laws of England and Wales, or Scotland, or Northern Ireland, is a charity within the meaning of paragraph 1(1) of Schedule 6 to the Finance Act 2010<sup>(3)</sup>;
- (b) being subject to the laws of the Isle of Man, is registered as a charity under the Charities Registration Act 1989<sup>(4)</sup>;
- (c) being subject to the laws of Guernsey, is a member for the time being of the Association of Guernsey Charities; or
- (d) being subject to the laws of Jersey, is a member for the time being of the Association of Jersey Charities;

“qualifying charity” is a body falling within paragraph (1); and

“relevant licence” means a licence of one of the following classes—

- (a) all of the classes listed under the heading “Aeronautical” in Schedule 2;
- (b) all of the classes listed under the heading “Business Radio” in Schedule 2; and
- (c) all of the classes listed under the heading “Maritime” in Schedule 2 apart from Ship Radio and Ship Portable Radio.

### Other licence charges

6. Where a sum is not prescribed by regulations made under section 12 of the Act whether on the issue of a licence or subsequently, there shall be paid to OFCOM such sum as OFCOM may in the particular case determine.

*Hyacinth S. Nwana*  
Group Director, Spectrum Policy Group of the  
Office of Communications  
For and by the authority of the Office of  
Communications

14th April 2011

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(3) 2010 c.13  
(4) An Act of Tynwald