



Communications Act 2003

2003 CHAPTER 21

PART 2

NETWORKS, SERVICES AND THE RADIO SPECTRUM

CHAPTER 2

SPECTRUM USE

Limitations and exemptions applied to spectrum use

164 Limitations on authorised spectrum use

- (1) If they consider it appropriate, for the purpose of securing the efficient use of the electro-magnetic spectrum, to impose limitations on the use of particular frequencies, 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 spectrum access made.

Status: This is the original version (as it was originally enacted).

- (4) OFCOM must satisfy themselves that any criteria set out by virtue 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) It shall be the duty of OFCOM to exercise the following powers in accordance with the orders for the time being in force under this section—
- (a) their powers under the Wireless Telegraphy Act 1949 and the Wireless Telegraphy Act 1998 (c. 6) with respect to wireless telegraphy licences; and
 - (b) their powers under the Wireless Telegraphy Act 1998 and this Chapter with respect to grants of recognised spectrum access.
- (6) OFCOM must keep under review any order for the time being in force under this section.
- (7) It shall be the duty of OFCOM to 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 electro-magnetic 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
 - (b) are published by them from time to time in such manner as may be provided for in such an order.
- (9) Section 403 applies to the power of OFCOM to make an order under this section.

165 Terms etc. of wireless telegraphy licences

In section 1 of the Wireless Telegraphy Act 1949 (c. 54), after subsection (2) (terms, provisions and limitations of the licence) there shall be inserted—

“(2A) Those 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; and
- (c) terms or provisions requiring the transmission or broadcasting of particular matters by that person.

(2B) A licence under this section may be granted either—

- (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.

- (2C) The terms, provisions and limitations of a licence granted under this section to a person must not duplicate obligations already imposed on him by general conditions set under section 45 of the Communications Act 2003.”

166 Exemption from need for wireless telegraphy licence

After section 1 of the Wireless Telegraphy Act 1949 there shall be inserted—

“1AA Exemption from need for wireless telegraphy licence

- (1) If OFCOM are satisfied that the condition in subsection (2) is satisfied as respects the use of stations or apparatus of any particular description, they shall make regulations under section 1 of this Act exempting the establishment, installation and use of any station or apparatus of that description from the prohibition in that section.
- (2) That condition is that the use of stations or apparatus of that description is not likely to involve any undue interference with wireless telegraphy.”