



Wireless Telegraphy Act 2006

2006 CHAPTER 36

PART 2

REGULATION OF RADIO SPECTRUM

CHAPTER 1

WIRELESS TELEGRAPHY LICENCES

Charges etc

12 Charges for grant of licence

- (1) A person to whom a wireless telegraphy licence is granted must pay to OFCOM —
 - (a) on the grant of the licence, and
 - (b) if regulations made by OFCOM so provide, subsequently at such times during its term and such times in respect of its variation or revocation as may be prescribed by the regulations,the sums described in subsection (2).
- (2) The sums are—
 - (a) such sums as OFCOM may prescribe by regulations, or
 - (b) if regulations made by OFCOM so provide, such sums (whether on the grant of the licence or subsequently) as OFCOM may determine in the particular case.
- (3) Regulations under this section may—
 - (a) confer exemptions from provisions of the regulations in particular cases; and
 - (b) provide for sums paid to be refunded, in whole or in part, in such cases as may be specified in the regulations or in such cases as OFCOM think fit.

Changes to legislation: There are currently no known outstanding effects for the Wireless Telegraphy Act 2006, Cross Heading: Charges etc. (See end of Document for details)

- (4) On the grant of a licence in respect of which sums will or may subsequently become payable under regulations under this section, OFCOM may require such security to be given, by way of deposit or otherwise, for the payment of those sums as they think fit.
- (5) Regulations under this section do not apply in relation to a licence granted in accordance with regulations under section 14^[F1], but this is subject to subsection (6).]
- [^{F2}(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
 - (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.]

Textual Amendments

- F1** Words in s. 12(5) inserted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), ss. **38(2)**, 47(1)
- F2** S. 12(6)-(9) inserted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), ss. **38(3)**, 47(1)

13 Matters taken into account

- (1) This section applies where OFCOM exercise a power under section 12 to prescribe sums payable in respect of wireless telegraphy licences, other than a power to prescribe sums payable where a licence is varied or revoked at the request or with the consent of the holder of the licence.
- (2) OFCOM may, if they think fit in the light (in particular) of the matters to which they must have regard under section 3, prescribe sums greater than those necessary to recover costs incurred by them in connection with their radio spectrum functions.

Changes to legislation: There are currently no known outstanding effects for the Wireless Telegraphy Act 2006, Cross Heading: Charges etc. (See end of Document for details)

- (3) “Prescribe” means prescribe by regulations or determine in accordance with regulations.

14 Bidding for licences

- (1) Having regard to the desirability of promoting the optimal use of the electromagnetic spectrum, OFCOM may by regulations provide that, in such cases as may be specified in the regulations, applications for wireless telegraphy licences must be made in accordance with a procedure that involves the making by the applicant of a bid specifying an amount that he is willing to pay to OFCOM in respect of the licence.
- (2) The regulations may make provision with respect to—
- (a) the grant of the licences to which they apply; and
 - (b) the terms, provisions and limitations subject to which such licences are granted.
- (3) The regulations may, in particular—
- (a) require the applicant's bid to specify the amount he is willing to pay;
 - (b) require that amount to be expressed—
 - (i) as a cash sum;
 - (ii) as a sum determined by reference to a variable (such as income attributable wholly or in part to the holding of the licence);
 - (iii) as a combination of the two; or
 - (iv) (at the applicant's choice) in any one of the ways falling within subparagraphs (i) to (iii) that is authorised by the regulations;
 - (c) require that amount to be expressed in terms of—
 - (i) the making of a single payment;
 - (ii) the making of periodic payments;
 - (iii) a combination of the two; or
 - (iv) (at the applicant's choice) any one of the ways falling within subparagraphs (i) to (iii) that is authorised by the regulations;
 - (d) specify requirements (for example, technical or financial requirements, requirements relating to fitness to hold the licence and requirements intended to restrict the holding of two or more wireless telegraphy licences by any one person) which must be met by applicants for a licence;
 - (e) require an applicant to pay a deposit to OFCOM;
 - (f) specify circumstances in which a deposit is, or is not, to be refundable;
 - (g) specify matters to be taken into account by OFCOM (in addition to the bids made in accordance with the procedure provided for in the regulations) in deciding whether, or to whom, to grant a licence;
 - (h) specify the other terms, provisions and limitations subject to which a licence to which the regulations apply is to be granted [^{F3}(but this is subject to subsection (3A))];
 - (i) make any provision referred to in section 12(3).

[^{F4}(3A) If a provision of section 8B ^{F5}... or 9ZA would prevent OFCOM from specifying a term, provision or limitation on the grant of a wireless telegraphy licence, regulations may not specify the term, provision or limitation.

Changes to legislation: There are currently no known outstanding effects for the Wireless Telegraphy Act 2006, Cross Heading: Charges etc. (See end of Document for details)

- (3B) OFCOM must satisfy themselves, in making regulations specifying criteria to be taken into account in deciding whether, or to whom, to grant a licence, that the criteria 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.]

[^{F6}(3C) In exercising their power to make regulations under this section, OFCOM must consider whether, if they were to specify under subsection (3)(h) a term, provision or limitation requiring a specified level of use of any station, apparatus or frequency to which the licence relates, they would by doing so promote the optimal use of the electromagnetic spectrum.]

(4) Regulations do not require OFCOM to grant a wireless telegraphy licence on the completion of the procedure provided for in the regulations, except in such circumstances as may be provided for in the regulations.

(5) A wireless telegraphy licence granted in accordance with the regulations must specify—

- (a) the sum or sums which in consequence of the bids made are, in accordance with the regulations, to be payable in respect of the licence; or
- (b) the method for determining that sum or those sums;

and that sum or those sums must [^{F7}, subject to subsection (5A),] be paid to OFCOM by the person to whom the licence is granted in accordance with the terms of the licence.

[^{F8}(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.]

(6) In determining the sum or sums payable in respect of a wireless telegraphy licence, regard may be had to bids made for other wireless telegraphy licences and for grants of recognised spectrum access.

(7) The regulations may provide that where a person—

- (a) applies for a licence in accordance with a procedure provided for in the regulations, but
- (b) subsequently refuses the licence applied for,

that person must make such payments to OFCOM as may be determined in accordance with the regulations by reference to bids made for the licence.

(8) Section 12(4) applies in relation to sums that will or may become payable under regulations under this section after the grant of a wireless telegraphy licence as it applies in relation to sums that will or may become payable under regulations under section 12.

Changes to legislation: There are currently no known outstanding effects for the Wireless Telegraphy Act 2006, Cross Heading: Charges etc. (See end of Document for details)

[^{F9}(9) In subsection (5A) “surrendered-spectrum licence” and “predecessor licence” have the meaning given by section 12(8) and (9).]

Textual Amendments

- F3** Words in s. 14(3)(h) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 2 para. 8(a)** (with Sch. 3 para. 2)
- F4** S. 14(3A)(3B) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 2 para. 8(b)** (with Sch. 3 para. 2)
- F5** Word in s. 14(3A) omitted (31.12.2020) by virtue of [The Electronic Communications and Wireless Telegraphy \(Amendment\) \(European Electronic Communications Code and EU Exit\) Regulations 2020 \(S.I. 2020/1419\)](#), reg. 1(3)(a), **Sch. 1 para. 93**
- F6** S. 14(3C) inserted (21.12.2020) by [The Electronic Communications and Wireless Telegraphy \(Amendment\) \(European Electronic Communications Code and EU Exit\) Regulations 2020 \(S.I. 2020/1419\)](#), reg. 1(2), **Sch. 1 para. 84**
- F7** Words in s. 14(5) inserted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), **ss. 38(5)**, 47(1)
- F8** S. 14(5A) inserted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), **ss. 38(6)**, 47(1)
- F9** S. 14(9) inserted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), **ss. 38(7)**, 47(1)

15 Recovery

- (1) This section applies in the case of a sum which is to be paid to OFCOM—
- under any provision of sections 12 to 14;
 - in pursuance of any provision of any regulations under those sections; or
 - because of any terms contained as a result of those sections in a wireless telegraphy licence.
- (2) The sum must be paid to OFCOM as soon as it becomes due in accordance with that provision or those terms and, if it is not paid, it is to be recoverable by them accordingly.

16 Regulations

- (1) In its application to the powers of OFCOM to make regulations under sections 12 to 14, section 122 is subject to the following provisions of this section.
- (2) Subsections (4) to (6) of section 122 do not apply in any case in which it appears to OFCOM that by reason of the urgency of the matter it is inexpedient to publish a notice in accordance with section 122(4)(b).
- (3) Subsections (4) to (6) of section 122 do not apply in the case of any regulations under section 14 modifying previous regulations under section 14 in a case not falling within subsection (2) of this section, if it appears to OFCOM—
- that the modifications would not adversely affect the interests of any person or otherwise put him in a worse position or, as regards someone else, put him at a disadvantage; and
 - in so far as the modifications affect a procedure that has already begun, that no person would have acted differently had the modifications come into force before the procedure began.

Changes to legislation: *There are currently no known outstanding effects for the Wireless Telegraphy Act 2006, Cross Heading: Charges etc. (See end of Document for details)*

17 Sections 12 to 16: interpretation

References in sections 12 to 16 to the grant of a wireless telegraphy licence include references to the grant of a licence by way of renewal of a previous licence.

Changes to legislation:

There are currently no known outstanding effects for the Wireless Telegraphy Act 2006, Cross
Heading: Charges etc.