



# Wireless Telegraphy Act 2006

## 2006 CHAPTER 36

### PART 2

#### REGULATION OF RADIO SPECTRUM

### CHAPTER 1

#### WIRELESS TELEGRAPHY LICENCES

##### *Licensing of wireless telegraphy*

## 8 Licences and exemptions

- (1) It is unlawful—
  - (a) to establish or use a wireless telegraphy station, or
  - (b) to instal or use wireless telegraphy apparatus,except under and in accordance with a licence (a “wireless telegraphy licence”) granted under this section by OFCOM.
- (2) Subsection (1) does not apply to—
  - (a) the use of a television receiver (within the meaning of Part 4 of the Communications Act 2003) for receiving a television programme; or
  - (b) the installation of a television receiver for use solely for that purpose.
- (3) OFCOM may by regulations exempt from subsection (1) the establishment, installation or use of wireless telegraphy stations or wireless telegraphy apparatus of such classes or descriptions as may be specified in the regulations, either absolutely or subject to such terms, provisions and limitations as may be so specified.

<sup>F1</sup>[<sup>F2</sup>(3A) .....

- (3B) Terms, provisions and limitations specified in regulations under subsection (3) must be—

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- (a) objectively justifiable in relation to the wireless telegraphy stations or wireless telegraphy apparatus 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.]
- (4) If OFCOM are satisfied that [<sup>F3</sup>the conditions in subsection (5) are] satisfied as respects the use of stations or apparatus of a particular description, they must make regulations under subsection (3) exempting the establishment, installation and use of a station or apparatus of that description from subsection (1).
- [<sup>F4</sup>(5) The conditions are that the use of stations or apparatus of that description is not likely to —
- (a) involve undue interference with wireless telegraphy;
  - (b) have an adverse effect on technical quality of service;
  - (c) lead to inefficient use of the part of the electromagnetic spectrum available for wireless telegraphy;
- [<sup>F5</sup>(ca) inhibit the development of effective arrangements for the sharing of frequencies;]
- (d) endanger safety of life;
  - (e) prejudice the promotion of social, regional or territorial cohesion; or
  - (f) prejudice the promotion of cultural and linguistic diversity and media pluralism.]

#### Textual Amendments

- F1** S. 8(3A) omitted (31.12.2020) by virtue of [The Electronic Communications and Wireless Telegraphy \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/246), reg. 1(2), **Sch. 1 para. 45(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** S. 8(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. 4(a)** (with Sch. 3 para. 2)
- F3** Words in s. 8(4) substituted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011](#) (S.I. 2011/1210), reg. 1(2), **Sch. 2 para. 4(b)** (with Sch. 3 para. 2)
- F4** S. 8(5) substituted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011](#) (S.I. 2011/1210), reg. 1(2), **Sch. 2 para. 4(c)** (with Sch. 3 para. 2)
- F5** S. 8(5)(ca) 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. 81(3)**

#### Modifications etc. (not altering text)

- C1** S. 8(1) excluded (E.W.S.) (21.10.2013 for E.W., 3.3.2014 for S.) by [Prisons \(Interference with Wireless Telegraphy\) Act 2012](#) (c. 20), **ss. 1(7), 5(3)**; S.I. 2013/2460, art. 3; S.S.I. 2014/34, art. 2
- C2** S. 8(1) restricted (cond.) (30.4.2014) by [The Wireless Telegraphy \(Mobile Communication Services on Aircraft\) \(Exemption\) Regulations 2014](#) (S.I. 2014/953), regs. 1, 4, 5
- C3** S. 8(1) restricted by S.I. 2010/2512, reg. 9 (as inserted (27.6.2014) by [The Wireless Telegraphy \(Exemption and Amendment\) \(Amendment\) Regulations 2014](#) (S.I. 2014/1484), regs. 1, **2(3)**)
- C4** S. 8(1) restricted by S.I. 2010/2512, reg. 10 (as inserted (27.6.2014) by [The Wireless Telegraphy \(Exemption and Amendment\) \(Amendment\) Regulations 2014](#) (S.I. 2014/1484), regs. 1, **2(3)**)
- C5** S. 8(1) excluded (25.3.2015) by [The Wireless Telegraphy \(Ultra-Wideband Equipment\) \(Exemption\) Regulations 2015](#) (S.I. 2015/591), regs. 1, **12, 13**

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- C6** S. 8(1) excluded (25.3.2015) by [The Wireless Telegraphy \(Ultra-Wideband Equipment\) \(Exemption\) Regulations 2015 \(S.I. 2015/591\)](#), regs. 1, **24**, 25
- C7** S. 8(1) excluded (25.3.2015) by [The Wireless Telegraphy \(Ultra-Wideband Equipment\) \(Exemption\) Regulations 2015 \(S.I. 2015/591\)](#), regs. 1, **4**, 5
- C8** S. 8(1) excluded (25.3.2015) by [The Wireless Telegraphy \(Ultra-Wideband Equipment\) \(Exemption\) Regulations 2015 \(S.I. 2015/591\)](#), regs. 1, **29**, 30
- C9** S. 8(1) excluded (25.3.2015) by [The Wireless Telegraphy \(Ultra-Wideband Equipment\) \(Exemption\) Regulations 2015 \(S.I. 2015/591\)](#), regs. 1, **8**, 9
- C10** S. 8(1) excluded (25.3.2015) by [The Wireless Telegraphy \(Ultra-Wideband Equipment\) \(Exemption\) Regulations 2015 \(S.I. 2015/591\)](#), regs. 1, **16**, 17
- C11** S. 8(1) excluded (31.12.2015) by [The Wireless Telegraphy \(White Space Devices\) \(Exemption\) Regulations 2015 \(S.I. 2015/2066\)](#), regs. 1(1), **3**
- C12** S. 8(1) excluded (15.6.2017) by [The Wireless Telegraphy \(Mobile Communication Services on Aircraft\) \(Exemption\) Regulations 2017 \(S.I. 2017/669\)](#), regs. 1, **4**

#### [<sup>F6</sup>8A. **Review of long licences**

- (1) Subsection (2) applies in respect of a wireless telegraphy licence where—
  - (a) the licence is granted for a period of 10 years or more; and
  - (b) the rights and obligations under it may not be transferred to another person.
- (2) OFCOM must, at such intervals as they consider appropriate, or at the reasonable request of the holder of the licence—
  - (a) review whether the conditions in section 8(5) are met in relation to the use of a wireless telegraphy station or wireless telegraphy apparatus under the licence, and
  - (b) if the conditions are met, make regulations under section 8(3) exempting the establishment, installation or use of stations or apparatus of that description from section 8(1).
- (3) The first review under this section, and the making of any regulations under section 8(3) in consequence of the review, must be completed on or before 19 December 2011.

#### **Textual Amendments**

- F6** Ss. 8A-8C inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 2 para. 5** (with Sch. 3 para. 2)

#### **8B. Restriction on grant of exclusive licence**

- (1) OFCOM may not grant an exclusive licence unless a condition in subsection (2) is met.
- (2) Those conditions are—
  - (a) that it is necessary to grant an exclusive licence in order to protect safety of life services, or
  - (b) that there are other exceptional circumstances which, in OFCOM's opinion, justify the grant of an exclusive licence in order to ensure a general interest objective.
- (3) The general interest objectives are—

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- (a) safety of life;
  - (b) the promotion of social, regional or territorial cohesion;
  - (c) avoidance of inefficient use of frequencies;
  - (d) the promotion of cultural and linguistic diversity and media pluralism;
  - (e) fulfilment of a requirement under the ITU Radio Regulations.
- (4) In subsection (3) “the ITU Radio Regulations” means the radio regulations of the International Telecommunication Union.
- (5) If OFCOM grant an exclusive licence they must—
- (a) at such intervals as they consider appropriate, review whether a condition in subsection (2) continues to be met, and
  - (b) publish the outcome of the review in such manner as they think fit.
- (6) In this section and section 8C, “exclusive licence” means a wireless telegraphy licence which includes a term conferring exclusive rights on the holder to use a frequency specified in the licence (throughout the United Kingdom or in a specified part of the United Kingdom).

#### Textual Amendments

- F6** Ss. 8A-8C inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 2 para. 5** (with Sch. 3 para. 2)

### 8C. Consultation before grant of exclusive licence

- (1) This section applies where—
- (a) OFCOM propose to grant an exclusive licence, and
  - (b) they think that the grant of the licence would have a significant impact on a market for the use of the electromagnetic spectrum for wireless telegraphy in relation to which OFCOM have functions under the enactments relating to the management of the radio spectrum.
- (2) Before granting the licence OFCOM must publish, in such manner as they think fit, notice of their intention to grant the licence.
- (3) The notice must specify—
- (a) OFCOM's reasons for proposing to grant an exclusive licence, and
  - (b) the period within which representations may be made to OFCOM.
- (4) The period specified under subsection (3)(b) may not be less than [<sup>F7</sup>30 days] beginning with the day on which the notice is published.]

#### Textual Amendments

- F6** Ss. 8A-8C inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 2 para. 5** (with Sch. 3 para. 2)
- F7** Words in s. 8C(4) substituted (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. 82**

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## 9 Terms, provisions and limitations

- (1) A wireless telegraphy licence may be granted subject to such terms, provisions and limitations as OFCOM think fit.

<sup>F8</sup>(1A) . . . . .

- (2) In the case of a licence to establish a station, the limitations may, in particular, include limitations as to—

- (a) the position and nature of the station;
- (b) the purpose for which, the circumstances in which and the persons by whom the station may be used;
- (c) the apparatus that may be installed or used in the station.

- (3) In the case of any other licence, the limitations may, in particular, include limitations as to—

- (a) the apparatus that may be installed or used;
- (b) the places where, the purposes for which, the circumstances in which and the persons by whom the apparatus may be used.

- (4) The 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;
- (c) terms or provisions requiring the transmission or broadcasting of particular matters by that person.

[<sup>F9</sup>(ca) terms or provisions requiring the holder of the licence to enter into wholesale roaming access agreements in specified circumstances on terms specified or described in the licence;]

[<sup>F10</sup>(d) terms, provisions or limitations requiring a satellite uplinker to suspend or cease uplinking, by means of satellite uplink apparatus, a service named by OFCOM in a notice given to the satellite uplinker under section 9A;

(e) terms or provisions requiring a satellite uplinker to provide OFCOM with such information necessary for the purpose of determining whether section 9A applies in relation to a service uplinked by the satellite uplinker or for any purpose connected with the giving of a notice under section 9A as OFCOM may request by a notice in writing. ]

- (5) A wireless telegraphy licence may be granted—

- (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.

- (6) The terms, provisions and limitations of a wireless telegraphy licence granted to a person must not duplicate obligations already imposed on him by general conditions set under section 45 of the Communications Act 2003 (c. 21) (power of OFCOM to set conditions in relation to electronic communications networks and services).

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- (7) In imposing terms, provisions or limitations on a wireless telegraphy licence, OFCOM may impose only those that they are satisfied are—
- (a) objectively justifiable in relation to the networks and services 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.

[<sup>F11</sup>(7A) In this section “wholesale roaming access agreement”, in relation to the holder of a wireless telegraphy licence, means an agreement between the holder and the provider of a public electronic communications service that depends on the use of wireless telegraphy (“the roaming provider”) for the purpose of enabling public electronic communications services to be provided to the customers of the roaming provider in all or part of the area to which the licence relates.]

- (8) This section has effect subject to [<sup>F12</sup>section 9ZA and to] regulations under section 14.

#### Textual Amendments

- F8** S. 9(1A) omitted (31.12.2020) by virtue of [The Electronic Communications and Wireless Telegraphy \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/246), reg. 1(2), **Sch. 1 para. 45(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F9** S. 9(4)(ca) 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. 83(3)**
- F10** S. 9(4)(d)(e) inserted (19.12.2009) by [Audiovisual Media Services Regulations 2009](#) (S.I. 2009/2979), regs. 1(1), **13(2)**
- F11** S. 9(7A) 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. 83(4)**
- F12** Words in s. 9(8) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011](#) (S.I. 2011/1210), reg. 1(2), **Sch. 2 para. 6(b)** (with Sch. 3 para. 2)

#### [<sup>F13</sup>9ZA. Restrictions on imposition of limitations etc under section 9

- (1) OFCOM may grant a wireless telegraphy licence subject to a limitation on the nature of a station that may be established or used, or the apparatus that may be installed or used, only if the limitation is necessary for a purpose specified in subsection (2).
- (2) Those purposes are—
- (a) avoiding undue interference with wireless telegraphy;
  - (b) the protection of public health against electromagnetic fields;
  - (c) ensuring technical quality of service;
  - (d) ensuring maximisation of frequency sharing;
  - (e) safeguarding the efficient management and use of the part of the electromagnetic spectrum available for wireless telegraphy;
  - (f) ensuring the fulfilment of a general interest objective.

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- (3) OFCOM may grant a wireless telegraphy licence incorporating a provision requiring the use of a specified frequency for the activity authorised by the licence only if the requirement is imposed in order to ensure the fulfilment of a general interest objective.
- (4) In this section “general interest objective” has the meaning given by section 8B(3).
- (5) Subsection (6) applies where OFCOM think that the imposition of a limitation or provision within subsection (1) or (3) in relation to a wireless telegraphy licence would have a significant impact on a market for the use of the electromagnetic spectrum for wireless telegraphy in relation to which OFCOM have functions under the enactments relating to the management of the radio spectrum.
- (6) Before deciding whether to impose the limitation or provision, OFCOM must consult the applicant for the licence and must take any representations into account.
- (7) If OFCOM have imposed limitations or provisions under subsection (1) or (3) in relation to a wireless telegraphy licence, they must, at such intervals as they consider appropriate—
  - (a) review whether those limitations or provisions are necessary, and
  - (b) publish the outcome of the review in such manner as they think fit.
- (8) But subsection (7) does not apply to a provision requiring the use of a specified frequency for the activity authorised by the licence where the licence holder has an opportunity to ask for a different frequency to be specified.

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**Textual Amendments**

- F13** Ss. 9ZA, 9ZB inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), [Sch. 2 para. 7](#) (with [Sch. 3 para. 2](#))

**9ZB. Review of pre-26 May 2011 limitations etc.**

- (1) This section applies where OFCOM have imposed limitations or provisions of a kind falling within section 9ZA(1) or (3) in relation to a wireless telegraphy licence granted on or before 25 May 2011.
- (2) As soon as reasonably practicable after 26 May 2016, OFCOM must review such limitations or provisions with a view to determining whether, if the licence had been granted after 25 May 2011, section 9ZA would have prevented OFCOM from imposing the limitation or provision.
- (3) If OFCOM concludes that section 9ZA would have prevented the imposition of a limitation or provision, it must vary the licence in order to remove the limitation or provision.
- (4) This section does not apply in relation to a provision requiring the use of a specified frequency for the activity authorised by the licence where the licence holder has an opportunity to ask for a different frequency to be specified.]

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**Textual Amendments**

- F13** Ss. 9ZA, 9ZB inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), [Sch. 2 para. 7](#) (with [Sch. 3 para. 2](#))

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## [<sup>F14</sup>9A. Notice to satellite uplinkers

- <sup>F15</sup>(1) . . . . .
- (2) OFCOM may give a notice in writing under this section to a satellite uplinker in relation to a relevant regulated television service if OFCOM are satisfied that the service is provided—
- (a) in contravention of a licence under Part 1 of the Broadcasting Act 1990 or Part 1 of the Broadcasting Act 1996; or
  - (b) otherwise than pursuant to such a licence.
- (3) OFCOM may give a notice in writing under this section to a satellite uplinker in relation to an on-demand programme service if OFCOM are satisfied that the service is provided [<sup>F16</sup>—
- (a)] in contravention of a requirement of Part 4A of the Communications Act 2003 [<sup>F17</sup>; or
  - (b) otherwise than pursuant to a notification under section 368BA of the Communications Act 2003.]
- (4) Where a notice is given to a satellite uplinker under subsection (2)(a) or (3) [<sup>F18</sup>(a)] the notice must—
- (a) name the service;
  - (b) specify the reasons why OFCOM consider that subsection (2)(a) or (3) [<sup>F18</sup>(a)] is satisfied; and
  - (c) specify—
    - (i) the date by which the satellite uplinker must cease the uplinking of the service; or
    - (ii) a period during which the satellite uplinker must suspend the uplinking of the service.
- (5) Where a notice is given to a satellite uplinker under subsection (2)(b) [<sup>F19</sup> or (3)(b)] the notice must—
- (a) name the service; and
  - (b) specify—
    - (i) the date by which the satellite uplinker must cease the uplinking of the service; or
    - (ii) a period during which the satellite uplinker must suspend the uplinking of the service.
- (6) In this section—
- “relevant regulated television service” has the same meaning as in section 13 of the Broadcasting Act 1990;
- “on-demand programme service” has the same meaning as in the Communications Act 2003 (see section 368A of that Act).]

### Textual Amendments

- F14** S. 9A inserted (19.12.2009) by [Audiovisual Media Services Regulations 2009 \(S.I. 2009/2979\)](#), regs. 1(1), 13(3)
- F15** S. 9A(1) omitted (31.12.2020) by virtue of [The Broadcasting \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/224\)](#), reg. 1(2), [Sch. 1 para. 33](#) (with reg. 6) (as amended by S.I. 2020/1536, regs. 2, 5(3)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)



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- F16** Words in s. 9A(3) inserted (18.3.2010) by [The Audiovisual Media Services Regulations 2010 \(S.I. 2010/419\)](#), regs. 1(1), **15(2)(a)**
- F17** S. 9A(3)(b) and word inserted (18.3.2010) by [The Audiovisual Media Services Regulations 2010 \(S.I. 2010/419\)](#), regs. 1(1), **15(2)(b)**
- F18** Words in s. 9A(4) inserted (18.3.2010) by [The Audiovisual Media Services Regulations 2010 \(S.I. 2010/419\)](#), regs. 1(1), **15(3)**
- F19** Words in s. 9A(5) inserted (18.3.2010) by [The Audiovisual Media Services Regulations 2010 \(S.I. 2010/419\)](#), regs. 1(1), **15(4)**

## 10 Procedure

Schedule 1 (which makes provision about the grant, revocation and variation of wireless telegraphy licences) has effect.

## 11 Surrender of licence

- (1) Where a wireless telegraphy licence has expired or has been revoked, it is the duty of—
  - (a) the person to whom the licence was granted, and
  - (b) any other person in whose possession or under whose control the licence may be,to cause it to be surrendered to OFCOM if required by them to do so.
- (2) Subsection (1) does not apply to a licence that relates solely to receiving apparatus.
- (3) A person commits an offence if—
  - (a) he has a duty under subsection (1) to cause a wireless telegraphy licence to be surrendered to OFCOM; and
  - (b) without reasonable excuse he fails or refuses to do so.
- (4) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### *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

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- (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.
- (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<sup>[F20]</sup>, but this is subject to subsection (6).]
- [<sup>F21</sup>(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**

**F20** Words in s. 12(5) inserted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), ss. **38(2)**, 47(1)

**F21** 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.

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- (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.
- (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 [F22 (but this is subject to subsection (3A))];
  - (i) make any provision referred to in section 12(3).

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*Changes to legislation: There are currently no known outstanding effects for the Wireless Telegraphy Act 2006, Chapter 1. (See end of Document for details)*

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- [<sup>F23</sup>(3A) If a provision of section 8B <sup>F24</sup>... 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.
- (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.]
- [<sup>F25</sup>(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 [<sup>F26</sup>, 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.
- [<sup>F27</sup>(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.

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(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.

[<sup>F28</sup>(9) In subsection (5A) “surrendered-spectrum licence” and “predecessor licence” have the meaning given by section 12(8) and (9).]

#### Textual Amendments

- F22** 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)
- F23** 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)
- F24** 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**
- F25** 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**
- F26** Words in s. 14(5) inserted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), **ss. 38(5)**, 47(1)
- F27** S. 14(5A) inserted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), **ss. 38(6)**, 47(1)
- F28** 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

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*Changes to legislation:* There are currently no known outstanding effects for the Wireless Telegraphy Act 2006, Chapter 1. (See end of Document for details)

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- (b) 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.

**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, Chapter 1.