



# 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.

<sup>F1</sup>(1A) .....

- (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<sup>F2</sup>, or in any other way];
  - (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

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- (ii) in respect of an approval or consent given for those purposes;
  - (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;
  - [<sup>F3</sup>(i) impose requirements, of a kind specified in the regulations, as to the procedure to be followed for a transfer and, in particular, as to the notification about a transfer falling within subsection (2)(b) that must be given to OFCOM, 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.
- [<sup>F4</sup>(3A) Regulations must make provision as to the notification about a transfer falling within subsection (2)(a) which is to be given to OFCOM and published, both in advance of the transfer being made and afterwards. ]
- (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 <sup>F5</sup>...
    - (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.

#### Textual Amendments

- F1** S. 30(1A) omitted (21.12.2020) 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(2), [Sch. 1 para. 85](#)
- F2** Words in s. 30(3)(d) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), [Sch. 2 para. 9\(b\)](#) (with Sch. 3 para. 2)
- F3** S. 30(3)(i) substituted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), [Sch. 2 para. 9\(c\)](#) (with Sch. 3 para. 2)
- F4** S. 30(3A) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), [Sch. 2 para. 9\(d\)](#) (with Sch. 3 para. 2)
- F5** Words in s. 30(5)(a) omitted (26.5.2011) by virtue of [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), [Sch. 2 para. 9\(e\)](#) (with Sch. 3 para. 2)

#### [<sup>F6</sup>30A **General duty of OFCOM to allow leasing or transfer**

- (1) OFCOM must exercise the powers mentioned in subsection (2) in such a way as to ensure that, except in the cases excluded by subsection (4), the holder of a wireless telegraphy licence can do at least one of the following—

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- (a) confer the benefit of the licence on another person in respect of any station or apparatus to which the licence relates; or
  - (b) transfer to another person rights and obligations arising as a result of the licence.
- (2) The powers are—
- (a) their power under section 9 to impose terms, provisions and limitations on a wireless telegraphy licence; and
  - (b) their power to make regulations under section 30.
- (3) OFCOM must exercise their powers to make regulations under section 30 so as to authorise the transfer to another person by the holder of a grant of recognised spectrum access of rights and obligations arising as a result of such a grant, except in the cases excluded by subsection (5).
- (4) The duty in subsection (1) does not apply where—
- (a) no charge was payable to OFCOM on the grant of the licence;
  - (b) the licence contains terms, provisions or limitations as a result of which the services for which the use of the station or apparatus is authorised consist of or include the transmission or provision of relevant television or radio services;
  - (c) the duration of the licence does not exceed 12 months;
  - (d) the licence contains terms, provisions or limitations as a result of which the purposes for which the use of the station or apparatus is authorised consist of or include experimental, innovation, research, demonstration or trial purposes;
  - (e) the licence contains terms, provisions or limitations as a result of which the purposes for which the use of the station or apparatus is authorised consist of or include safety of life services; or
  - (f) the licence relates to frequencies that are not subject to individual frequency planning or co-ordination.
- (5) The duty in subsection (3) does not apply where—
- (a) no charge was payable to OFCOM on the making of the grant of recognised spectrum access;
  - (b) the grant contains restrictions or conditions as a result of which the services for which the use of the station or apparatus is authorised consist of or include the transmission or provision of relevant television or radio services;
  - (c) the duration of the grant does not exceed 12 months;
  - (d) the grant contains restrictions or conditions as a result of which the purposes for which the use of the station or apparatus is authorised consist of or include experimental, innovation, research, demonstration or trial purposes;
  - (e) the grant contains restrictions or conditions as a result of which the purposes for which the use of the station or apparatus is authorised consist of or include safety of life services; or
  - (f) the grant relates to frequencies that are not subject to individual frequency planning or co-ordination.
- (6) In subsections (4)(b) and (5)(b) “relevant television or radio services” means—
- (a) services provided under the authority of a licence under the Broadcasting Act 1990 or the Broadcasting Act 1996;
  - (b) sound broadcasting services (as defined by section 126(1) of the Broadcasting Act 1990) provided by the British Broadcasting Corporation;

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- (c) television multiplex services (as defined by section 241 of the Communications Act 2003) for which a licence under Part 1 of the Broadcasting Act 1996 is not required;
- (d) radio multiplex services (as defined by section 258 of the Communications Act 2003) for which a licence under Part 2 of the Broadcasting Act 1996 is not required;
- (e) general multiplex services (as defined by section 362(1) of the Communications Act 2003).]

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#### **Textual Amendments**

- F6** S. 30A 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. 86**

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