

OfW 357

Non Operational Licensing Guidance Notes

Introduction

The purpose of these guidance notes is to inform those wishing to test, develop, research or demonstrate radio equipment of the requirements and regulations that have to be complied with in the United Kingdom under the Wireless Telegraphy Act 2006.

Under the terms of the Wireless Telegraphy Act 2006, it is an offence to install or use radio apparatus, except under and in accordance with a licence issued by Ofcom. (The exception to this is only where the apparatus has specifically been made exempt from the licensing requirement by Regulation.)

What is Non Operational Licensing?

The Communications Act 2003 *inter alia* requires us to have regard to the desirability of encouraging investment and innovation in relevant markets when carrying out its duties.

Non Operational licensing enables the use of radio spectrum for such innovative purposes. It aims to promote the development and trialling of innovative uses of the radio spectrum in the UK.

Non Operational Licensing covers:

- the testing and development of wireless telegraphy (radio) equipment;
- scientific research and experimentation; and
- trials and demonstrations of radio apparatus.

It does not allow any sort of commercial or operational usage.

Due to the differing activities covered there are two classes of licence. These are the Non Operational Development licence (i.e. those largely used for research purposes) and the Non Operational Temporary Use licence (i.e. those largely used for trials).

What is a Non Operational Development Licence (NODL)?

A Non Operational Development Licence allows an applicant to use spectrum on a non-commercial, non-permanent basis to build innovative spectrum apparatus or equipment or undertake academic or scientific research.

What is a Non Operational Temporary Use Licence (NOTL)?

A Non Operational Temporary Use Licence allows an applicant to use spectrum on a non-commercial, non permanent basis to trial a new system or radio concept or demonstrate a new system or radio concept.

How do I apply for a non-operational licence?

You can make an application by completing the form on our website (available here:

https://www.ofcom.org.uk/_data/assets/file/0023/74426/nolapp225.rtf)

and attaching your completed form to an email and sending to:

stulicences@ofcom.org.uk or posting it to:

Non-operational Licences
Ofcom
Riverside House
2a Southwark Bridge Road
LONDON
SE1 9HA

How long will a licence last?

Under the Non Operational Development Licence, use of radio equipment will be authorised for periods of up to twelve months.

Under the Non Operational Temporary Use Licence, use of radio equipment will be authorised for periods of up to six months.

What will a licence cost?

For a Non Operational Development Licence a fee of £50.00 per year for each station or apparatus per location is payable when the licence is issued.

For a Non Operational Temporary Use Licence a fee of £50.00 per location each month is payable when the licence is issued.

Can a licence be renewed?

Licences cannot be renewed. Holders of non-operational licences can apply for a new non-operational licence. However there is no guarantee that the new licence will be granted.

What if the radio equipment being used is not fully compliant with the R&TTE Directive?

As licensing covers the development and trialling of innovative equipment it is

feasible that this equipment would not yet be CE compliant.

Radio equipment must, however, be compliant with the R&TTE Directive if it is to be placed on the UK market. Please see below for further information

<http://stakeholders.ofcom.org.uk/spectrum/technical/rtte/>

Is a licence required for all testing and development work?

Testing and development work is exempt from licensing for certain frequencies under 960 MHz if transmissions can be carried out under suppressed radiation conditions. The definition of suppressed radiation conditions is that the radiated field strength, measured at a specified distance from the boundary of the premises, must not exceed the limits shown within certain frequency bands. Further information is set out in Statutory Instrument 1989 No. 1842 which can be found below

<http://www.legislation.gov.uk/ukxi/1989/1842/contents/made>

In addition the apparatus must meet the spurious emission limits also set out in this document. Equipment must be designed, constructed, maintained and used so that harmful interference to other users of wireless telegraphy is unlikely.

If you wish to carry out testing and development work on equipment that will comply with the conditions of our licence exemption regulations then you can do so without applying for a non-operational licence. Further details on licence exempt use of spectrum can be found on our website here:

<http://stakeholders.ofcom.org.uk/spectrum/information/licence-exempt-radio-use/>

If you are an existing licensee and you wish to carry out testing and development that does not breach any of the conditions in your existing licence you may do so without applying for a non-operational licence.

If these conditions cannot be met a new licence must be obtained.

Are there specific frequencies allocated for non operational licensing?

There is no specific spectrum set aside for this purpose. We have a duty to secure the optimal use of spectrum - for this reason coordination with existing users must be carried out before we are able to issue a licence.

When your application is received the technical details will be co-ordinated both internally at Ofcom and with other UK spectrum managers (for example, the Ministry of Defence and Civil Aviation Authority) who will conduct assessments on the risk of harmful interference to existing services. In addition we may need to contact existing licensees or other authorised users of the spectrum in order to carry out our assessment. Only if the necessary assurances are received would a licence be issued.

For guidance, and as an oversight of how radio spectrum is managed in the UK, you may wish to refer to the UK Frequency Allocation Table 2008. For existing licence

classes and the spectrum that they occupy you may wish to refer to the UK Plan for Frequency Authorisation. Links to both of these can be found on our website at <http://spectruminfo.ofcom.org.uk/spectrumInfo/>

What are the conditions of the licence?

A licence does not allow any sort of commercial or operational usage. It does not enable the use of an electronic communications network for the provision of a service.

The equipment must be used at all times in accordance with the terms of the licence and the terms of the General Licence Conditions booklet. A copy of this can be accessed on our website at:

<http://www.ofcom.org.uk/radiocomms/ifi/licensing/booklet.pdf>.

Failure to comply with the terms may result in revocation of the licence and may lead to prosecution of the offender.

Any proposed change in the details of the system (equipment details, location, usage etc) must be notified in advance for approval. A change from the details shown in the licence made without prior approval from Ofcom may mean that operation of the equipment would be illegal.

Non Operational Licences are issued on a non-interference and non-protected basis.

What does non-interference, non-protected mean?

Non-interference, non-protected means that the equipment must not cause harmful interference to any other authorised services and that no protection will be given from harmful interference received from other authorised services.

What is “harmful Interference”

In s.115(5) The Wireless Telegraphy Act 2006 states:

“For the purposes of this Act interference is harmful if –

- (a) it creates dangers, or risks off danger, in relation to the functioning of any service provided by means of wireless telegraphy for the purposes of navigation or otherwise for safety purposes; or
- (b) it degrades, obstructs or repeatedly interrupts anything which is being broadcast or otherwise transmitted –
 - i. by means of wireless telegraphy; and
 - ii. in accordance with a wireless telegraphy licence, regulations under section 8(3) or a grant of recognised spectrum access or otherwise lawfully”

Will you ask for access to information arising from tests or trials?

We reserve the right to request access to any test results, data or information arising from the use of spectrum under a non operational licence if considered necessary.

This might be in instances where it is considered that they might have a bearing on interference or other spectrum management considerations. Such information will be treated as commercially confidential and would not ordinarily be disclosed to any other party without the prior agreement of the licensee except where this is necessary or desirable to meet legal obligations. We have obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 that may apply here.

How long does it take to issue a licence?

The length of time from the date of application to the issue of a licence is closely linked to the nature and complexity of the proposals and the frequencies the applicant wishes to use. The co-ordination of applications can usually be processed within six weeks from date of receipt but can, however, take longer in more involved cases.

Will my application be kept confidential?

In some cases we may have to provide technical details to spectrum managers or licensees to aid us in assessing any risks of harmful interference. These may, at times, include non-governmental organisations who own spectrum rights. We will provide them with the technical details where necessary but will keep your company and/or individual details confidential. Specifically we may make available information in sections 4 to 17 of this application form in part or in full to parties outside Ofcom. If required we can treat the overview of your project (i.e. section 4 of the application form) as confidential to the extent permitted by our legal obligations. However we would discuss this with you on a case by case basis.

Under what circumstances may a licence be refused?

Where we judge that harmful interference is likely, we may not be able to issue a licence, in which case we would contact you explaining the reasons. We will, however, endeavour to obtain mutually agreeable alternatives to the original application when possible.

If I hold an existing operational licence do I have a right to refuse access by a non-operational licensee to the spectrum my licence refers to?

We will always listen to, and work with, existing licensees regarding concerns about any possible harmful interference to existing services.

Ultimately, however, we have to make the decision as to whether to issue a licence after due consideration of the relevant factors.

What happens if I cause harmful interference?

If you cause harmful interference you will be in breach of your licence and will be required to cease causing that interference. If the harmful interference persists your licence may be immediately revoked and you may be prosecuted.

I am making efforts to mitigate the effects of my transmissions on existing spectrum users. Will this be taken into account when my application is assessed?

It is important that anything that may reduce the potential for harmful interference is stated in the application form, as this could have a substantial bearing when the application is assessed.

Mitigation could be provided by a number of factors; these include making transmissions inside a screened room or Faraday cage, or by transmitting into a dummy load. Some may not appear so obvious; transmitting indoors, antenna direction and even the choice of location may reduce the potential for causing harmful interference to existing licensed users

Can I use a non-operational licence to launch a commercial service?

No. Non-operational licences may not be used for commercial services.

Can I use a non-operational licence to run a limited commercial trial where the participants pay to use the service?

No. If you are charging for the service then a non-operational licence is not suitable.

I will not be making any profit from this trial but I want to charge the participants to cover my costs, can I use a non-operational licence?

No. If you are charging for the service then a non-operational licence is not suitable.

If I hold an existing operational licence do I get a reduction in my licence fee if a non-operational licence is issued in the bands that I use?

A licence gives a licensee the right to operate equipment in a particular band. Issuing a non-operational licence on a non-interference, non-protected basis does not change that, therefore there is no basis for considering a reduction in a licence fee.

Can a non-operational licence be issued in liberalised and/or tradable spectrum?

Yes it can.

Licences do not guarantee exclusive use of the spectrum. We may grant additional authorisations to allow the use of all, or part, of a spectrum band. However we would develop the conditions of use under any such additional authorisations in order to manage the risk of harmful interference.

We have to have regard to innovation when carrying out our duties and where we judge that harmful interference is unlikely we consider that having a centralised process for issuing non-commercial licences to aid trials and development on a non-interference, non-protected basis is an effective way of doing this even when spectrum is liberalised and tradable.

We will listen to, and work with, existing licensees when assessing the risk of harmful interference to existing services.

I have just acquired a licence to use some spectrum; will there be non-operational licences in that band now or in the future?

At the time of an award, there may be a number of non-operational licences in force in the spectrum bands being awarded.

We may issue further non-operational licences in any spectrum bands being awarded following the completion of the award process, however we will only issue such licences where we judge that harmful interference is unlikely

What if I wish to discuss the details or progress of my application?

Please contact 020 7981 3157 or stulicences@ofcom.org.uk in the first instance with enquiries. Specific engineering advice can also be obtained via this contact