



Decision to make the Wireless
Telegraphy (Licensing
Procedures)(Amendment)
Regulations 2016

Statement

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About this document

This statement confirms Ofcom's decision to amend the Wireless Telegraphy (Licensing Procedures) Regulations 2010 (S.I. 2010/1823), which set out the procedures under which Ofcom determines applications for wireless telegraphy licences.

The amendments explained in this document also relate to Ofcom's publication entitled the "Wireless Telegraphy Act Licensing (Terms, Provisions and Limitations)", which includes a sample licence for each class of licences to which it applies, showing the terms, provisions and limitations that apply.

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Section 1

Executive summary

- 1.1 This document confirms, following consultation¹, Ofcom's decision to make the Wireless Telegraphy (Licensing Procedures) (Amendment) Regulations 2016 (the 'Amendment Regulations'), which amend the Wireless Telegraphy (Licensing Procedures) Regulations 2010² (the 'Principal Regulations').
- 1.2 Under paragraph 1(1) of Schedule 1 of the Wireless Telegraphy Act 2006 (the "WT Act"), which is given effect by section 10 of the WT Act, an application for a grant of a WT Act licence is to be determined in accordance with procedures prescribed in regulations made by Ofcom. These must include information that we require for a licence application, the time taken for Ofcom to process an application and the terms, provisions and limitations to which a licence may be subject. The current licensing procedures are set out in the Principal Regulations, which we made in 2010.
- 1.3 The Principal Regulations reference Ofcom's document entitled "The Wireless Telegraphy Act Licensing (Terms, Provisions and Limitations)" (the 'Terms and Provisions Booklet')³ published in 2010. The Terms and Provisions Booklet includes a sample licence for each class of licences to which the booklet applies, and includes the terms, provisions and limitations that licensees must abide by. We have updated the Terms and Conditions Booklet to reflect the most up to date licence terms and conditions.
- 1.4 In summary, the Amendment Regulations make the following changes:
 - i) inserts a reference to the new licence classes introduced for the Aeronautical sector and the Programme Making and Special Events sector (to assist with stakeholder understanding of the Principal Regulations and to maintain consistency with other related regulations);
 - ii) removes the following information requirements on prospective licensees applying for the grant of a WT Act licence:
 - o to provide the information required for station site clearance under reg. 5(3)(j) of the Principal Regulations;
 - o for a mobile station to specify 'whether or not the station is to be established on board of a train' under reg. 5(3)(k)(iii) of the Principal Regulations;
 - o for an aeronautical licence to provide information on whether the application is for a temporary station and 'the expected intensity of aviation activity, including number of aircraft and aircraft movements' under paragraph 1(b) of the Schedule to Principal Regulations;

¹ On 5 November 2015, we published the "Notice of Ofcom's proposals to make the Wireless Telegraphy (Licensing Procedures) (Amendment) Regulations 2015":

<http://stakeholders.ofcom.org.uk/consultations/amendment-regulations-2015/>

² S.I. 2010/1823: <http://www.legislation.gov.uk/ukSI/2010/1823/made/data.pdf>

³ <http://licensing.ofcom.org.uk/binaries/spectrum/regulations-technical-reference/rules/licensing-procedures2010.pdf>

- for a Ground Probing Radar licence to provide the additional information required under paragraph (8) of Part 8 of the Schedule to the Principal Regulations;
 - iii) requires applicants for a Ship Portable Radio licence to specify whether ‘digital selective calling’ is to be used by the station (in addition to specifying the information on ‘beacon equipment’⁴ which is currently required under paragraph (4) of the Principal Regulations); and
 - iv) updates the reference to the 2010 Booklet with the new Booklet, which is available on our website⁵.
- 1.5 Before making regulations under section 12 of the WT Act, we are required by section 122(4) of the WT Act to give notice of our proposal to do so. Under section 122(5), the notice must: a) state that Ofcom proposes to make the regulations in question; b) set out the general effect of those regulations; c) specify an address from which a copy of the proposed regulations may be obtained; and d) specify a time before which any representations with respect to the proposal must be made to Ofcom. That time must be at least one month beginning with the day after that on which the notice is given or published.
- 1.6 We published our “Notice of Ofcom’s proposals to make the Wireless Telegraphy (Licensing Procedures) (Amendment) Regulations 2015” (the “Notice”) on 5 November 2015 and we received one non-confidential response to the Notice, which we have considered in accordance with section 122(4)(c) of the WT Act. After doing so, and for the reasons set out in this document, we have decided to make the Amendment Regulations as proposed, subject to some minor changes.
- 1.7 The statutory instrument, entitled ‘The Wireless Telegraphy (Licensing Procedures) (Amendment) Regulations 2016”, will be available on the government’s legislation.gov.uk website⁶. A copy in draft form is annexed to this statement for indicative purposes. The government’s legislation.gov.uk website is the only authorised source for published statutory instruments.

⁴ This information includes its code which identifies its country of authorisation, its manufacturer, its serial number, and whether or not it operates using a global positioning system.

⁵ <http://licensing.ofcom.org.uk/binaries/spectrum/regulations-technical-reference/rules/licensing-procedures2010.pdf>

⁶ <http://www.legislation.gov.uk/>

Section 2

The Amendment Regulations and their general effect

Legal framework

- 2.1 We are responsible for authorising civil use of the radio spectrum. We achieve this by granting wireless telegraphy licences under the WT Act and by making regulations exempting users of particular equipment from the requirement to hold such a licence. Under section 8(1) of the WT Act, it is an offence to establish, install or use a wireless telegraphy station or wireless telegraphy apparatus without holding a WT Act licence granted by us unless the establishment, installation or use of such equipment is exempt.
- 2.2 Under paragraph 1(1) of Schedule 1 to the WT Act (which is given effect by section 10 of the WT Act), an application for the grant of a WT Act licence is determined in accordance with procedures prescribed in regulations made by Ofcom. The regulations must specify the time limits for us to deal with the grant of a licence, the requirements that must be met by the applicant for the grant of a licence and particulars of the terms, provisions and limitations to which a licence may be made subject.
- 2.3 Under paragraph 1(3) of Schedule 1 to the WT Act, the procedures must be open, objective, transparent, not such as to discriminate unduly against particular persons or against a particular description of persons, and proportionate to what they are intended to achieve.

Responses to the Notice

- 2.4 We received one non-confidential response to the “Notice of Ofcom’s proposals to make the Wireless Telegraphy (Licensing Procedures) (Amendment) Regulations 2015” which we published on 5 November 2015. The respondent, Mr Gilliver, made a number of comments regarding the Proposed Terms and Provisions Booklet. He suggested using revision marks in future in order to make it easier to see the changes that have been made. On the Proposed Regulations, he commented that the regulations should not include the term ‘Proposed’ for the Terms and Provisions Booklet but instead reference the ‘2016 Terms and Provisions Booklet’. Finally, he suggested a number of editorial and formatting changes to Section 3 of the Booklet that related to the Amateur Radio licence terms and conditions.
- 2.5 We thank Mr Gilliver for responding to our consultation. We note the comment regarding showing the changes in the Proposed Terms and Provisions Booklet using tracked changes revisions marks and will look to do this in the future. Regulation 6 (2) of the Principal Regulations, as amended by regulation 4(2) of the Amendment Regulations, references the “publication Wireless Telegraphy Act licensing (Terms, Provisions and Limitations) 2016 published by OFCOM”. We have also made a number of minor formatting changes as highlighted by Mr Gilliver.
- 2.6 The terms and conditions set out in the Proposed Terms and Provisions Booklet reflect the terms and conditions set out in the licences that Ofcom currently issues. Therefore, we have not adopted the changes proposed by Mr Gilliver regarding

merging specific conditions in the Amateur Radio licence but will consider these the next time these licences are updated.

Changes to the Amendment Regulations

- 2.7 Paragraph 6(d) of Part 4 of the Schedule to the principal Regulation requires the applicants for the grant of a Satellite (Earth Station Network) licence to provide information on the satellite beam service area. Paragraph 7(d) of Part 4 of the Schedule to the principal Regulation requires the applicants for the grant of a licence belonging to the Satellite (Permanent Earth Station), Satellite (Earth Station – Non Fixed Satellite Service) and Satellite (Earth Station – Non-Geostationary) licence classes to provide information on the name and location of any associated satellite transponders together with their operating angles or their range of operating angles.
- 2.8 We proposed to remove both these requirements since we do not currently require this information. However, we have reconsidered our proposal because we believe that this information will be of value in determining any future application for these classes of licence in order to ensure the efficient use of spectrum. We have therefore decided to retain these requirements. This is the only substantive change that we have made to the proposed Regulations.
- 2.9 Before making the final regulations, we have also made a number of minor editorial changes to the proposed Regulations, which are listed below:
- a) we removed Regulation 1(2) and moved the definition of the Wireless Telegraphy (Licensing Procedures) Regulations 2010 as the “principal Regulations” to Regulation 2;
 - b) in Regulation 2, we replaced the expression ‘the following Regulations’ with the expression ‘the following provisions of these Regulations’; and
 - c) we removed Regulation 4(1) and inserted reference to the principal Regulations in the following paragraphs of Regulation 4 (now renumbered as regulations 4(1) and 4(2)).

Amendment Regulations and their general effect

- 2.10 The Principal Regulations have been amended in order to take into account a number of changes that have been implemented since they came into force in 2010. We explain below the regulations that we have made, setting out their general effect.

Extent of application

- 2.11 The Principal Regulations apply in the United Kingdom, the Channel Islands and Isle of Man. The Amendment Regulations have the same territorial extent.

Regulation 1 – Citation and commencement

- 2.12 Regulation 1 of the Amendment Regulations sets out the full citation of the Regulations (‘The Wireless Telegraphy (Licensing Procedures) (Amendment) Regulations 2016’) and the date they will come into force.

Regulation 2 - Amendments to the Principal Regulations

- 2.13 Regulation 2 of the Amendment Regulations provides that the Principal Regulations shall be amended in accordance with the Amendment Regulations.

Regulation 3 - Amendments to Regulation 5 of the Principal Regulations

- 2.14 Regulation 3 of the Amendment Regulations amends regulation 5(3) of the Principal Regulations, which sets out the specific requirements that must be met for the grant of a licence in respect of a station, in addition to the requirements set out in regulation 5(2) (which must be met for the grant of every licence, whether in respect of a station or apparatus).
- 2.15 Specifically, we amended regulations 5(3) of the Principal Regulations by removing the following requirements on prospective licensees:
- a) the requirement on the applicant for the grant of a licence in respect of a station to provide the information required for 'station site clearance' as described in regulation 5(3)(j) of the Principal Regulations; and
 - b) the requirement on the applicant for the grant of a licence in respect of a mobile station to specify whether or not the station is to be established on board of a train, as currently required under regulation 5(3)(k)(iii) of the Principal Regulations.
- 2.16 This is because this information is no longer required as part of the application process. The removal of Site Clearance requirement follows the decision to close the National Frequency Assignment Panel (NFAP) and the Working Group on Radio Site Clearance (WGRSC). The information required for whether a mobile device was to be installed on a train was needed for a specific satellite licence product that is no longer offered by Ofcom.
- 2.17 Regulation 3 of the Amendment Regulations makes a few minor editorial changes which are consequential to the changes set out in paragraph 2.15 above.

Regulation 4 - Amendments to Regulations 6 of the Principal Regulations

- 2.18 Regulation 4 of the Amendment Regulations amends regulation 6 of the Principal Regulations. Specifically, we replaced the expression "licences *are* granted" with the expression "licences *may be* granted" in regulations 6(1) and 6(2) of the Principal Regulations to clarify our legal power.
- 2.19 In addition, we also updated the reference to the 2010 Terms and Provisions Booklet by replacing it with reference to the 2016 Terms and Provisions Booklet (i.e. "the publication Wireless Telegraphy Act Licensing (Terms, Provisions and Limitations) 2016 published by OFCOM"). In paragraphs 2.27-2.28 below, we set out the changes in the 2016 Terms and Provisions Booklet.

Regulation 5 - Amendments to Part 1 of the Schedule to the Principal Regulations (Aeronautical sector)

- 2.20 Regulation 5 of the Amendment Regulations amends paragraph (1) of Part 1 of the Schedule to the Principal Regulations, which sets out the additional information required for the grant of an Aeronautical licence.

2.21 Specifically, we made the following changes:

- a) adding reference to the new 'Aeronautical Station' licence classes introduced in 2012 in relation to the Aeronautical sector⁷ whilst retaining reference to the existing 'Aeronautical Ground Station' licence classes (which remain available for the licensees in the Channel Islands and the Isle of Man)⁸. This change extends the requirement to provide the additional information set out in paragraphs 1 of the Schedule to the Principal Regulations also to the prospective licensees for the new licence classes;
- b) removing the requirement to provide information on 'the expected intensity of aviation activity, including number of aircraft and aircraft movements', as currently set out in paragraph 1(b) of the Schedule to the Principal Regulations.

2.22 Regulation 5 of the Amendment Regulations makes minor editorial changes which are consequential to the changes set out in the paragraph above.

Regulation 6 - Amendment to Part 2 of the Schedule to the Principal Regulations (Ship Portable Radio licence class)

2.23 Regulation 6 of the Amendment Regulations amends paragraph 4 of Part 2 of the Schedule to the Principal Regulations, which sets out the additional information required for the grant of a Ship Portable Radio licence, by requiring applicants for that licence class to specify whether 'digital selective calling'⁹ is to be used by the station. This is in line with the requirement set out in paragraph 3(e) of Part 2, in relation to the Ship Radio licence class.

2.24 For the avoidance of doubt, Regulation 6 of the Amendment Regulations retains the requirement on the applicant for a Ship Portable Radio licence to specify the information on 'beacon equipment' set out in paragraph (4) of the Principal Regulations.

Regulation 7 - Amendments to Part 3 of the Schedule to the Principal Regulations (Programme Making and Special Events sector)

2.25 Regulation 7 of the Amendment Regulations amends paragraph (5) of Part 3 of the Schedule to the Principal Regulations, which sets out the additional information required for the grant of a Programme Making and Special Events ('PMSE') licence, in order to insert reference to three additional licence classes belonging to the PMSE sector: the UK Wireless Microphone (Biennial), UK Wireless Microphone (Annual) and Audio Distribution System licence classes. Therefore, the applicants for these licence classes are required to provide the same additional information which is currently required under the Principal Regulations from the applicants for a PMSE

⁷ These new licence classes are: Aeronautical Station (Aerodrome Surface and Operational Control), Aeronautical Station (Aeronautical Broadcast), Aeronautical Station (Aircraft Communications Addressing and Reporting System), Aeronautical Station (Air/Ground, Aerodrome Flight Information Service and Tower), Aeronautical Station (Approach), Aeronautical Station (Area Control), Aeronautical Station (High Frequency), Aeronautical Station (Fire and Emergency), Aeronautical Station (Offshore), Aeronautical Station (Recreational Aviation) and Aeronautical Station (Very High Frequency Data Link).

⁸ *Fees for aeronautical radio licences*, published by Ofcom on 14 December 2010 at

http://stakeholders.ofcom.org.uk/binaries/consultations/spectrum_pricing/statement/statement.pdf

⁹ Digital Select Calling DSC is a standard for sending pre-defined digital messages via the medium frequency (MF), high frequency (HF) and very high frequency (VHF) maritime radio systems. It is a core part of the Global Maritime Distress Safety System (GMDSS).

(Fixed Site), PMSE (Link) or PMSE (Lower Power) licence (i.e. the location or proposed area of apparatus use and the proposed dates and times of apparatus use).

Regulation 8 - Amendment to Part 5 of the Schedule to the Principal Regulations (Science and Technology sector)

2.26 Regulation 8 of the Amendment Regulations amends paragraph (8) of Part 5 of the Schedule to the Principal Regulations, which sets out the additional information required for the grant of a Science and Technology licence, in order to remove reference to the Ground Probing Radar licence class. We no longer require the additional information set out in that paragraph¹⁰ from applicants for a Ground Probing Radar licence.

2016 Terms and Provisions Booklet

2.27 The Principal Regulations referred to the Terms and Provisions Booklet published in 2010, which specifies the conditions under which each class of licence is granted and included a sample licence for each class to which the Booklet applies. We have replaced the 2010 Terms and Provisions Booklet with the 2016 Terms and Provisions Booklet to reflect a number of changes that we have introduced since 2010. The changes in the Booklet reflect current policies that were introduced through consultation, and included:

- replacing the previous Amateur Radio licence terms and conditions with the current version of these terms and conditions; and
- adding new licence classes, namely:
 - ten Aeronautical Station licence classes¹¹;
 - the 'Maritime International' and 'UK Area Defined' licence classes;
 - the 'Satellite Global Navigation Satellite System (GNSS) Repeaters' licence class; and
 - the 'High Duty Cycle Network Relay Points' licence class.

¹⁰ The additional information set out in paragraph (8) of Part 5 of the Schedule to the Principal Regulations is: a description of the configuration of any apparatus for which authorisation is sought, the purpose for which it will transmit and the intended geographical range of operation.

¹¹ New classes are Aeronautical Ground Station (Air Traffic/Ground Movement Control), Aeronautical Ground Station (Air /Ground Communications Services), Aeronautical Ground Station (Airfield Flight Information Service), Aeronautical Ground Station (General Aviation), Aeronautical Ground Station (Fire), Aeronautical Ground Station (High Frequency), Aeronautical Ground Station (Offshore Platform), Aeronautical Navigation Aid Stations, Aeronautical Radar, Aeronautical Ground Station (Operations Control), Aeronautical Station (Aeronautical Broadcast), Aeronautical Station (Aircraft Communications Addressing and Reporting System), Aeronautical Station (Air/Ground, Aerodrome Flight Information Service and Tower), Aeronautical Station (Approach), Aeronautical Station (Area Control), Aeronautical Station (High Frequency), Aeronautical Station (Fire and Emergency), Aeronautical Station (Offshore), Aeronautical Station (Recreational Aviation) and Aeronautical Station (Very High Frequency Data Link)

- 2.28 A copy of the 2016 Terms and Provisions Booklet can be found on our website.¹² Further copies may be obtained from Ofcom at Riverside House, 2a Southwark Bridge Road, London SE1 9HA.

¹² <http://licensing.ofcom.org.uk/binaries/spectrum/regulations-technical-reference/rules/licensing-procedures2010.pdf>

Annex 1

Respondents

Mr J.P. Gilliver