



Wireless Telegraphy Act Licensing Policy Manual

A practical user guide to licensing policy

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Section 1

Introduction

Section 8 of the Wireless Telegraphy Act 2006 (the ‘WT Act’), makes it unlawful to establish, install or use equipment for wireless telegraphy without holding a licence granted by Ofcom, unless the use of such equipment is exempted. This manual aims to provide an overview of the licensing policy procedures that Ofcom follows when issuing a WT Act licence. In addition, this document also provides some background on the provisions of the WT Act and Ofcom’s role in managing the radio spectrum and granting licences under it.

Due to the diverse range of licences Ofcom issues it is not possible to encompass the policy and procedures for every licence class within one policy manual. As such, this document should be used for guidance only and not be taken as giving exact policy for all areas of licensing undertaken.

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This manual will be periodically updated when policy and procedures change.

Section 2

Managing the radio spectrum: The role of Ofcom

Primary legislation

In the UK, radio use is governed by both primary legislation (Acts of Parliament) and secondary legislation (Statutory Instruments made under the Acts). Ofcom manages the radio spectrum within a statutory framework created by the Communications Act 2003 (the 'Communications Act')¹ and the WT Act². These Acts set out our duties, functions and powers while allowing for Government to direct us on how to carry out our spectrum functions. In particular, with regards to spectrum we are required to secure amongst other things:

- The optimal use for wireless telegraphy of the electro-magnetic spectrum; and
- The availability throughout the UK of a wide range of electronic communications services.

Most spectrum provisions are now included in the WT Act which (has been amended in 2011 via the Electronic Communications and Wireless Telegraphy Regulations 2011³). In particular, the WT Act requires that radio equipment may only be used under the grant of a licence except where regulations have been made to exempt specific types of apparatus from needing a licence to use it. The Communications Act deals with Ofcom's wider duties, but spectrum provisions are largely contained in the WT Act.

The Wireless Telegraphy Act 2006

The WT Act provides a number of separate functions. These include:

- Ofcom's general spectrum functions and duties;
- Directions on Ofcom by the Secretary of State;
- Requirements for the publication of spectrum plans;
- Licensing and exemptions from licensing and the terms and procedures for licensing;
- Charging for licences;
- Grants of Recognised Spectrum Access;

¹ <http://www.legislation.gov.uk/ukpga/2003/21/contents>

² <http://www.legislation.gov.uk/ukpga/2006/36/contents>

³ <http://www.legislation.gov.uk/uksi/2011/1210/made/data.pdf>

- Bidding for licences;
- Trading and registers;
- Statistical information;
- Enforcement and penalties;
- Restrictions on apparatus; and
- Many other supplemental provisions in relation to Ofcom's spectrum management role.

The provisions relating to licensing are explained in more detail in this document. The WT Act also outlines the provisions for licence fees to be set by regulation or by auction to reflect the requirement on Ofcom to have particular regard to promoting spectrum functions. This refers *inter alia* to:

- Efficient use and management of the radio spectrum;
- Economic benefit from the use of radio, including consumers;
- Innovation; and
- Competition in electronic communication services

We consider that, in general, the optimal use of spectrum is most likely to be secured for society if spectrum is used efficiently, that is it is used to produce the maximum benefits (or value) for society. We intend the benefits from efficient use to include those enjoyed by providers and consumers of services as well as the wider social benefits, or the indirect benefits, of services provided using spectrum.

For television and radio stations (including temporary restrictive services) in addition to holding a WT Act licence, licensees are also required to hold a separate Broadcasting Act licence which is issued by Ofcom.

In the UK, the WT Act no longer requires that a Telecommunications Act licence is needed to run a telecommunications service⁴, but the Communications Act sets out a framework for providing such services under the General Conditions of Entitlement⁵.

Secondary legislation

Within the WT Act, there are powers that enable Ofcom to make secondary legislation typically in the form of regulations or orders. Regulations made by Ofcom under the WT Act include:

⁴ Use in the Isle of Man, Jersey and Guernsey may still require a Telecoms Act licence. Further information can be obtained from the regulatory authority on the islands.

⁵ https://www.ofcom.org.uk/_data/assets/pdf_file/0021/36192/general_conditions_22sept2014.pdf

- Licence exemption regulations that outline the technical requirements for equipment exempt from the need to hold a WT Act licence;
- Licence charges regulations that sets out the fees for WT Act licences;
- Limitation of number of licences regulations which detail the restrictions placed on the granting of a wireless telegraphy licence;
- Trading regulations that enable a licence to be transferred;
- Register regulations that enable Ofcom to publish licensee details and the publication of a transfer register;
- Regulations which limit interference in certain equipment;
- Regulations that restrict the use of certain prohibited radio equipment;
- Regulations on the procedures that Ofcom follow for the issuing of licences;
- Recognised Spectrum Access (RSA) regulations that acknowledge the use of spectrum by receive only and Crown users of spectrum; and
- Regulations made from time to time when competitions for specific awards of spectrum are commenced. These are separately announced at the time of making.

Other secondary regulations are made by the Secretary of State under the European Communities Act 1972 to implement European Directives. Such regulations which impact on Ofcom include:

- Radio Equipment Regulations 2016 - implementing the Radio Equipment Directive⁶.

In 2003 a set of European Union (EU) Directives for Electronic Communications came into effect. This included a Framework Directive (2002/21/EC⁷) and an Authorisation Directive (2002/20/EC⁸). The provisions affecting wireless telephony use were implemented in the UK through the Communications Act and associated implementing Orders. These were further amended in 2009⁹.

⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0053&from=EN>

⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0021:EN:PDF>

⁸ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0020:EN:PDF>

⁹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:348:0074:0099:EN:PDF>

Section 3

What is a Licence?

A licence is an authority granted by Ofcom authorising a named person (or persons) to install or use radio equipment in a clearly defined way. Users of radio are assigned certain frequencies that they can use within the appropriate allocations so that the spectrum is used efficiently and without interference between users, e.g. Business Radio users are assigned certain channels in the land mobile service allocation.

Official authorisation for a user to use a certain frequency will come either through a licence or an exemption. The licence states certain service criteria that need to be complied with so that no undue interference occurs to other users.

A licence consists of a licence document, a set of general terms and conditions, and a licence schedule or schedules. The licence document contains the licence class name, licence number, the licensee's name and address, the licence issue/start date and the payment term. Although on some licences this information may differ.

For further information on assignment in the different sectors, please refer to the Website¹⁰.

Different classes of licence

Every licence issued by Ofcom will fall within a sector (e.g. 'Aeronautical' or 'Maritime'). The sector is in effect the type of service (at a high and very broad level) the licence is intended to be for. The type of service is then defined further to the licence class allocated (e.g. - within the Aeronautical sector - Aeronautical Station (Air/Ground, Aerodrome Flight Information Service and Tower) class). At this stage the licence is still not personalised to the licensee and is still generic in nature.

At the next level the licence is narrowed to the specifics of the licensee's system. This is done through the use of a licence schedule; however there may be exceptions. All of the licences issued by Ofcom mainly fall into three different types of licence. These are:

- **Light-licensed** - an 'off the shelf or 'pre-packaged'' licence that mostly requires no specific assignment or co-ordination. An example of this is a licence to use a Business Radio (Simple Site) Licence.
- **Ofcom band-managed (Technically assigned)** - This refers to bands where we issue licences on the basis of the individual assignments within the band, often on a first come first served basis, and in many cases through detailed technical coordination.
- **Block assigned**- This refers to bands where licensees manage their own deployments within the band (or act as a band manager for third party access)

¹⁰ <https://www.ofcom.org.uk/spectrum/information>

with a high degree of flexibility. In general these bands have been assigned via auction.

There are exceptions to the above descriptions - for example, certain pre-packaged licences require co-ordination. Another point to note is that the licence document will greatly vary in terms of size and detail depending on the type of licence needed.

Licence exemption

Some equipment does not require a WT Act licence as its use has been exempted by regulations. Under section 8(4) of the WT Act, we have to make regulations to exempt equipment if its installation or use is not likely to:

- Involve undue interference with wireless telegraphy;
- Have an adverse effect on technical quality of service;
- Lead to inefficient use of the part of the electromagnetic spectrum available for wireless telegraphy;
- Endanger safety of life;
- Prejudice the promotion of social, regional or territorial cohesion; or
- Prejudice the promotion of cultural and linguistic diversity and media pluralism.

Users of licence-exempt equipment should be aware that there may be heavy sharing at certain locations. If users experience problems from other authorised devices it should be noted that they are offered no protection from interference. The ability of equipment to withstand interference may depend on its design, quality and robustness. There are many past examples of poor quality equipment failing to work in the proximity of compliant licensed networks and services using other frequencies. Ofcom has no powers to regulate the quality of such devices if they comply with the minimum international standards.

Responsibilities of holding a licence

A holder of a WT Act licence must abide by the terms and conditions of that licence. A generic "General Licensing Conditions booklet" has been produced for most licence classes, and is available on Ofcom's website¹¹.

A licence schedule lists the technical parameters of the service or services covered by a licence. There are a number of standard clauses contained in the schedule section, covering areas applicable to all licences of the same licence class, including: apparatus, inspection, and interpretation. These standard clauses define the rules of use for all radio systems. Licensees are required to abide by the technical limits as set out in the schedule of their licence. Other conditions including frequencies which may be used are added to the licence schedule in the form of clauses.

¹¹ https://www.ofcom.org.uk/_data/assets/pdf_file/0032/89744/General_Licence_Conditions.pdf

For some licence classes, instead of the equipment technical parameters being listed in the licence they are referenced in a separate Interface Requirement (IR) document. These set out the permitted frequency bands, power limits and other technical parameters that the licensee must adhere to. The licence will state the specific IR document that needs to be complied with. All UK Interface Requirements are published on the Ofcom website¹².

Any limitation, on the nature of the station/apparatus that can be used, contained in a licence must adhere to section 9 of the WT Act. This restricts Ofcom to only include those provisions that are necessary for example to avoid undue interference, ensuring technical quality of service or maximising frequency sharing. Under the WT Act, Ofcom must periodically review these restrictions to ensure they are still valid.

Failure to comply with the terms & conditions of a licence can have serious consequences; however Ofcom will endeavour to assist licence holders to ensure that their use of the radio spectrum is legitimate wherever possible. Where licence holders fail to demonstrate a willingness to comply with their terms & conditions, Ofcom must consider more robust methods to encourage compliance; this may lead to enforcement action being taken against the licensee and any other person who is legally culpable. Persistent, or serious infringements can result in Ofcom taking legal action against person(s) responsible; the nature of that action is determined by a manager, who will take into account a number of factors, including:

- The degree of infringement
- The level of harm/interference caused
- Whether it is an isolated infringement, or part of a series of acts, resulting in persistent criminal activity
- Any previous known similar conduct
- The public interest

The following sanctions may be available for Ofcom to pursue:

- Warning letter
- Issuance of a fixed penalty notice
- Formal caution
- Prosecution.

All enforcement sanctions will be authorised by an Enforcement Manager.

¹² <https://www.ofcom.org.uk/spectrum/information>

Equipment compliance under the Radio Equipment Directive

As well as the adhering to the terms and conditions of the licence, a licensee needs to ensure that they are using compliant equipment. Often the end user of the equipment, the licensee, is in no position to know whether the equipment is operating within the limitations of the licence (for example whether it is giving out spurious emissions, which may affect other radio users). The Radio Equipment Directive is a European framework for the placing on the market and putting into service radio equipment.

The Radio Equipment Directive was implemented in the United Kingdom (UK) by the Radio Equipment Regulations 2017. Compliance with the Radio Equipment Directive, including IRs', enables Ofcom and the end user to have reasonable confidence that the equipment can be licensed for use, and used without causing significant interference to other users.

To determine whether radio equipment is compliant the transmitter (and its packaging and accompanying documents like instructions) must carry the familiar 'CE' mark (and the other required marking and labelling). Radio equipment that does not have the 'CE' mark is not compliant with the directive (certain equipment may need to also comply with other regulations before it can be 'CE' marked). Further information on the Radio Equipment Directive and the Radio Equipment Regulations can be found on our website.¹³

¹³ <https://www.ofcom.org.uk/spectrum/interference-enforcement/manufacturers-importers-suppliers>

Section 4

Pricing policy

The WT Act permits two different ways of setting the prices for radio spectrum and licences. These are either to recover our costs/ at a rate above cost that reflects a range of spectrum management objectives (administrative pricing) or via an award process.

Administrative Pricing

Administrative pricing involves the spectrum manager in setting the level of licence fees as a surrogate for market forces (in other words, setting the fee to reflect the opportunity cost associated with use of the spectrum). Most licence fees are set by administrative pricing rather than auctions. Licence fees are set by regulations (Statutory Instruments). The WT Act requires consultation as a step in making regulations. Administrative pricing may include such variants as:

- Regulatory pricing (cost based pricing) – where fees are set unrelated to market considerations, e.g. to recover spectrum management costs.
- Incentive pricing – where an attempt is made to set prices to promote particular aspects of efficient use.

Auctions

The WT Act also permits auctions to be used to determine prices. Auctions are used selectively. Auctions offer important advantages of:

- Economic efficiency – a well-designed auction ensures that licences are awarded to operators that value them most and can generate the greatest economic benefit.
- Fairness – a selection by administrative pricing criteria is more subjective and less transparent.
- Being less unfavourable to new market entrants – comparative selection tends to favour incumbents with established track records.

Pricing Regulations

As stated, earlier, the WT Act permits Ofcom to set fees for WT Act licences. Sections 12 and 13 of the WT Act sets out the legal obligations on Ofcom in this regard.

Regulations detailing the new licence fees to be charged are made from time to time. Before this is done Ofcom initiates a consultation exercise, setting out the fees to be charged and the reasoning behind the fee level for each relevant licence class, seeking comments from those affected by the changes. After this consultation Ofcom will review

the responses and make a final policy decision. To implement proposals we would need to go ahead and make regulations. The current charges of most WT Act licences are set out in the Wireless Telegraphy (Licence Charges) Regulations 2011, as amended¹⁴.

Ofcom's approach to the setting of licence fees is set out in our document "SRSP: The revised Framework for Spectrum Pricing"¹⁵.

¹⁴ <http://www.legislation.gov.uk/uksi/2011/1128/contents/made>

¹⁵ <http://stakeholders.ofcom.org.uk/binaries/consultations/srsp/statement/srsp-statement.pdf>

Section 5

Persons who may be licensed

Under the terms of the WT Act, the licence is the instrument by which Ofcom authorises the use of radio apparatus to “a person” in a clearly defined way. In legal terms “a person” may be an individual operating a business from their own premises, or two or more people acting together in partnership, or a company or an incorporated association.

It is important that any changes in the name or configuration of persons holding a licence are promptly notified to Ofcom. This may involve the need to re-issue licences. Licensees are reminded of this during the validation stage.

Sole proprietor or Individual

A person may apply for a licence in his or her own name. If the person runs a business solely in their own name then that person is known as the sole proprietor. In legal terms, that person is wholly liable for all aspects of the business and all its obligations. If a person operates a radio system then they must hold a WT Act licence in their own name.

Partnerships

Partnerships of individuals acting together to form a business for profit are fairly common amongst WT Act licensees. The simplest form of partnership is two people forming a common trading business. In such cases it is usual to state full names of both partners as the licensee in this instance.

However, where there are a number of partners (e.g. accounting firms), the licensee will be expressed to be either named partners or partners at the time of the grant of a licence. The licence will expire either when all the licensees had ceased to be partners or when a new partner had joined the partnership after any licensee had ceased to be a partner in the same partnership.

Partnerships in Scotland

In Scotland only, under the Partnership Act 1890 partnerships have a different legal status in that they are regarded as a distinct corporate entity rather than two or more persons acting together.

Public corporations and public bodies

There are many statutory bodies who may hold a licence (e.g. Local Government Authorities, public regulators, transport authorities). The licence would be issued in the legal full name of the authority and issued to an officer of that corporation or body. Some public bodies may also govern public institutions like libraries, schools and colleges. If such institutions have a separate legal identity then they should be licensed in that

identity. If not they should be licensed under the appropriate body. Private schools and colleges would depend on their legal constitution. Many private schools may be run by trustees

Trustees

In the case of Trustees, the licensee(s) are named as the trustees of the particular trust at the time of applying for the licence.

A new licence will be required when all the named licensees have ceased to be trustee. However, Ofcom will not charge from the next invoice date.

Clubs and societies

The licensee(s) of Clubs and Societies are expressed to be either the named trustees or committee-members or the trustees or committee members at the time of the grant of the licence. The licence will expire either when all the licensees had ceased to be trustees or committee member.

Registered companies

Under UK Company Law, businesses may incorporate to form a company, which limits their liability to that of the business itself and not its owners. There are two main forms of registered company, these being (i) Limited Company (Ltd) or (ii.) Public Limited Company (Plc).

Registered companies must be registered at Companies House, where trading details are sent for filing and made available for public scrutiny. All companies must have a director and a company secretary.

For any registered company applying for a licence, the licence must be held in the full registered name and address of the company. All companies are issued with a certificate of incorporation, which includes a unique registration number that Ofcom requires for certain licence classes. Companies are also required to state their number and registered address on all company correspondence.

Joint ventures

A joint venture which may be granted a licence can be either:

- A group of companies who have established a separate corporate vehicle for the purpose of carrying out a specific project; or
- A partnership of a number of limited companies.

Where a joint venture is a separate corporate vehicle it would be the corporate vehicle, with a separate legal identity and registered as such with Companies House, that must be licensed.

In the case of the joint venture being a partnership of a group of limited companies, each of the individual limited companies would have to be named on the application form in the same way as a partnership of individuals.

Licencees who are not resident in the UK

WT Act licences only apply for terrestrial use in the United Kingdom, and in certain cases the Bailiwick of Jersey and Guernsey, the Isle of Man, UK territorial waters and airspace. The use of any stations or apparatus outside these areas may be unlawful in other states except for those classes where international reciprocal arrangements may apply (e.g. for UK registered craft and vessels, certain satellite and amateur radio uses).

There is no requirement for persons to have a presence in the United Kingdom to become licencees for all classes of WT Act licences, except that the radio classes for Ships and Aircraft only apply to UK registered vessels or aircraft under international arrangements.

Nevertheless it is desirable to have some presence or arrangements to facilitate functions such as licence payment, variation or revocation of a licence or the ability to take urgent action if a station ceases to act correctly.

Therefore Ofcom will ask non-resident licencees to provide a contact point/address in the UK to enable them be in a position to comply with standard licence clause conditions on inspections and closedown etc.

Crown Bodies

Under the WT Act, the use of apparatus for wireless telegraphy is unlawful unless authorised by a licence granted on behalf of Ofcom or is made licence exempt. Ofcom does not authorise Crown use of spectrum and we are unable to issue a licence to the Crown. However, we can recognise its use through a grant of Recognised Spectrum Access (RSA). This recognises the Crown's use of spectrum and puts in place a mechanism to permit the transfer of spectrum from Crown to non-Crown users.

However, there are occasions where a Crown user may want access to spectrum issued by Ofcom. This we permit by using a licence with a "side letter".

What do we mean by the Crown?

The Crown includes Parliament, government ministers and its servants. Generally, core central government departments fall within the definition of the Crown.

Other government bodies including non-departmental public bodies, office holders, commissioners, and regulators may also be considered as the Crown if the statute bringing them into existence confers upon them Crown status.

However, not all government bodies are considered to be the Crown. Some of the newer government bodies have been formed without being conferred Crown status. Unfortunately it is not possible to get a definitive list of what is meant by the Crown.

Where the status of a body is not clear it will be necessary to contact the body concerned to establish its legal status with regard to the WT Act.

What is a 'Side Letter'?

A 'Side Letter' recognises the use of radio by the Crown. Attached to this are the licence terms and conditions and schedule. The Side Letter asks the Crown to abide by the described terms and conditions in the same way a normal licensee would be required to, and reminds them that should they not, the Agreement detailed in the Side Letter will be cancelled.

Section 6

How to obtain a licence

Most WT Act licences are available directly from Ofcom and are accessed through the details published on Ofcom's website. Ofcom will issue a licence in good faith to the person named and the licensee to notify them if the licence contains any inaccuracies.

Under section 10 of the WT Act Ofcom must make regulations that sets out the procedures for applying for a licence and the information that we require. These are set out in Wireless Telephony (Licensing Procedures) Regulations¹⁶.

For certain licence classes we have had to place restrictions on the number of licences that we issue or who can apply for a licence. As required by section 29 of the WT Act we must make an Order where this is the case. Any restrictions are included in Wireless Telephony (Limitation on number of licences) Order.

Making an application

The majority of licence applications are made by completing the relevant application form (available from the website¹⁷ or on request) and sending the form to Ofcom. Many applications can be completed online on our website. Where online applications are made an instant confirmation of receipt of the application will be sent to be applicant.

The licensee is responsible for checking that the licence information is correct and any information provided is accurate and up to date. The licensee is responsibility to ensure that their equipment is operating in accordance with their licence. We recommend that if unsure, you contact a radio supplier.

What happens before a licence is granted?

Everyone must apply and be issued with a licence before they can install or operate a service, or install and use equipment (unless the service or equipment has been made exempt).

Stations and networks for some locations and classes require co-ordination arrangements with other countries before rights to use them can be granted. These reflect international agreements with those countries. These arrangements are also detailed in the following sections.

E-Licensing /signatures

Under the Electronic Communications Act 2000¹⁸ an application form sent electronically has the same status as the same form sent on paper. Ofcom encourages the licensee to

¹⁶ <http://www.legislation.gov.uk/ksi/2010/1823/contents/made>

¹⁷ <https://www.ofcom.org.uk/manage-your-licence/radiocommunication-licences>

¹⁸ <http://www.legislation.gov.uk/ukpga/2000/7/contents>

consent to receive all licence documentation by email where possible. Any licensee wishing to take up e-licensing should contact the Spectrum Licensing team (see section 1).

Time-scale for new licences

For new licence applications, there are targets for licence issue after receipt of correctly completed applications. These will be separately published from time to time. However, there is an overall requirement in the WT Act to process licences or further grants of rights to use frequencies within 42 days.

How does Ofcom make an assignment?

In certain circumstances the availability of spectrum available for assignment may be limited. When this occurs Ofcom must make a decision on whether to grant a licence or not. To ensure transparency the criteria that Ofcom applies when making such decisions is published on our website. Technical Frequency Assignment Criteria (TFAC) documents set out the technical criteria that Ofcom takes into account when making a spectrum assignment.

What happens after a licence is granted?

After the licence has been granted it is the responsibility of the licensee to ensure that all the administrative and technical details are correct and to notify Ofcom of any amendments that are needed within one calendar month of receipt of the issue date on the licence. The licence contains the terms and conditions governing the legal operation of the system.

The installation may be inspected by Ofcom at any time to ensure that it complies with the licence terms and conditions and that it does not cause interference to other users. During an inspection all licence documentation should be made available to Ofcom upon request. Therefore, it is important to keep all current licence documentation in a safe place and for future reference. If, at a later date an amendment to the installation is necessary then, Ofcom should be notified immediately. This is usually in the form of a variation request that should be submitted to Ofcom. Any changes to a radio system must not be carried out until you have received authorisation from Ofcom.

Additional Services

Ofcom may improve the level of service offered to licensees through greater flexibility in methods of payment as well as timing of licence invoices. These include the following:

- To offer the opportunity to harmonise their licence payment terms to a common date to simplify their licence administration. This will not be compulsory, nor will it be necessary to harmonise every licence held by a licensee. A given harmonisation date can be one of the Licensee's existing invoice dates.

- To provide the facility to make certain administrative changes to licences and/or licensee details by telephone, upon satisfying a validation check under the Data Protection Act 1998.
- To offer an Account Management service to provide assistance through the invoicing process, including a flexible invoice payment facility, provided the licensee meets the agreed criteria.

For more information on these additional services please contact the Ofcom licensing team.

Section 7

Paying for a licence

The licence fee is calculated using the WT Act Fees Regulations in place at the time of an application or at a following invoice date.

All payments to Ofcom must quote a valid invoice reference number to avoid misallocation of funds and any delay in locating the invoice for which the payment is intended.

Means of payment

Where appropriate Ofcom's preferred method of payment is by direct debit. However the following methods of payment are also acceptable:

- Credit/ Debit Card*;
- Bankers Draft;
- BACS/ CHAPS transfer; or
- Cheque.

* There is a limit of £5000 for all credit/debit card payments.

Cheques must be made payable to "Ofcom". Ofcom collects direct debits on the due date or on the last working day of the month, if the due date falls on a weekend or public holiday.

Discounts applied to certain charities

For some licence classes the licence fee may be reduced for charities. This applies to applicants where their sole objective is the safety of human life in an emergency.

Such applicants are referred to as "a qualifying charity" and as such are entitled to pay half the prescribed licence fee for their licence.

In order to ascertain that a charity is registered and has legal status, Ofcom requires a charity to supply both its charity and company/ charity registration numbers when applying for a licence.

Death of a licence applicant

Should a licence application be received along with the relevant licence fee but the applicant dies before the licence is issued, the payment will be returned on notification of death. Evidence of the licensee's death in the form of a copy of a "Death Certificate" will be needed before a refund is made.

Direct debits

If a direct debit is unsuccessful, Ofcom will inform the licensee and issue a Notice of Proposed Revocation, inviting the licensee to make an alternative payment.

Cheques

When a bank returns a cheque to Ofcom, Ofcom will inform the licensee and issue a Notice of Proposed Revocation, inviting the licensee to make an alternative payment. If a replacement cheque fails, the licence will be revoked immediately and the licensee will be given one month to make representations to Ofcom against the revocation.

Unsuccessful licence applications

If a licensee surrenders a licence before it expires, Ofcom will not give a refund for the unused portion of the licence. The only situation where a refund is applicable is when an applicant has paid for a particular service, but Ofcom is unable to provide that service due to the lack of available spectrum.

In certain circumstances, a credit note for the unused portion of the licence fee will be subtracted from the next invoice for other licences in the same class held by the same licensee, with the same invoice date.

Return of application fees

If Ofcom is unable to issue a licence, we will make attempt to contact the applicant to discuss alternative options. If no solution can be found, Ofcom will return any payment submitted with the application back to the applicant.

Ofcom recommends that for technical licences, no payment is offered until an invoice has been issued for the correct fees. The applicant can then make payment against the invoice reference is the methods mentioned in section 7

Section 8

Licence variations and transfers

Ofcom may vary licences from time to time e.g. by adding channels, removing restrictions. This may be at the request of the licensee or where Ofcom wishes to make a change. Most licensee requests fall into two categories:

- Licensee Details e.g. a request to change the administrative details of the company
- Technical Details e.g. a request for an additional station or service

Licensees must not make changes of any kind that would take them outside the terms and conditions of the licence unless authorised by a licence variation or new licence. Applications for technical variations must be made in writing or using the appropriate licensing forms. Ofcom can apply greater discretion on non-technical variations.

If a person changes their name (e.g. through marriage), the licensee must provide a copy of their marriage certificate to the Ofcom Spectrum licensing team before their licence can be amended. The process is the same for licensees who change their name by deed poll, in that the licensee needs to provide a copy of the certificate of deed poll to the Ofcom Spectrum licensing team prior to an amended licence being issued.

Examples of licensee detail amendments

Licensee details means information which is related to the licensee, e.g.:

- Legal/Licensee name and address;
- Trading name;
- Contact names and addresses; or
- Bank details.

With the exception of changing bank details, these changes can be made in writing, by completing a form on our website or by telephone. Certain checks will be performed to validate the request (Data Protection) and the details being changed (e.g. using Companies House Register)

Examples of technical detail amendments

A technical amendment is a change to anything that relates to the use of the radio spectrum, e.g.:

- Change of equipment;
- Changes to antenna height;

- Moving a base station;
- Requesting a new channel or frequency assignment;
- Additional base stations; or
- Change in power or other operating parameter.

Changes to technical information in any part of the licence can only be made by authorised Ofcom personnel.

If an amendment changes any of the details that appear on a licence schedule, a revised licence schedule will be sent to the licensee. The equipment varied cannot be used until the change to the licence is confirmed by Ofcom.

Charging for variations to licences

Charging for amendments to licences is based on the provisions in the Licence Charges Regulations. There is no administration fee for making the amendment. If there is a change in the licence fee then any pro-rata adjustment will be included in the next licence Invoice Notice.

Licensees are liable for the fee from time of variation but we generally collect at the next payment interval date.

The minimal chargeable period for any pro-rata adjustments on a licence is one calendar month. This applies to both variations and surrenders.

Ofcom variation of licences

In accordance with a provision of the WT Act, where Ofcom proposes to vary (or revoke) a licence, Ofcom will send a notice to the licensee. This notice will give licensees at least one month in which they can state any objection or concerns about the proposed change. Ofcom must consider those representations before confirming whether or not the variation will be made. Ofcom is required to make a decision within one month of the end of the period for representations and notify licensees within one week of the decision being made.

Section 9

The transfer of licences

Change of Ownership

When a company goes through a change of ownership the Wireless Telegraphy licence can be transferred to the new company by applying for a trade of licence¹⁹. This enables the licence to be transferred into the new company name. This ensures that the current licence terms and conditions (including frequency allocation) are moved to the new company. As the licence fee has already been paid no additional fee is required to be paid to Ofcom until the next invoice for the licence.

Sale of spectrum rights

Spectrum trading allows all or a portion of a licensee's spectrum rights to be transferred through the market to those that can generate the greatest benefits for society and so helps secure optimal use of the limited and valuable spectrum resource. We introduced spectrum trading in the UK at the end of 2004 as a key element in our programme of market-based reform. Since then, we have progressively extended trading to a broader range of licences. In order for a licence to be traded Ofcom would have had to make regulations under section 30 of the WT Act. Spectrum trading allows the holders of tradable licences to transfer all or part of their rights and obligations under their licences to another party.

Leasing

In addition to the outright transfer of rights to another party, provisions introduced in 2011 now enable the leasing and sub-leasing of spectrum for some licence classes. Leasing enables a licensee to allow others to use all/part of their spectrum without giving up those rights or obtaining a separate licence from Ofcom. Leasing is only permitted for those licensees that have applied for the leasing variation to be included in their licence.

Further information regarding spectrum transfers, both trading and leasing, is available in our document "Trading Guidance Notes" (OfW513)²⁰.

¹⁹ <https://www.ofcom.org.uk/manage-your-licence/radiocommunication-licences/fixed-terrestrial-links>

²⁰ https://www.ofcom.org.uk/_data/assets/pdf_file/0029/88337/Trading-guidance-doc-jul15v0-1-2.pdf

Section 10

Licence payment terms and surrenders

Most licences issued by Ofcom have a 12 month payment term (unless stated in the licence or if the licensee wishes to surrender prior to the invoice date). The payment terms for Licences are extended upon payment of the invoiced fee, for which Ofcom will make every reasonable effort to send reminders, although responsibility to pay the fee lies with the licensee. If you are a current licensee, you are sent an invoice for payment, (quoting a unique invoice reference, which is required to ensure accurate allocation of payments), four weeks before the payment due date. It is then your decision whether to pay the invoice or cancel your licence.

When the payment of the fee is received Ofcom will send a payment receipt letter which confirms receipt of the fee and states the next due date. Ofcom does not normally issue a new licence document each time a payment term is extended, except for certain classes.

If an invoice remains outstanding after the due date a notice of proposed revocation is sent out to the licensee. If fees are not paid, then the licence will lapse at the due date, and any use of the equipment concerned would not then be licensed. Ofcom may publish targets for processing these payments.

Validation

Some licences have an end date whilst some are issued in perpetuity subject to validation usually every 5 years except in the case of ship radio or ship portable licences, where validation of lifetime licenses are required every 10 years.

Surrendering a licence

Where a licence is no longer required or equipment is no longer in use, a licensee must contact Ofcom in writing to request the surrender of their licence. A licensee can request the surrender of their licence at any time before an invoice is due for payment on the licence.

Where a licence is revoked for non payment, this may be investigated by Ofcom (see section 10). The importance of surrendering correctly is that the frequencies will become available to other spectrum users.

Section 11

Revocation of licences

Revocation of a licence can occur for a number of reasons. These reasons may include where:-

- A breach of the licence has occurred, which means non-adherence to the terms and conditions of the licence (e.g. non-payment of renewal fees). The severity of the breach will be a determining factor in the extent of the action; ultimately revocation and legal action may be required invoiced.
- The licensee is not using the spectrum in a responsible manner.
- To comply with a Direction from the Secretary of State.
- The use of the radio equipment is causing or contributing to undue interference, to the use of other authorised radio equipment.
- For non-payment of licence fees. This is the most common reason for revocation. Once the due date has elapsed, the licence is no longer valid and the revocation process commences.

If any of the stated revocation reasons above apply, a notice of proposed revocation letter is sent to the licensee specifying a period (generally a month) during which the licensee can make representations, pay any outstanding invoice or, where a licensee is not complying with the terms and conditions of a licence, provide an opportunity for the licensee to take remedial action. If no action is taken (e.g. payment remains outstanding) after the notice period, the licence will be revoked.

Ofcom (except where the licensee consents) must give the licensee a notice stating the reasons for the revocation. Appeals against a revocation can be brought under the terms of the WT Act.

Where a licence has been revoked for any reason Ofcom may inspect the site to ensure that the radio system is no longer in use. Any use of the radio system after the date of revocation will result in the commission of the criminal offence of unlawful use of wireless telegraphy apparatus, contrary to section 35, WT Act.

Section 12

Fixed Penalty Notice

Ofcom has the power to issue fixed penalty notices to unlicensed users of the radio spectrum. This will help to reduce spectrum congestion and levels of interference to legitimate users of spectrum. The Fixed Penalty Notice (FPN) is a statutory tool to discourage licence holders operating their radio without a valid licence.

These powers are part of the Wireless Telegraphy (Fixed Penalty) Regulations 2011, which became law on 1 October 2011²¹, and Schedule 4, WT Act. Ofcom can now issue fixed penalties for most summary offences contrary to the WT Act.

The Fixed Penalty Notices that Ofcom issues operate in a similar way to ones issued for parking offences - they are sent by post to alleged offenders, who then have one month to respond.

On receipt of an FPN the licensee has a number of options to them:

- Pay the Fixed Penalty. Instructions on how to pay will be contained within the FPN.
- Make representations to Ofcom to explain why they should not be penalised. In such circumstances, they are advised to pay the penalty whilst Ofcom considers their case - if their representations are accepted then they will be reimbursed. Again, instructions on how to do this form part of the FPN.
- The licensee may ask to be tried for the offence by a court. In this instance Ofcom will decide whether to prosecute the licensee for the offence.

Failing to respond, Ofcom will then decide whether to prosecute the licensee for the alleged offence. If found guilty, has the possibility of a fine, which may be significantly higher than the amount of the fixed penalty.

Part Two of the FPN includes notes on how to make any representations with regard to the issue of the FPN. It also states that if the FPN is paid and upon receipt of representation it is decided to waive the penalty charge, payment will be returned to the person and the FPN cancelled (under the provisions of Paragraph 5 of Schedule 4 of the WT Act). At any stage, either before or after an FPN has been paid, Ofcom is able to withdraw that FPN if it appears to have been wrongly issued.

If the person who has been issued the FPN does not agree with the statement of facts, or for any other reason believes that the issue of the FPN was not justified they may refuse to pay and request a court hearing by completing and forwarding Part Three of the FPN. The final decision with regard to case disposal will be made by an Ofcom Enforcement Manager (COPFS in Scotland), who will take into account all of the evidence and other factors, including any request or representation made by the recipient. Such decision could encompass any other means of sanction that is

²¹ http://www.legislation.gov.uk/ksi/2011/2084/pdfs/ksi_20112084_en.pdf

appropriate and available in the circumstances (NFA, warning letter, caution or prosecution).

Section 13

Complaints

Complaints about interference or conduct

If you believe that someone may be acting outside the terms of a licence or you are receiving interference to your licensed network, Ofcom has a range of powers and arrangements for investigating and for enforcing compliance. Details are available on the Ofcom website <https://www.ofcom.org.uk/spectrum/interference-enforcement>

Many interference complaints arise from unauthorised use. The table below helps summarise the actions that Ofcom may take for identifying unauthorised radio users or non-compliant equipment:

Offence	Action
Illegal operation	<p>Ofcom's licences are designed to minimise interference between legitimate services. Ofcom will be happy to advise users to conform with their licensing requirements however any use which is not authorised is much more likely to cause interference and difficulties for others.</p> <p>In the case of serious or persistent breach of licensing terms Ofcom will take enforcement action to prevent interference. Those who operate illegally and continue to do so after warnings will be liable to prosecution under the WT Act. This may lead to summary convictions, prison sentences and/or fines. Equipment may also be forfeited.</p>

Sale of non-compliant equipment	<p>It is illegal to place radio equipment on the market (i.e. sell) which does not comply with the Radio Equipment Directive (see section 3).</p> <p>Non-compliant equipment could cause serious interference to authorised users. Ofcom monitors sales outlets and can issue notices prohibiting supply and can seize equipment as evidence for court proceedings and subsequent forfeiture. Sale of non-compliant equipment may lead to summary convictions, prison sentence and/or a fine.</p>
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Help available from Ofcom

Ofcom has licensing centre that is able to provide help and assistance on a variety of licensing matter. In addition there is also a network of engineering staff across the UK who carry out work in the following areas:

- Ensure that the use of radio and radio frequencies throughout the spectrum conforms to licence requirements;
- Investigate and take action to prevent undue interference;
- Ensure that non-compliant radio is kept off the market;
- Provide advice on radio communications and interference; and
- Carry out inspections of radio installations.

Problems outside of Ofcom's regulatory responsibility

Often interference problems lie outside Ofcom's statutory responsibilities and should be dealt with by private sector service engineers, dealers or aerial contractors. These instances are usually when a radio or television has poor immunity to unwanted signals, or inadequate aerial arrangements, as opposed to interference from illegal use of radio or faulty electrical apparatus.

What to do if you have a complaint about Ofcom

If you have a complaint on how Ofcom is conducting itself, please let us know, so that we can deal with your complaint as quickly as possible. Please contact

the relevant section in Ofcom that your complaint stems from. They will initially be in the best position to understand your complaint. If you speak to the relevant section on the phone, we advise that you follow this up in writing. In most cases your complaint should

be addressed to Spectrum Licensing at the contact details provided at the beginning of this licensing policy manual.

Further information relating to how to complain about Ofcom is available on our website²².

The appeals process against Ofcom decisions

Under Part 2 of the Communications Act, a person aggrieved by a decision by Ofcom, can appeal to the Competition Appeal Tribunal (CAT)²³ on either or both of the following grounds:

- That an error of fact has been made
- That an error of law has been made
- The Communications Act has provided new arrangements for appeals to be heard by the CAT. These include:
 - Appeals decided by the CAT on the merits and by reference to the grounds of the appeal set out in the notice of appeal
 - The CAT must include in its decision, a decision as to what (if any) is the appropriate action for Ofcom (or other decision taker) to take in relation to the subject-matter of the decision under appeal
 - The CAT may then remit the decision under appeal to the decision maker with such directions (if any) as the CAT considers appropriate to effect its decision
 - A decision of the CAT may be appealed to the Court of Appeal or Court of Session (in Scotland) on a point of law.

²² <https://www.ofcom.org.uk/about-ofcom/contact-us/complaints-about-ofcom>

²³ The CAT is an independent judicial body established to hear appeals against certain decisions of the UK competition and sectoral regulatory authorities made under the Competition Act 1998, the Enterprise Act 2002 and the Communications Act.

Section 14

Status of licensing information

We set out our general policy on disclosure in our statement on "The Provision of Spectrum Information"²⁴. This sets out that where possible Ofcom will look to release relevant information relating to spectrum use or management. As advised in section 2 Ofcom already publishes WT Act licence information in the WTR.

In certain circumstances, we may need to share certain licence information with other organisations and bodies (e.g. if it is necessary as part of processing your licence application to obtain clearance, or as a requirement of an EC Decision or other international treaties (e.g. Ofcom is required to provide ships licensing data to the Maritime mobile Access and retrieval System (MARS)²⁵).

Information held by Ofcom is subject to a number of statutory obligations covering both the storage and disclosure of information. This section provides some background concerning these obligations.

The Data Protection Act 1998

The Data Protection Act provides protection for the personal data of individuals, defined as anything that is identifiable with an individual, held on computer, on paper or on other media such as sound or video recordings. It prohibits disclosure of personal data except to persons specified in particulars registered with the Data Protection Registrar and in certain circumstances set into this 1998 Act. However, where data is published because there is a statutory provision to do so, this normally overrides the provisions of the 1998 Act. Further information is available on the Ofcom website.²⁶

Section 31 of the WT Act enables Ofcom to publish a register of relevant information relating to Wireless Telegraphy. Relevant information, as defined in the WT Act, includes information relating to the grant, transfer, variation or revocation of a licence or grant of RSA. Ofcom has made regulations under section 31 of the WT Act that enables us to publish the details of tradable WT Act licences. This information is published on the Wireless Telegraphy Register (WTR).²⁷

The Freedom of Information Act 2000

The Freedom of Information Act allows anyone the right to ask for information held by Ofcom. Ofcom may be requested to disclose information provided by a third party. Information that has been obtained under a statutory power or considered to be commercially sensitive may be regarded as confidential and potentially covered by

²⁴ http://stakeholders.ofcom.org.uk/consultations/providing_spectrum_information/

²⁵ <http://www.itu.int/ITU-R/index.asp?category=terrestrial&rlink=mars&lang=en>

²⁶ <https://www.ofcom.org.uk/about-ofcom/foi-dp/data-protection>

²⁷ <http://spectruminfo.ofcom.org.uk/spectrumInfo/licences>

exemptions under the Act. Ofcom may contact the owner of information in order to discuss disclosure before deciding whether to release the information.

The Environmental Information Regulations 2004

The Environmental Information Regulations (EIRs) came into force in 2005 and form part of the FOI regime. They promote the release of as much environmental information as possible to enable increased public participation in environmental decision making. Information relating to radio transmissions falls under EIR as they relate to emissions. Under EIR Ofcom has a duty to provide information on request and to progressively make information available.

Disclosure to other government departments or police

Ofcom may sometimes receive requests for disclosure about individuals from government bodies such as the Inland Revenue, Customs and Excise, Local Council Fraud Offices, and the Police. Ofcom is registered under the Data Protection Act 1998 but may disclose information to investigators of this kind but the general rules only permit disclosure under certain circumstances e.g. where disclosure is required by law.