
Decision to make the Wireless Telegraphy (Licence Charges) Regulations 2020

Consolidating and updating the fees for Wireless
Telegraphy Act licences.

STATEMENT:

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1. Overview

This Statement sets out Ofcom's decision to make new regulations which consolidate older regulations on the fees payable for Wireless Telegraphy Act 2006 (WT Act) licences and includes additional fees, not previously outlined, for three classes of WT Act licence introduced in 2017 and 2019.

What we have decided – in brief

We have decided to make the Wireless Telegraphy (Licence Charges) Regulations 2020 (the Regulations).

The Regulations include the fees for three WT Act licence classes introduced since we last amended the previous regulations. They are:

- Local Access;
- Shared Access; and
- Network 2 GHz.

Additionally, in order to simplify our fees instruments, improve understanding of the charging environment and reduce the regulatory burden on stakeholders, the Regulations are a consolidation of a previous instrument and subsequent amendments to the licence charges regulations since 2011.

The Regulations will come into force on 21 October 2020. The decisions we have taken, and our reasoning are set out in the full document.

- 1.1 The Regulations revoke and replace the Wireless Telegraphy (Licence Charges) Regulations 2011 (the 2011 Regulations) and instruments amending those regulations since 2011.¹ The Regulations set out the licence charges (fees) for a range of wireless telegraphy licences issued by Ofcom under the WT Act, other than those awarded by auction.
- 1.2 On 25 June 2020, we published the *Notice of proposals to make the Wireless Telegraphy (Licence Charges) Regulations 2020* (the Notice) detailing our proposal to make the Regulations.² We received two responses to the Notice and, in accordance with section 122(4)(c) of the WT Act, we have considered the representations made. For the reasons set out in this document, we have decided to make the Regulations, as proposed, subject to minor editorial amendments to rectify errors.
- 1.3 On 30 September 2020, we made the Regulations which will enter into force on 21 October 2020. Copies of the Regulations can be obtained from <http://www.legislation.gov.uk/>.

¹ [The Wireless Telegraphy \(Licence Charges\) Regulations 2011](#) (S.I. 2011/1128) have been amended six times between 2011 and 2020 by S.I. 2012/1075, S.I. 2013/917, S.I. 2014/1295, S.I. 2015/1334, S.I. 2015/1995 and S.I. 2016/643.

² [Notice of proposals to make the Wireless Telegraphy \(Licence Charges\) Regulations 2020](#)

2. Background

Introduction

- 2.1 Section 8(1) of the WT Act confers on Ofcom a power to grant a wireless telegraphy licence in respect of a “wireless telegraphy station” or “wireless telegraphy apparatus”. It is unlawful and an offence to install or use wireless telegraphy apparatus without holding a licence granted by Ofcom, unless the use of such equipment is exempted.
- 2.2 Under section 12 of the WT Act, Ofcom may prescribe in regulations the sums payable in respect of wireless telegraphy licences other than those awarded by auction. This power enables us to recover the cost of administering and managing WT Act licences.
- 2.3 Section 13 of the WT Act permits us to recover sums greater than those we incur in performing our spectrum management functions (this is termed Administrative Incentive Pricing and abbreviated to AIP), to reflect a range of spectrum management objectives and to provide incentives for licensees to use their spectrum more efficiently.

Statutory notice

- 2.4 Under section 122(4) to (6) of the WT Act, we are required to publish a notice of any proposal to make regulations. The notice must state that Ofcom proposes to make the regulations in question, must set out their general effect, say where a copy may be obtained and give any person or party an opportunity to make representations about them.
- 2.5 We published the Notice, meeting the statutory requirements, on 25 June 2020. The Notice included a copy of the proposed Wireless Telegraphy (Licence Charges) Regulations 2020 and invited comments by 31 July 2020.

Inclusion of new fees

- 2.6 The Notice proposed including in the Regulations fees for three new licences: the Local Access, Shared Access and Network 2 GHz licences.³ The fees and fee setting methodology for these three licences had been previously determined following earlier public consultations.⁴

³ The fees for these licences were previously charged under Regulation 6 of the 2011 Regulations which allows Ofcom to charge such sums as we may determine in the particular case where those sums are not prescribed by regulations.

⁴ Including, our consultation: Enabling opportunities for innovation (December 2018); Our statement: Enabling wireless innovation through local licensing (July 2019); our consultation: Authorisation of terrestrial mobile networks complementary to 2 GHz Mobile Satellite Service (MSS) (February 2016 and our statement: Authorisation of terrestrial mobile networks complementary to 2 GHz Mobile Satellite Service (MSS) (November 2017).

Local Access and Shared Access Licence Fees

2.7 The Local Access and Shared Access licences were introduced as part of Ofcom's July 2019 Statement: *Enabling wireless innovation through local licensing*.⁵ They are part of a framework for enabling shared use of spectrum, aiming to make it easier for people and businesses to access spectrum for a wide range of local wireless connectivity applications. Accordingly:

- a) the Local Access licence provides a way for licensees to access spectrum which has already been licensed to the UK's Mobile Network Operators (MNOs), in locations where an MNO is not using that spectrum or does not have any immediate plans to deploy in the area; and
- b) the Shared Access licence gives licensees access to four spectrum bands which support mobile technology (in the 1800 MHz, 2300 MHz, 3.8-4.2 GHz and 24.25-26.5 GHz frequency bands).

2.8 In the Notice, we explained that we had previously determined:

- a single one-off cost-based fee of £950 for Local Access licences.
- a range of fees for low power and medium power Shared Access licences as set out in **Table 1**. For a low power licence, the fee is charged per area. For a medium power licence, the fee is charged per base station. The Shared Access licence fees can also be set on a pro rata basis, subject to a minimum fee of £32 per licence

Table 1 - Shared Access licence fees

| Band | Low Power licence charge | Medium Power licence charge |
|---------------|--|---|
| 1800 MHz | 2 x 3.3 MHz minimum fee £80 per 12 months | 2 x 3.3 MHz minimum fee £80 per 12 months |
| 2390-2400 MHz | £80 per 10 MHz per 12 months | £80 per 10 MHz per 12 months |
| 3.8-4.2 GHz | £80 per 10 MHz per 12 months | £80 per 10 MHz per 12 months |
| 26 GHz | £320 annual fee (no charge by bandwidth) per 12 months | Not available |

Network 2 GHz Licence Fee

2.9 The Network 2 GHz licence was introduced in November 2017 as an alternative to the Spectrum Access 2 GHz licence.⁶ Both licences permit networks of terrestrial base stations used in the provision of mobile satellite services and, among other things, can be used to provide broadband services to passengers on aircraft. The Network 2 GHz licence authorises use at specific network point locations identified in the licence whereas the Spectrum Access 2 GHz licence authorises use on a UK-wide basis.

⁵ Statement: *Enabling wireless innovation through local licensing*

⁶ Statement: *Authorisation of terrestrial mobile networks complementary to 2 GHz Mobile Satellite Service (MSS)*

- 2.10 The fee for the Network 2 GHz licence is derived from the UK-wide fee applicable to the Spectrum Access 2 GHz licence (£554k per 2 x 1 MHz per annum).⁷ For the Network 2 GHz licence, the fee is a charge per individual base station, dependent on the population density at the location of the base station. A methodology based on population density is also used to determine fees for certain business radio licences under the 2011 Regulations and the Regulations.

Table 2: Network 2 GHz licence fees per base station, based on location

| Location category | Fee per base station per 2 x 1 MHz | Fee per base station per 2 x 15 MHz |
|---------------------------------|------------------------------------|-------------------------------------|
| A – High population | £64,000 | £960,000 |
| B – Medium population | £8,025 | £120,375 |
| C – Low population ⁸ | £825 | £12,375 |

Consolidation

- 2.11 In addition to the inclusion of three new licences, the Notice advised of Ofcom's intention to consolidate regulations and amendments made since 2011 by revoking and replacing the following Statutory Instruments:
- a) The 2011 Regulations;
 - b) The Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2012 (SI 2012/1075);
 - c) The Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2013 (SI 2013/917);
 - d) The Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2014 (SI 2014/1295);
 - e) The Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2015 (SI 2015/1334);
 - f) The Wireless Telegraphy (Licence Charges) (Amendment) (No2) Regulations 2015 (SI 2015/1995); and
 - g) The Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2016 (SI 2016/643).
- 2.12 The Notice and draft of the Wireless Telegraphy (Licence Charges) Regulations 2020 also proposed the following administrative changes:

⁷ The National Licence fee was determined in 2009 on an AIP basis, meaning it was set to reflect the value of the spectrum in order to promote efficient use of the spectrum. It was reviewed by Ofcom, without change, in 2016.

⁸ Category C includes any offshore deployments.

- the names of the licences formerly known as non-operational temporary use and non-operational development licences to Demonstration and Trial, and Innovation and Research respectively (but making no change to the fees);⁹
- updating the meaning of ‘charity’ for persons subject to the laws of the Isle of Man or Jersey and of the term ‘designated website’;
- removing the fees for Fixed Links in the 65 GHz band (which are no longer needed following their licence exemption in 2018);
- amending references to the Wireless Telegraphy (Spectrum Trading) Regulations 2004,¹⁰ which have been revoked and replaced by the Wireless Telegraphy (Spectrum Trading) Regulations 2012;¹¹ and
- making other minor editorial changes as part of consolidating and remaking the Regulations.

2.13 We received two responses to the Notice, detailed in the next section.

⁹ [*Innovation and Trial licensing: Guidance notes for applicants*](#)

¹⁰ [S.I. 2004/3154](#)

¹¹ [S.I. 2012/2187](#)

3. Final scope of the Regulations

Introduction

- 3.1 This section summarises the representations that we received on the Notice and our response to these. We also outline the final scope of the Regulations.
- 3.2 We received one confidential and one non-confidential response. The non-confidential response is published in full on our website.¹²
- 3.3 Following consideration of the responses as outlined below, we have decided to proceed with making the Regulations, as proposed, subject to some minor editorial changes.

Stakeholder responses to the Notice and Ofcom's response

- 3.4 EchoStar Mobile Limited (EML) requested that the Regulations should expressly state that the licences for Complementary Ground Components (CGC) (being the Network 2 GHz licence and the Spectrum Access 2 GHz licence) are limited to “the two Europe-wide MSS/CGC licensees”. It also re-raised concerns about the level of the UK fees for CGC, explaining that a move to the use of cost-based pricing would be more consistent with the way many other countries are charging for use of this spectrum.
- 3.5 [REDACTED]
- 3.6 [REDACTED]

Ofcom response

- 3.7 While EML and Inmarsat are the only two eligible CGC licensees in the UK, the Regulations are not the correct instrument to confirm the limitation on the number of these licences. Rather, section 29 of the WT Act allows Ofcom to limit the number of licences it issues for the use of particular frequencies, using *Limitation Orders*. Such orders are made when Ofcom considers it appropriate to do so for the purposes of securing the efficient use of the electro-magnetic spectrum in the UK.
- 3.8 While various regulatory instruments confirm that there can only be two eligible CGC licensees in the UK, in any event, Ofcom is planning to amend the current Limitation Order early in 2021 to bring it up to date with current wireless telegraphy licensing practice and policy. This would address EML's request.
- 3.9 In response to EML's comment on the level of the fees for the Network 2 GHz licence and the best approach to setting them, we note the purpose of the Notice was to see whether we were correctly implementing the fees in the proposed Regulations as set out in our earlier policy statements and not to reconsider the level of the fees themselves. As such, these comments are outside the scope of the consultation on the Regulations.

¹² [EML submission](#)

3.10 [✂]

3.11 [✂]

3.12 [✂]

Ofcom's decision

3.13 On 30 September 2020, Ofcom made the Regulations as proposed save for minor editorial changes to rectify errors. The Regulations come into force on 21 October 2020. They are summarised below.

Extent of application

3.14 The Regulations will apply in the United Kingdom, the Channel Islands and the Isle of Man, subject to formal adoption by the Island Authorities.

The Final Scope of the Regulations

3.15 Regulation 1 is a citation – indicating the way the Regulations may be referred to - and once made, their commencement date.

3.16 Regulation 2 concerns the interpretation of terms in the Statutory Instrument – in particular:

- it defines key terms and removes reference to the Wireless Telegraphy (Spectrum Trading) Regulations 2004 which have been revoked and replaced by the Wireless Telegraphy (Spectrum Trading) Regulations 2012.
- it amends the definition of the term “designated website” as part of the charging arrangements for Programme Making and Special Events licences to indicate that the designated website facility is managed through OFCOM's website, www.ofcom.org.uk, rather than by any agents of Ofcom.
- it updates the meaning of international maritime channel to refer to Appendix 18 to the 2020 edition of the Radio Regulations.¹³

3.17 Regulation 3 revokes the 2011 Regulations and regulations that have amended the 2011 Regulations.

3.18 Regulation 4 determines the mechanism for prescribing fees. It is the substantive provision which works alongside the detail in Schedule 2 and other Schedules. The regulation determines, for each licence, the fees or the method of their calculation. The effect of this regulation is substantially the same as under the 2011 Regulations. It provides for the payment for each licence on the issue, variation and/or prescribed payment interval of a licence of the fixed and/or variable sums set out in Schedule 2 and subsequent Schedules.

¹³ The reference was previously to Appendix 18 to the 2008 edition of the Radio Regulations. The amendment referring to the current Radio Regulations has no material effect.

Like the 2011 Regulations, the Regulations also allow certain licence fees to be paid in instalments if the licence charge is in excess of £100,000.

- 3.19 Regulation 5 determines concessionary fees for certain wireless telegraphy licences granted to charities concerned with emergency safety of human life. The meaning of charity in that regulation has been updated from the 2011 Regulations to align with recent changes to the regulation of charities in Jersey and the Isle of Man.
- 3.20 Regulation 6 provides that, in cases where a fee for a licence is not prescribed by the Regulations, Ofcom may determine the fee payable.
- 3.21 Regulation 7 sets out the fees for the Spectrum Access 28 GHz licences according to the Regions in which those licences were auctioned in 2000.
- 3.22 Schedule 1 specifies the regulations that are revoked by the Regulations, covering the 2011 Regulations and amending regulations made by Ofcom in 2012, 2013, 2014, 2015 (twice) and 2016.
- 3.23 Schedule 2 details the licence fees and payment intervals for individual licence classes. It includes, for the first time, the Shared Access, Local Access and Network 2 GHz licence fees. Other changes include the inclusion of the *Demonstration and Trial licence* and the *Innovation and Research licence* (renamed from Non-Operational Temporary Use licence and Non-Operational Development licence, respectively). The charges for Fixed Link licences in the 65 GHz band which were in Schedule 2 of the 2011 Regulations have been removed following their licence exemption in 2018.
- 3.24 Schedule 3 provides the formula for calculating fees for Point to Point Fixed Links licences.
- 3.25 Schedule 4 outlines the fees payable for Satellite (Permanent Earth Station) and (Transportable Earth Station) licences.
- 3.26 Schedule 5 contains the population area classifications used in the calculation of fees for certain Business Radio and Maritime licence classes and the Network 2 GHz licence.
- 3.27 Schedule 6 sets out the fees for Business Radio (Area Defined) licences.
- 3.28 Schedule 7 details the fees for Business Radio (Technically Assigned) licences.
- 3.29 Schedule 8 sets out the congestion areas used in the calculation of fees for Coastal Station Radio (International) simplex licences.
- 3.30 Schedule 9 sets out the licence fees for Coastal Station Radio (International) simplex licences.
- 3.31 Schedule 10 sets out the licence fees for Coastal Station Radio (International) Area Defined licences for certain internationally recognised simplex channels.
- 3.32 Schedule 11 sets out the licence fees for Coastal Station Radio (International) Area Defined licences for internationally recognised simplex channels 87 and 88.
- 3.33 Schedule 12 sets out the licence fees for Coastal Station Radio (International) Area Defined licences for internationally recognised duplex channels.

- 3.34 Schedule 13 sets out the licence fees for Coastal Station Radio (UK) licences.
- 3.35 Schedule 14 sets out the licence fees for Coastal Station Radio (UK) Area Defined licences.
- 3.36 Schedule 15 sets out the formulae for calculating fees for Aeronautical Station licences.

A1. Wireless Telegraphy (Licence Charges) Regulations 2020

- A1.1 On 30 September 2020, Ofcom made the Regulations which will enter into force on 21 October 2020.
- A1.2 Copies of the Regulations can be obtained from <http://www.legislation.gov.uk/>.

A2. Regulatory Impact Assessment

A copy of Regulatory Impact Assessment can be found on [Ofcom's website](#).