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## **Decision to make the Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2022**

Implementing Ofcom's decision relating to fees for  
Wireless Telegraphy Act licences

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**STATEMENT:**

Publication date: 14 December 2022

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# 1. Overview

This document sets out Ofcom's decision to make the Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2022 (the "Regulations"). This decision follows our recent Statutory Notice entitled "[Notice of proposals to make the Wireless Telegraphy \(Licence Charges\) \(Amendment\) Regulations 2022](#)," published on 13 October 2022 (the "Notice").

The Regulations come into force on 29 December 2022 and will amend the Wireless Telegraphy (Licence Charges) Regulations 2020 (the "[2020 Regulations](#)") to reflect Ofcom policy decisions made following earlier consultations. The Regulations set out the changes to licence charges (fees) for the following licences: Broadcasting Restricted Service; Spectrum Access Extremely High Frequency (EHF); Spectrum Access (3.6 GHz) and Spectrum Access (3.9 GHz) licences.

Unless stated in this document, all other licence charges in the 2020 Regulations remain unchanged.

## What we have decided – in brief

This statement confirms that, following our Notice and consultation on our proposals, we have decided to make new regulations (the "Regulations") that will amend the existing 2020 Regulations in relation to fees for three licence classes. The Regulations will make the following changes:

**Introduce new fee rates for Broadcasting Restricted Service Licences.** This follows Ofcom's [decision](#) in July 2022 to make changes to the application process and to introduce a new licence class with a simplified fees regime for Restricted Service Licences.

**Implement the fee related to 'Spectrum Access: EHF' licences.** This follows Ofcom's [decision](#) in October 2020 to introduce a new licence class 'Spectrum Access: EHF' to enable simple, flexible access to over 32 GHz of spectrum in the 57 – 71 GHz and 100 – 200 GHz ranges.

**Introduce a new class of licence – Spectrum Access 3.9 GHz.** This follows Ofcom's [decision](#) on 10 October 2022 to align the terms of spectrum licences in the 3.4 – 3.6 GHz and 3.6 – 3.8 GHz bands (collectively the 3.4 – 3.8 GHz band). As part of that process, we moved the 3925 – 4009 MHz band into a new, separate licence called "Spectrum Access (3.9 GHz)".

The Regulations were made on 8 December 2022 and will come into force on 29 December 2022.

- 1.1 Before deciding to make the Regulations, in accordance with the requirements of section 122(4) and (5) of the Wireless Telegraphy Act 2006 (the "WT Act") we published the Notice of our proposal to make them. The Notice also contained a draft of the Regulations (the "Proposed Regulations") and we invited comments from stakeholders on whether the Proposed Regulations properly gave effect to the relevant policy decisions previously consulted upon.
- 1.2 We received no responses to the Notice. We have therefore decided to adopt the Regulations as proposed, with minor amendments to clarify wording. An unofficial copy of the Regulations is set out in Annex 1 for indicative purposes, in the form submitted for registration and publication after they have been made by Ofcom. Copies of the Regulations can be obtained [\[here\]](#).

## 2. Background

### Introduction

- 2.1 Ofcom is responsible for authorising civil use of the radio spectrum and achieves this by granting wireless telegraphy licences under the Wireless Telegraphy Act 2006 (the “WT Act”) and by making regulations exempting users of particular equipment from the requirement to hold such a licence. Under section 12 of the WT Act we must prescribe in regulations the sums payable in respect of wireless telegraphy licences other than those awarded by auction.
- 2.2 The power under section 12 of the WT Act enables us to recover the cost of administering and managing WT Act licences. However, section 13 of the WT Act permits us to recover sums greater than those which we incur in performing our spectrum management functions. This is termed Administered Incentive Pricing (‘AIP’) and refers to prices for annual licence fees which are set above administrative costs to reflect a range of spectrum management objectives, in particular to provide incentives for licensees to use their spectrum more efficiently. This contributes to the discharge of our duties under section 3 of the WT Act which require us to efficiently manage the radio spectrum.

### Statutory Notice

- 2.3 Before making any regulations, 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 state that Ofcom proposes to make the regulations in question, set out their general effect, specify an address from which a copy of the proposed regulations or order may be obtained, and 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.
- 2.4 The Notice proposed the following changes to WT Act licence fees:
- a) Introduce a new licence class, with simplified fee rates for Broadcasting Restricted Service Licences. This follows Ofcom’s [decision](#) in July 2022 to make changes to the application process and to introduce a simplified fees regime for Restricted Service Licences;
  - b) Implementation of the fee related to ‘Spectrum Access: EHF’ licences. This follows Ofcom’s [decision](#) in October 2020 to introduce a new licence class ‘Spectrum Access: EHF’ to enable simple, flexible access to over 32 GHz of spectrum in the 57 – 71 GHz and 100 – 200 GHz ranges; and
  - c) Implementation of our [decision](#) to introduce a new class of licence – ‘Spectrum Access 3.9 GHz’. This follows Ofcom’s decision on 10 October 2022 to align the terms of spectrum licences in the 3.4 – 3.6 GHz and 3.6 – 3.8 GHz bands (collectively the 3.4 – 3.8 GHz band). As part of that process, we moved the 3925 – 4009 MHz band into a new, separate licence called “Spectrum Access (3.9 GHz)”.

- 2.5 We published the Notice, meeting the statutory requirements on 13 October 2022.<sup>a</sup> The Notice included a copy of the Proposed Regulations. The Notice gave any person or party who wished to do so until 14 November 2022 to make representations. In particular, we asked the following:

Do you have any comments on the Proposed Regulations?

Please provide the evidence that would support your comments on the proposals.

- 2.6 We received no stakeholder responses to the Notice, and therefore we have proceeded with making of the Regulations as set out in the proposed Notice, with minor amendments to clarify wording.

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<sup>a</sup> [Notice of proposals to make the Wireless Telegraphy \(Licence Charges\) \(Amendment\) Regulations 2022.](#)

## 3. Our decision to make the Regulations

### Scope of the Regulations

#### Ofcom's decision

- 3.1 On 8 December 2022 Ofcom decided to make the Regulations as proposed with minor amendments to clarify wording. The Regulations come into force on 29 December 2022. The general effects of the Regulations are summarised below.

#### Extent of application and entry into force of the Regulations

- 3.2 The Regulations will apply in the United Kingdom, the Channel Islands and the Isle of Man, subject to formal adoption by the Island Authorities.
- 3.3 The Regulations will come into force on 29 December 2022.
- 3.4 An unofficial copy of the Regulations is set out in Annex 1 for indicative purposes, in the form submitted for registration and publication as they have been made by Ofcom.

#### Overall general effect

- 3.5 Details of the changes made by the Regulations are listed below:
- a) Regulation 2(1) provides that the 2020 Regulations shall be amended in accordance with regulations 2(2) to 2(6) of the Regulations.
  - b) Regulation 2(2) removes the fees for the three classes of Restricted Radio Service Licences, by removing the entries for Restricted Radio Services Transmissions, Classes A (Freely Radiating), B (Radiating Cable), and C (Freely Radiating Very Low Power) in Schedule 2 (Licence Charges and Payment Intervals) of the 2020 Regulations.
  - c) Regulation 2(3) sets out the fees payable in respect of Restricted Service licences, by adding a new entry under the heading "Broadcasting" in Schedule 2 (Licence Charges and Payment Intervals) of the 2020 Regulations. For the purposes of the Regulations, the fees payable will be £40 per day for: (a) services transmitting at up to and including 2 Watts, up to an annual limit of £200, and (b) for services transmitting at above 2 Watts, up to an annual upper limit of £1,200, payable every 12 months on the anniversary of the issue date.
- 3.6 Regulations 2(4) and 2(5) replace the entry for Spectrum Access (3.6 GHz) licences in Schedule 2 (Licence Charges and Payment Intervals) of the 2020 Regulations with the Spectrum Access (3.9 GHz) class of licence. Regulation 2(5) deletes the entry for "Spectrum Access (3.6 GHz)" from Schedule 2, and Regulation 2(6) introduces an entry for "Spectrum Access (3.9 GHz)". For the purposes of the Regulations, the fees payable for the Spectrum Access (3.9 GHz) licence class will be: (a) £8,436 where co-ordination is required with earth stations; and (b) £2,226 where co-ordination is required with earth stations and fixed links, and such fee applies to each 1 MHz national slot in the 3925.0 – 4009.0 MHz band.

- 3.7 Regulation 2(6) sets out the fees payable in respect of Spectrum Access (EHF) licences, by adding a new entry under the heading “Spectrum Access” in Schedule 2 (Licence Charges and Payment Intervals) of the 2020 Regulations. For the purposes of the Regulations, the fees payable will be £75, payable every 60 months (5 years) on the anniversary of the issue date.

# A1. (Final draft) Copy of the Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2022

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## STATUTORY INSTRUMENTS

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**2022 No.**

### **ELECTRONIC COMMUNICATIONS**

#### **The Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2022**

*Made* - - - - *8th December 2022*

*Coming into force* *29th December 2022*

The Office of Communications (“OFCOM”), in exercise of the powers conferred by sections 12, 13(2) and 122(7) of the Wireless Telegraphy Act 2006 <sup>(b)</sup> (the “Act”), makes the following Regulations.

Before making these Regulations, OFCOM have given notice of their proposal to do so in accordance with section 122(4)(a) of the Act, published notice of their proposal in accordance with section 122(4)(b) of the Act, and have considered the representations made to them before the time specified in the notice in accordance with section 122(4)(c) of the Act.

#### **Citation and commencement**

1. These Regulations may be cited as the Wireless Telegraphy (Licence Charges) (Amendment) Regulations 2022 and shall come into force on 29th December 2022.

#### **Amendment of the Wireless Telegraphy (Licence Charges) Regulations 2020**

2.—(2) Schedule 2 (Licence Charges and Payment Intervals) to the Wireless Telegraphy (Licence Charges) Regulations 2020<sup>(c)</sup> shall be amended in accordance with paragraphs (2) to (6).

(3) Under the heading “Broadcasting”, delete the following entries—

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<sup>(b)</sup> Sections 12, 13(2) and 122(7) were extended to the Bailiwick of Guernsey by article 2 of the Wireless Telegraphy (Guernsey) Order 2006 (S.I. 2006/3325); to the Bailiwick of Jersey by article 2 of the Wireless Telegraphy (Jersey) Order 2006 (S.I. 2006/3324); and to the Isle of Man by article 2 of the Wireless Telegraphy (Isle of Man) Order 2007 (S.I. 2007/278).

<sup>(c)</sup> S.I. 2020/1068 amended by S.I. 2021/1117

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Restricted Radio Services Transmission (Class A – Freely Radiating)		<p>(a) £15 per day for each medium wave broadcasting band frequency.</p> <p>(b) £25 per day where the erp does not exceed 1 Watt for each VHF broadcasting band frequency.</p> <p>(c) £40 per day where the erp exceeds 1 Watt for each VHF broadcasting band frequency.</p>	
Restricted Radio Services Transmission (Class B—Radiating Cable)	£100		12 months
Restricted Radio Services Transmission (Class C—Freely Radiating Very Low Power)	£100		12 months

(4) Under the heading “Broadcasting”, for the deleted entries, substitute the following entry—

Restricted Service		<p>(a) £40 per day where the erp does not exceed 2 Watts; and</p> <p>(b) where the appropriate sum arising from paragraph (a) exceeds £200, the sum payable is £200.</p>	12 months
		<p>(c) £40 per day where the erp exceeds 2 Watts; and</p> <p>(d) where the appropriate sum arising from paragraph (c) exceeds £1,200, the sum payable is £1,200.</p>	12 months

(5) Under the heading “Fixed Wireless Access”, delete the following entry—

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Spectrum Access (3.6 GHz)		(a) £8,436 for each 1 MHz national slot, where co-ordination is required with earth stations.	12 months
		(b) £2,226 for each 1 MHz national slot, where co-ordination is required with earth stations and fixed links.	12 months

(6) Under the heading “Fixed Wireless Access”, for the deleted entry, substitute the following entry—

Spectrum Access (3.9 GHz)		a) £8,436 for each 1 MHz national slot in the 3925.0 MHz to 4009.0 MHz band, where coordination is required with earth stations.	12 months
		(b) £2,226 for each 1 MHz national slot in the 3925.0 MHz to 4009.0 MHz band, where coordination is required with earth stations and also with fixed links.	12 months

(7) Under the heading “Spectrum Access”, and before the entry for “Local Access”, insert the following entry—

Spectrum Access (Extremely High Frequency)	£75		60 months
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8th December 2022

*David Willis*  
Group Director, Spectrum Group  
Office of Communications

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Wireless Telegraphy (Licence Charges) Regulations 2020.

The Regulations set the level of charges payable to the Office of Communications (“Ofcom”) in respect of wireless telegraphy licences falling within the Broadcasting Restricted Service licence class and the Spectrum Access (Extremely High Frequency) licence class.

The Regulations also introduce charges for wireless telegraphy licences within the Spectrum Access 3.9 GHz licence class.

A regulatory impact assessment of the effect of these Regulations has been prepared and is available to the public from the OFCOM library at Riverside House, 2a Southwark Bridge Road, London SE1 9HA (Tel: 020 7981 3000) and on OFCOM's website at [www.ofcom.org.uk](http://www.ofcom.org.uk). Copies of this assessment have been placed in the library of the Houses of Parliament.