



STATUTORY INSTRUMENTS.

**SI No. 369 of 2009**

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WIRELESS TELEGRAPHY (RADIO DETERMINATION, AIR TRAFFIC  
AND MARITIME SERVICES) REGULATIONS, 2009

**(Prn. A9/1285)**

## WIRELESS TELEGRAPHY (RADIODETERMINATION, AIR TRAFFIC AND MARITIME SERVICES) REGULATIONS, 2009

The Commission for Communications Regulation, in exercise of the powers conferred on it by section 6 of the Wireless Telegraphy Act, 1926 (No. 45 of 1926), transferred to the Commission for Communications Regulation by section 4 of the Communications Regulation (Amendment) Act, 2007 (No. 22 of 2007), and with the consent of the Minister for Communications, Energy and Natural Resources, pursuant to section 37 of the Communications Regulation Act 2002 hereby makes the following regulations:

*Citation*

1. (1) These Regulations may be cited as the Wireless Telegraphy (Radiodetermination, Air Traffic and Maritime Services) Regulations 2009.

(2) These Regulations shall come into force on 1 December 2009.

*Interpretation and Definitions*

2. (1) In these Regulations, except where the context otherwise requires:

“Act of 1926” means the Wireless Telegraphy Act 1926 (No. 45 of 1926);

“Act of 1972” means the Wireless Telegraphy Act 1972 (No. 5 of 1972);

“Act of 2002” means the Communications Regulation Act 2002 (No. 20 of 2002);

“Air Traffic Service System” means services provided by ground based equipment and systems utilising apparatus for wireless telegraphy, used or intended to be used, in connection with the safety, security or operation of aircraft in flight or on the ground, and excludes public electronic communications networks and Radiodetermination Services;

“Apparatus” means apparatus for wireless telegraphy for the provision of Radiodetermination Services, Air Traffic Service Systems or Maritime Service Systems and, in relation to a Licence, means apparatus for wireless telegraphy to which the Licence relates;

“apparatus for wireless telegraphy” and “wireless telegraphy” have the same meanings as are set out in section 2 of the Act of 1926;

“Commission” means the Commission for Communications Regulation;

“ETSI” means the European Telecommunications Standards Institute;

*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 15th September, 2009.*

“Harmful Interference” means interference which endangers the functioning of a radionavigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radiocommunications service operating in accordance with applicable international, European Community or national regulations;

“ICNIRP” means the International Commission for Non-Ionizing Radiation Protection;

“Licence” means a licence granted to the licensee in accordance with section 5 of the Act of 1926 to keep, have possession of, install, maintain, work and use Apparatus in a specified place in the State;

“Licensee” means the holder of a Licence;

“Maritime Service System” means services provided by equipment and systems not installed on vessels, utilising apparatus for wireless telegraphy, used or intended to be used, in connection with:

- (a) the safety, security or operation of vessels; or
- (b) the training of personnel in the Maritime Mobile Service,

and excludes public electronic communications networks and Radiodetermination Services

“Maritime Mobile Service” means a mobile service between coast stations and ship stations, between ship stations, or between associated on-board communication stations;

“Radiodetermination” means the determination of the position, velocity and/or other characteristics of an object, or the obtaining of information relating to these parameters, by means of the propagation properties of radio waves;

“Radiodetermination Services” means services provided by apparatus for wireless telegraphy for the purpose of Radiodetermination; and

“Regulations” means the Wireless Telegraphy (Radiodetermination, Air Traffic and Maritime Services) Regulations, 2009.

(2) In these Regulations—

- (a) a reference to an enactment or regulation shall be construed as a reference to the enactment or regulation as amended or extended by or under any subsequent enactment or regulation;
- (b) a reference to a Regulation or a Schedule is to a Regulation of, or a Schedule to, these Regulations, unless it is indicated that reference to some other enactment is intended;

- (c) a reference to a paragraph or subparagraph is to the paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended; and
- (d) a reference to a Directive of the European Parliament and Council shall be construed as a reference to the Directive as amended or extended by any subsequent Directive.

*Licences to which these Regulations apply*

3. These Regulations apply to Licences to keep, have possession of, install, maintain, work and use apparatus for wireless telegraphy for the purpose of the provision of Radiodetermination Services, Air Traffic Service Systems or Maritime Service Systems having the characteristics set out in Part 2 of the Licence and operating in accordance with the technical conditions set out in Part 2 of the Licence and at the geographical location or locations set out in Part 2 of the Licence.

*Limitation of Licence*

4. (1) A Licence granted under these Regulations does not grant to the Licensee named therein any right, interest or entitlement other than the right to keep, install, maintain, work and use, in a specified place in the State, apparatus for wireless telegraphy for the purpose of the provision of Radiodetermination Services, Air Traffic Service Systems or Maritime Service Systems.

(2) Nothing in these Regulations shall absolve the Licensee from any requirement in law to obtain (such additional) approvals, consents, licences, permissions and authorisations that may be necessary for the discharge of the obligations or the exercise of entitlements under the Licence. The Licensee is responsible for all costs, expenses and other commitments (financial and non-financial) in respect of the Licence and the provision of the Radiodetermination Services, Air Traffic Service Systems or Maritime Service Systems and the Commission shall bear no responsibility for such costs, expenses or commitments.

*Application for Licences and Form of Licences*

5. (1) An application for a Licence shall be made to the Commission and shall be in writing in such form as may be determined by the Commission.

(2) A person who makes an application under paragraph (1) of this Regulation shall furnish to the Commission such information as the Commission may reasonably require for the purpose of assessing the application and carrying out its functions under the Act of 1926 and the Act of 2002, and if the person, without reasonable cause, fails to comply with this paragraph, the Commission may refuse to grant a Licence to the person.

(3) Subject to Regulation 7, a Licence shall be in the form specified in Schedule 1 with any amendment, whether by addition, deletion or alteration, as may be determined by the Commission.

*Duration of Licences*

6. (1) A Licence shall, unless it has been revoked, withdrawn or surrendered, remain in force for the lifetime of the Apparatus specified in the Licence.

*Conditions of Licences*

7. (1) It shall be a condition of a Licence that:

- (a) the Licensee shall comply with these Regulations and the conditions attached to the Licence;
- (b) the Licensee shall ensure that the Apparatus is used only on such radio frequency spectrum as may be specified in the Licence and such radio frequencies shall be used in an efficient manner having utmost regard to any guidelines that may be issued and amended by the Commission from time to time in relation to the keeping, installing, maintaining, working and use of apparatus for wireless telegraphy for the provision of the provision of Radiodetermination Services, Air Traffic Services Systems or Maritime Traffic Service Systems;
- (c) the Licensee shall ensure that it makes payments of the fees as set out in Schedule 2 to these Regulations;
- (d) the Licensee may not, without the prior written consent of the Commission, which shall not be unreasonably withheld, assign the Licence or any of the powers, duties or functions conferred by it or otherwise transfer any of the rights or obligations conferred by it;
- (e) the Licensee shall ensure that non-ionising radiation emissions from the Apparatus are within the limits specified by the guidelines published by ICNIRP, any radiation emission standards adopted and published by ICNIRP, or its successors, from time to time, any radiation emission standards of the European Committee for Electrotechnical Standards and any radiation emission standards specified by national and European Community law;
- (f) the Licensee shall ensure that the Apparatus is not installed or operated at a location in a manner which causes the aggregate non-ionising radiation emissions at that location to exceed the limits specified by any guidelines published by ICNIRP and that it complies with any radiation emission standards adopted and published by ICNIRP, or its successors, any radiation emission standards of the European Committee for Electrotechnical Standards and any radiation emission standards specified by national and European Community law;
- (g) the Licensee shall as soon as possible, but within 28 days, notify the Commission in writing of any changes to the information contained in the Licence;
- (h) the Licensee shall furnish such information and reports relating to the operation of the Apparatus as may be requested by the Commission from time to time;
- (i) the Licensee shall, no later than each fifth anniversary of the issue of a licence under these Regulations, identify to the Commission in writing

whether the information contained in the Licence and the Licensee's contact details are correct;

- (j) the Licensee shall ensure that the Apparatus, or any part thereof, shall be installed, maintained, operated and used so as not to cause Harmful Interference;
- (k) the Licensee shall ensure that the installation of the Apparatus, or any part thereof, is effected, and its maintenance and operation is carried on, in such a manner as to ensure that the safety of persons or property is not endangered;
- (l) the Licensee shall observe good site engineering practice in accordance with such guidelines as may be set out by the Commission from time to time;
- (m) the Licensee shall ensure compliance with any special conditions imposed under section 8 of the Act of 1972 and subject to which this Licence is deemed by subsection (3) of that section to be issued;
- (n) the Licensee shall ensure that, save as may be required by law, access to, and use of, the Apparatus is restricted to the Licensee, employees or agents of the Licensee, and persons authorised by or on behalf of the Licensee and such persons should be suitably qualified;
- (o) where the Commission is satisfied that a Licensee has failed to comply with any provision of these Regulations or a condition of the Licence, and the Commission has served on the Licensee a written notice prohibiting the use of Apparatus by such date and time as may be specified in the notice, then the Licensee shall cease to use that Apparatus on or before the applicable date and time until such notice has been withdrawn by the Commission, and the Licensee shall take such measures as may be specified by the Commission in the notice;
- (p) the Licensee shall upon becoming aware of any event likely to materially affect his or her ability to comply with these Regulations, or any conditions set out or referred to in the Licence, notify the Commission of that fact in writing within 5 business days;
- (q) the Licensee shall on request from an authorised officer of the Commission permit the inspection of the Apparatus, enable access to the site or sites and produce the associated Licence for inspection; and
- (r) the Licensee shall comply with all obligations under relevant international agreements relating to the use of Apparatus or the frequencies to which they are assigned.

*Enforcement, Amendment, Revocation and Suspension*

8. (1) Where the Commission finds that the Licensee has not complied with any of the conditions attached to his or her Licence, it may take enforcement

measures, which shall be objectively justifiable and in a proportionate manner, which may include the suspension or revocation of the Licence.

(2) The Commission may amend the Licence from time to time where objectively justifiable and in a proportionate manner.

(3) Without prejudice to paragraph (2) of this Regulation, the Commission may, after serving notice in writing on the Licensee specifying reasons and after affording the Licensee reasonable opportunity to make representations and after having considered any such representations, amend, suspend, or revoke the Licence where objectively justifiable and in a proportionate manner.

#### *Licence Fees*

9. (1) Fees as set out and provided for in Schedule 2 are hereby prescribed in relation to Licences for the purpose of section 6 of the Act of 1926.

(2) The grant of a Licence is subject to payment of the prescribed fee as set out in Schedule 2 to these Regulations.

(3) Fees shall be paid to the Commission for Communications Regulation by way of banker's draft or such other means and on such terms (including terms as to the place of payment) as the Commission may decide. Where the date of payment falls on a Saturday, a Sunday or a public holiday payment shall be made on or before the last working day before the date of payment;

(4) If a Licence is surrendered, withdrawn, suspended or revoked, the Licensee shall not be entitled to be repaid any part of the fee paid by the Licensee under these Regulations but shall still be liable to pay any sums (including interest) that are outstanding.

(5) An amount payable by a Licensee may be recovered by the Commission as a simple contract debt in any court of competent jurisdiction.

#### *Transitional Arrangements*

10. All licences, permits and authorisations previously granted in respect of Radiodetermination Services, Air Traffic Service Systems or Maritime Service Systems prior to the coming into force of these regulations are hereby revoked.

**SCHEDULE 1**

**WIRELESS TELEGRAPHY ACT, 1926**

**WIRELESS TELEGRAPHY (Radiodetermination, Air Traffic and Maritime Services) REGULATIONS, 2009**

**LICENCE CERTIFICATE**

***PART 1***

**Licence Number:** \_\_\_\_\_

The Commission for Communications Regulation, in exercise of the powers conferred on it by section 6 of the Wireless Telegraphy Act, 1926 (No. 45 of 1926), transferred to the Commission for Communications Regulation by section 4 of the Communications Regulation (Amendment) Act, 2007 (No. 22 of 2007), grants to the Licensee specified, authorisation to keep, have possession of, install, maintain, work and use apparatus for wireless telegraphy as specified in Part 2 of this Licence subject to the Licensee observing the conditions contained in Regulation 7 of the Wireless Telegraphy (Radiodetermination, Air Traffic and Maritime Services) Regulations, 2009 (S.I. No. 369 of 2009)

**Licensee:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Licence Type:** \_\_\_\_\_

**Commencement and Termination Dates (if applicable):**

The Licence comes into effect on **DD/MM/YY** and, subject to revocation, withdrawal or surrender, shall remain in force for the lifetime of the apparatus for wireless telegraphy specified in Part 2 of the Licence.

**Signed:**.....  
on behalf of the Commission for Communications Regulation

**Date:**

**Official Stamp**



***PART 2***

**Description and Characteristics of Apparatus**

**Locations(s) of Apparatus**

**Technical Conditions of Apparatus**

*and where applicable*

**Loading Criteria**

**Roll-Out Plan**

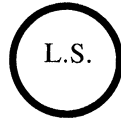
**SCHEDULE 2**

FEE PAYABLE IN CONNECTION WITH LICENCES

No Licence fees are payable in relation to Apparatus which are in operation prior to the commencement of these Regulations.

The Licence fee for Apparatus put into operation after the commencement of these Regulations shall be €500.

Licence amendments and each transfer of a Licence shall incur a fee of €30.



GIVEN under the official seal of the Commission for Communications Regulation,  
10 September 2009

JOHN DOHERTY,  
Chairperson.  
On behalf of the Commission of Communications Regulation

The Minister for Communications, Energy and Natural Resources consents to the making of the foregoing Regulations.



GIVEN under the Official Seal of the Minister for Communications,  
Energy and Natural Resources,  
25 August 2009

EAMON RYAN T.D.,  
Minister for Communications Energy and Natural Resources.

EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

These Regulations provide for the licensing of apparatus for wireless telegraphy for the provision of Radiodetermination Services (including radar, radio navigation and radiolocation systems), Air Traffic Service Systems (including air traffic control communications) and Maritime Service Systems (including coast radio stations and training establishments) within the State.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,  
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nó trí aon díoltóir leabhar.

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