



STATUTORY INSTRUMENTS.

**S.I. No. 189 of 2011**

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WIRELESS TELEGRAPHY (INTERIM GSM MOBILE TELEPHONY  
LICENCE) REGULATIONS 2011

**(Prn. A11/0636)**

## WIRELESS TELEGRAPHY (INTERIM GSM MOBILE TELEPHONY LICENCE) REGULATIONS 2011

The Commission for Communications Regulation, in exercise of the powers conferred on it by section 6 (as substituted by section 182 of the Broadcasting Act 2009, (No. 18 of 2009)) of the Wireless Telegraphy Act, 1926, (No. 45 of 1926), and with the consent of the Minister for Communications, Energy and Natural Resources, pursuant to section 37 of the Communications Regulation Act, 2002, (No. 20 of 2002), hereby makes the following Regulations:

*Citation*

1. These Regulations may be cited as the Wireless Telegraphy (Interim GSM Mobile Telephony Licence) Regulations, 2011.

*Interpretation*

2. (1) In these Regulations, unless 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);

“Act of 2007” means the Communications Regulation (Amendment) Act, 2007 (No. 22 of 2007);

“Act of 2009” means the Broadcasting Act, 2009 (No. 18 of 2009);

“Apparatus” means apparatus for wireless telegraphy as defined in section 2 of the Act of 1926 for the purpose of providing a Mobile Telephony Service and, in relation to a Licence, means the particular apparatus for wireless telegraphy to which the Licence relates;

“Authorisation Regulations” means the European Communities (Electronic Communications Networks and Services)(Authorisation) Regulations, 2003 (S.I. 306 of 2003);

“Commission” means the Commission for Communications Regulation;

“Electronic Communications Network” and “Electronic Communications Service” have the same meanings as are set out in the European Communities (Electronic Communications Networks and Services) (Framework) Regulations, 2003 (S.I. 307 of 2003);

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 26th April, 2011.*

“ETSI” means the European Telecommunications Standards Institute;

“EURIBOR” means the Euro Interbank Offered Rate;

“Framework Regulations” means the European Communities (Electronic Communications Networks and Services) (Framework) Regulations, 2003 (S.I. 307 of 2003);

“GSM” means an electronic communications network that complies with the GSM standards as published by ETSI, in particular but not limited to EN 301 502 and EN 301 511;

“GSM Regulations of 2003” means Wireless Telegraphy (GSM Mobile Telephony Licence) (Amendment) Regulations, 2003, (S.I. No. 339 of 2003);

“GSM and TACS Regulations” means Wireless Telegraphy (GSM and TACS Mobile Telephony Licence) Regulations, 1997, (S.I. No. 468 of 1997);

“Harmful Interference” means interference which endangers the functioning of a Radionavigation Service or other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a Radiocommunications Service operating in accordance with a requirement under the International Telecommunications Union Radio Regulations, a regulation of an institution of the European Union or legislation giving effect to an Act, or provisions of an Act, adopted by an institution of the European Union relating to the provision of an electronic communications service, electronic communications network or an associated facility or the radio frequency spectrum, or regulations made under the Act of 1926;

“ICNIRP” means the International Commission on Non-Ionising Radiation Protection;

“Licence” means a licence under 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;

“Mobile Telephony Service” or “GSM Mobile Telephony Service” means a mobile telephony service corresponding to the GSM specifications;

“Original Licence” means a licence under the Wireless Telegraphy (GSM Mobile Telephony Licence) Regulations, 1999 and 2003;

“Radiocommunications Service” means a service as defined in the Radio Regulations of the International Telecommunication Union involving the transmission, emission and or reception of radio waves for specific telecommunication purposes;

“Radionavigation Service” means a service involving the determination of the position, velocity and/or other characteristics of an object, or the obtaining of

information related to their parameters, by means of the propagation properties of radio waves and used for the purposes of navigation, including obstruction warning;

(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 or Schedule to these Regulations, unless it is indicated that a 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.

(3) The Interpretation Act 2005 (No. 23 of 2005) applies to these Regulations.

*Licences to which these Regulations apply*

3. (1) These Regulations prescribe matters in relation to Licences of the type detailed in the form of Licence contained in the Schedule hereto, application for the grant or, as the case may be, renewal, of which may be or, as the case may be, has been, made hereunder by any person who, at the time of making their first application for a Licence pursuant to these Regulations, holds, or, as the case may be, held an Original Licence which is, or as the case may be, was due to expire on the 15 May 2011 and who was previously the holder of a licence under the GSM and TACS Regulations.

(2) The provisions of the GSM Regulations of 2003, and, in particular, Regulation 4(5) thereof, do not apply to Licences to which these Regulations apply, and, for the avoidance of doubt, any person whose Original Licence is, or, as the case may be, was, pursuant to that Regulation, incapable of grant or renewal so as to expire later than the 15 May 2011, may apply hereunder for the grant, or as the case may be, renewal, of a licence to which these Regulations apply.

*Application for Licences and Form of Licences*

4. (1) Application for a Licence to which these Regulations apply shall be made to the Commission in writing and in such form as may be determined by the Commission from time to time.

(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 purposes of these Regulations, 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) The Commission may grant a Licence to which these Regulations apply in accordance with the provisions of Regulation 9 of the Authorisation Regulations and on payment by the applicant of the fees prescribed in Regulation 9 of these Regulations.

(4) A Licence to which these Regulations apply shall be in the form specified in the Schedule to these Regulations with such variation, if any, whether by addition, deletion or alteration as the Commission may determine from time to time or in any particular case.

*Duration and Renewal of Licences*

5. (1) A Licence to which these Regulations apply that has not been renewed, shall unless it has been withdrawn or had its duration amended under Regulation 7(2), be in force for a period of up to one year and, unless renewed, shall then expire.

(2) Subject to paragraph (4) of this Regulation, a Licence to which these Regulations apply may be renewed from time to time by the Commission under paragraph (3) of this Regulation, on payment by the applicant of the fees prescribed in Regulation 9.

(3) On application by or on behalf of a Licensee to the Commission before the expiration of their Licence, the Commission may, by notice in writing given to the Licensee or sent to the Licensee at the address of the Licensee specified in the Licence or notified to the Commission by the Licensee in accordance with the Licence, renew the Licence for a specified period of up to one year from the day following the expiration of the last previous period during which it was in force. The granting or renewal of a Licence shall not be construed as warranting, representing or otherwise holding out that the Licence shall be renewed at any time in the future, or renewed for any particular period or on any particular terms.

(4) Notwithstanding paragraphs (1), (2) and (3) of this Regulation, a Licence granted or renewed under these Regulations shall in any event, terminate on 31 January 2013, or on such earlier termination date as may be decided upon by the Commission and given effect by way of a Licence amendment under Regulation 7(2).

*Conditions of Licences*

6. It shall be a condition of a Licence to which these Regulations apply that the Licensee shall:

(1) ensure that it complies with the conditions contained within the Licence and these Regulations;

(2) ensure that the Apparatus, as appropriate, is used only on such radio frequency spectrum as may be specified in the Licence and that such radio frequencies shall be used in an effective and efficient manner;

(3) ensure that it makes payments of the fees as set out in Regulation 9 of these Regulations;

(4) not, without the prior 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;

(5) ensure that non-ionising radiation emissions from the Apparatus are within the limits specified by the guidelines published by ICNIRP and that it complies with any radiation emission standards adopted and published from time to time by ICNIRP, any standards of the European Committee for Electrotechnical Standards and any standards which may from time to time be specified by national and European Community law;

(6) ensure that the Apparatus is not installed or operated at a location in a manner such as to be the cause of the aggregate non-ionising radiation emissions exceeding the limits specified by the guidelines published by ICNIRP and that it complies with 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;

(7) ensure that if the address of the Licensee or the person to whom the Licence has been assigned changes, the Licensee or assignee shall, as soon as possible, but within 28 days, notify the Commission in writing of the change;

(8) furnish, such information and reports relating to the operation of the Apparatus as may be requested by the Commission from time to time;

(9) where consent is granted, under paragraph 4 of this Regulation, ensure that the assignee is contractually obliged to provide to the assignor such details as the Commission may request from time to time;

(10) ensure that the Apparatus or any part thereof, shall be installed, maintained, operated and used so as not to cause harmful interference;

(11) 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;

(12) comply 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;

(13) ensure that, save as may be required by law, physical 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;

(14) upon becoming aware of any event likely to materially affect their 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; and

(15) comply with all obligations under relevant international agreements relating to the use of Apparatus or the frequencies to which they are assigned.

*Enforcement, Amendment, Withdrawal and Suspension*

7. (1) Enforcement by the Commission of compliance by a Licensee with conditions attached to their Licence shall be in accordance with the Authorisation Regulations, and any other requirements under a regulation of an institution of the European Union or legislation giving effect to an Act, or provision of an Act, adopted by an institution of the European Union relating to the provision of an electronic communications service, electronic communications network or an associated facility or the radio frequency spectrum, or regulations made under the Act of 1926.

(2) The Commission may amend the Licence from time to time where objectively justifiable and in a proportionate manner. Any amendment, including any amendment to the duration of the Licence, shall be made subject to and in accordance with the Authorisation Regulations and any other requirements under a regulation of an institution of the European Union or legislation giving effect to an Act, or provision of an Act, adopted by an institution of the European Union relating to the provision of an electronic communications service, electronic communications network or an associated facility or the radio frequency spectrum, or regulations made under the Act of 1926.

(3) Where the Commission is of the opinion that, in the interest of the efficient and orderly use of apparatus for wireless telegraphy or radio frequency spectrum, it is desirable to do so, it may amend the Licence from time to time in accordance with the Authorisation Regulations and any other requirements under a regulation of an institution of the European Union or legislation giving effect to an Act, or provision of an Act, adopted by an institution of the European Union relating to the provision of an electronic communications service, electronic communications network or an associated facility or the radio frequency spectrum, or regulations made under the Act of 1926.

(4) Without prejudice to paragraph (1) of this Regulation, at the request of the Licensee, the Commission may, if it considers it appropriate to do so, amend the Licence by adding to, deleting from or altering the radio frequency spectrum specified in the Licence, on which the Apparatus may be used. Any such amendment shall be effected by notice in writing from the Commission specifying the amendment and given to the Licensee or sent to the Licensee at the address specified in the Licence or notified to the Commission pursuant to the Licence.

(5) A Licence may be suspended or withdrawn by the Commission in accordance with the Authorisation Regulations, and any other requirements under a regulation of an institution of the European Union or legislation giving effect to an Act, or provision of an Act, adopted by an institution of the European Union relating to the provision of an electronic communications service, electronic communications network or an associated facility or the radio frequency spectrum, or regulations made under the Act of 1926.

*Powers of Authorised Officers*

8. (1) The Commission may appoint such members of its staff as it considers appropriate to be authorised officers to act for the purposes of these Regulations.

(2) A person appointed under paragraph (1) shall, on their appointment, be furnished by the Commission with a certificate of their appointment and when exercising a power conferred by paragraph (3) shall if so requested by any person thereby affected produce such certificate to that person for inspection.

(3) For the purposes of the exercise by the Commission of its functions under these Regulations, an authorised officer appointed hereunder may exercise the powers conferred by section 39(3) of the Act of 2002 on authorised officers appointed under that Act.

*Licence Fees*

9. (1) Subject to paragraph (2) of this Regulation, the following fees are hereby prescribed in relation to Licences to which these Regulations apply.

The Licensee shall pay in respect of each 200 kHz duplex radio frequency channel in the 900 MHz frequency band as specified in the Licence, a fee of €71,338 for a one-year period; and

(2) If the Licence is granted or renewed for a part of a year then the fee in respect of the Licence to be paid by the Licensee shall be calculated on a pro rata daily basis until its expiry.

(3) The fees specified in paragraphs (1) and (2) of this Regulation shall be paid to the Commission at the time of the making of any application under Regulation 4(1) or Regulation 5(3), and prior to any grant or renewal of a Licence hereunder, as the case may be, by way of banker's draft or such other means and on such other terms, if any, 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 on which payment would otherwise have fallen due.

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

(5) If a Licence is amended under Regulation 7(2) or Regulation 7(4), the appropriate fee specified in paragraph (1) of this Regulation in relation to such channel(s) shall be paid by the Licensee, or refunded to the Licensee, on a pro-rata basis, based on the proportion of the unexpired period of the Licence on the date of the amendment.

(6) Where payment is not made in due time, then interest shall be payable by the Licensee at the appropriate EURIBOR rate standing on the fee or part thereof in respect of the period between the date when such fee or part fell due and the date of payment of such fee or part.



(7) An amount payable by a person in respect of a fee under this Regulation may be recovered by the Commission from the person as a simple contract debt in any court of competent jurisdiction.

*Licensee to satisfy all Legal Requirements*

10. (1) A Licence granted pursuant to these Regulations does not grant to the Licensee any right, interest or entitlement other than the right to keep, install, maintain, work and use, at a specified location or locations in the State, apparatus for wireless telegraphy for the purpose of the provision of a GSM Mobile Telephony Service.

(2) Nothing in these Regulations shall absolve the Licensee from any requirement in law to obtain such additional consents, permissions, authorisations or licences as may be necessary for the provision the service and for the exercise of his or her rights or discharge of his or her obligations under the Licence. The Licensee is responsible for all costs, expenses and other commitments, financial or otherwise, in respect of the Licence and in the provision of the GSM Mobile Telephony Service and the Commission shall bear no responsibility whatsoever for such costs, expenses or commitments.

SCHEDULE

**WIRELESS TELEGRAPHY ACT, 1926**

**WIRELESS TELEGRAPHY (INTERIM GSM MOBILE TELEPHONY LICENCE) REGULATIONS 2011**

**Mobile Telephony Licence**

**Licence under section 5 of the Wireless Telegraphy Act, 1926, to keep have possession of, install, maintain, work and use apparatus for wireless telegraphy for the purpose of providing a GSM Mobile Telephony service.**

The Commission for Communications Regulation, in exercise of the powers conferred on it by section 5 (as substituted by section 182 of the Broadcasting Act 2009 (No. 18 of 2009)) of the Wireless Telegraphy Act, 1926 (No. 45 of 1926), hereby grants to the Licensee specified \_\_\_\_\_ of \_\_\_\_\_, authorisation to keep, have possession of, install, maintain, work and use apparatus for wireless telegraphy as specified in Schedule 2 to this Licence, in the places specified in Schedule 1 to this Licence and subject to the terms and conditions and restrictions as set out in the Wireless Telegraphy (Interim GSM Mobile Telephony Licence) Regulations, 2011 (S.I. No. 189 of 2011) (“the Regulations”), including, but not limited to, the following;

1. The Licensee shall ensure that it complies with the geographical and technical conditions contained within Schedules 1 to 3 to this Licence.
2. The Licensee shall ensure that it complies with all of the commitments contained within Schedule 4 to the Licence which were made by the Licensee in

the course of a comparative evaluation selection procedure, prior to the granting of the Original Licence.

This Licence shall come into operation on \_\_\_\_\_ and, unless previously withdrawn, shall expire on \_\_\_\_\_ or on such earlier termination date as may be decided upon by the Commission and given effect by way of a Licence amendment under Regulation 7(2) of the Regulations.

GIVEN under the official seal of the Commission for  
Communications Regulation, this 2011

Signed: \_\_\_\_\_

For and on behalf of the Commission for Communications  
Regulation

**Schedule 1**

Licensee \_\_\_\_\_

Places at which the Licensee is authorised by this Licence to keep and have possession of 2G Apparatus.

**Schedule 2**

The apparatus for wireless telegraphy to which this Licence applies.

**Schedule 3**

Radio Frequency Channels on which the Apparatus is authorised by this Licence to be used.

**Schedule 4**

Commitments Made by the Licensee Prior to the Grant of the Original Licence.

**Part 1**

Licence Commencement Date

**Part 2**

The Licensed Mobile Services

**Part 3**

Access to the Emergency Services

**Part 4**

Service Quality, Performance Standards and Obligations

**Schedule 4**

**Part 5**

Roaming

**Part 6**

Other Conditions

(Other relevant commitments made by the Licensee in the Original Licence)

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GIVEN under the Official Seal of the Commission for Communications Regulation this, 20 April 2011.

ALEX CHISHOLM, Chairperson  
For and 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 this, 20 April 2011.

PAT RABBITTE 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 prescribe matters in regard to licences that may be granted under section 5 of the Wireless Telegraphy Act 1926 (as amended), to keep and have possession of, apparatus for wireless telegraphy in a specified place in the State for the purpose of the provision of a GSM Mobile Telephony Service, including matters relating to their form, the period(s) during which they continue in force, the fees payable in respect of them, and the conditions and restrictions applying to them.

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,  
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,  
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