



STATUTORY INSTRUMENTS

S.I. No. 370 of 2009



WIRELESS TELEGRAPHY (RADIO LINK LICENCE) REGULATIONS,
2009

(Pm. A9/1286)

WIRELESS TELEGRAPHY (RADIO LINK LICENCE) 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 (Radio Link Licence) 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);

“Apparatus” means apparatus for wireless telegraphy for the purpose of the provision of a Point to Point Radio Link or a Point to Multi-Point Radio Link 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;

“Authorisation Regulations” means the European Communities (Electronic Communications) (Authorisation) Regulations, 2003 (S. I. No. 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. No. 307 of 2003);

“ETSI” means the European Telecommunications Standards Institute;

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“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 the applicable international, European Community or national regulations;

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

“Licence” means a licence granted 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 granted to the licensee;

“Licensee” means the holder of a Licence;

“Point to Point Radio Link” means a Radio Link between two specified fixed points;

“Point to Multi-Point Radio Link” means a Radio Link between a specified fixed point and multiple points;

“Radio Link” means a link by means of apparatus for wireless telegraphy;

“Radiocommunications Service” means a service involving the transmission, emission and/or reception of radio waves specified for specific telecommunications 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 these parameters, by means of the propagation properties of radio waves and used for the purposes of navigation, including obstruction warning;

“Regulations” means the Wireless Telegraphy (Radio Link Licence) 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 a Point to Point Radio Link or a Point to Multi-Point Radio Link, having the characteristics set out in Part 2 of the First Schedule of the Licence and operating in accordance with the technical conditions set out in Part 2 of the First Schedule of the Licence and at the location or locations set out in Part 2 of the First Schedule 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, at a specified location or locations in the State, apparatus for wireless telegraphy for the purpose of the provision of a Point to Point Radio Link or a Point to Multi-Point Radio Link.

(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 a Point to Point Radio Link or a Point to Multi-Point Radio Link 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 will 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, the Act of 2002 and the Authorisation 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 issue a Temporary Licence for a period up to a maximum of six months which shall not be renewed.

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

(5) 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 and Renewal of Licences

6. (1) A Licence shall, unless it has been revoked, withdrawn or surrendered, remain in force from the date of grant for a period of one year unless renewed under these Regulations.

(2) A Licence may be renewed from time to time by the Commission under this Regulation.

(3) A Temporary Licence shall, unless it have been revoked, withdrawn or surrendered, remain in force from the date of grant until the expiry date as specified in the licence, which shall not be greater than a six month period, and shall not be renewed.

(4) On application in writing 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 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 that the Licence shall be renewed at any time in the future.

(5) In considering whether to renew a Licence, the Commission shall have particular regard to:

- (a) whether the Licensee has complied with these Regulations and the conditions attached to the expiring Licence;
- (b) the efficient management and use of radio spectrum; and
- (c) the avoidance of Harmful Interference.

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 forming part of a Radio Link;
- (c) the Licensee shall make 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 operated by the Licensee 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 Standardization and any radiation emission standards specified by national and European Community law;
- (f) the Licensee shall ensure that the Apparatus operated by the Licensee 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 Standardization 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 ensure that the Apparatus, or any part thereof, shall be installed, maintained, operated and used so as not to cause Harmful Interference;
- (j) 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;
- (k) 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;
- (l) 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;
- (m) 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;

- (n) 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 will 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;
- (o) the Licensee shall 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;
- (p) 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 on which the Apparatus is located and produce the associated Licence for inspection; and
- (q) 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) 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 applicable national or European Community law.
- (2) The Commission may amend the Licence from time to time where objectively justifiable and in a proportionate manner. Any amendment shall be made subject to and in accordance with the Authorisation Regulations, and any other requirements under applicable national or European Community law.
- (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 in accordance with the Authorisation Regulations.
- (4) Without prejudice to paragraph (2) 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 applicable national or European Community law.

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 Fees set out and provided for in Schedule 2 shall be payable by the Licensee to the Commission prior to the grant or renewal of a Licence;

(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. (1) Subject to paragraph 2, the Wireless Telegraphy (Radio Link Licence) Regulations 1992 (S.I. No. 319 of 1992) are hereby revoked.

(2) A licence issued under the Wireless Telegraphy (Radio Link Licence) Regulations 1992 (S.I. No. 319 of 1992) in force immediately before the commencement of these Regulations will continue in force as if it had run continuously from the date of its issue until its next renewal date.

SCHEDULE 1

WIRELESS TELEGRAPHY ACT, 1926

WIRELESS TELEGRAPHY (RADIO LINK LICENCE) 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 as specified in Part 2 of this Licence subject to the Licensee observing the conditions contained in Regulation 7 of the Wireless Telegraphy (Radio Link Licence) Regulations, 2009 (S.I. 370 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 or suspension, expires on *DD/MM/YY* unless renewed in accordance with these Regulations.

or

This Temporary Licence comes into effect on *DD/MM/YY* and shall expire on *DD/MM/YY*.

Signed:
on behalf of the Commission for Communications Regulation

Date:

Official Stamp

Description and Characteristics of Apparatus

Locations(s) of Apparatus

Technical Conditions of Apparatus

And where applicable,

Loading Criteria

Roll-Out Plan

SCHEDULE 2

FEES PAYABLE IN CONNECTION WITH LICENCES

The **Annual Fee (€) for a Point to Point Radio Link** is set out in Table 1 and Table 2 below.

Table 1: Annual Fee (€) for a Point to Point Radio Link which is not on a High Usage Path or in the Congested Frequency Band Area

Bandwidth (BW) Frequency (F)	BW ≤ 3.5 MHz	3.5 MHz < BW ≤ 20 MHz	20 MHz < BW ≤ 40 MHz	BW > 40 MHz
	F < 1 GHz	€750	N/A	N/A
1 GHz ≤ F < 17 GHz	€1,000	€1,100	€1,200	€1,500
17 GHz ≤ F < 37 GHz	€750	€825	€900	€1,125
37 GHz ≤ F < 39.5 GHz	€550	€605	€660	€825
F > 39.5 GHz	€100	€110	€120	€150

Table 2: Annual Fee (€) for a Point to Point Radio Link which is on a High Usage Path or in the Congested Frequency Band Area

Bandwidth (BW) Frequency (F)	BW ≤ 3.5 MHz	3.5 MHz < BW ≤ 20 MHz	20 MHz < BW ≤ 40 MHz	BW > 40 MHz
	F < 1 GHz	€900	N/A	N/A
1 GHz ≤ F < 17 GHz	€1,200	€1,320	€1,440	€1,800
17 GHz ≤ F < 37 GHz	€900	€990	€1,080	€1,350
37 GHz ≤ F < 39.5 GHz	€660	€726	€792	€990
F > 39.5 GHz	€120	€132	€144	€180

Where:

- Frequency (F) is the frequency (Hz) that may be utilised by the radio link as specified in the licence;
- Bandwidth (BW) is the width of the frequency band or channel that may be utilised by the radio link as specified in the licence;
- A Radio Link Path is the unique path as defined by the specified fixed points of a Point to Point Radio Link;
- A High Usage Path is a Radio Link Path upon which the Licensee has five (5) or more Radio Links.

• The Congested Frequency Band Area is:

- o The 18 GHz Frequency Band (17.7 GHz to 19.7GHz); or
The 23 GHz Frequency Band (22.0 GHz to 22.6 GHz and 23.0 GHz to 23.6 GHz)

AND

- o The geographic area as defined by National Grid 3122 and 3123 (Ordnance Survey of Ireland). A Radio Link is within this area when one or both of its' specified fixed points is located in this geographic area.

The **Annual Fee (€) for a Point to Multi-Point Radio Link** is four (4) times the Annual Fees (€) for a Point to Point Radio Link.

Temporary Licence Fees are applied pro-rata to the relevant annual fee using the number of months for which the licence is granted. (i.e. if a licence is granted for a period of less than one month, then, for the purpose of these calculations only, the licence shall be considered as a licence granted for a period of one month)



GIVEN under the Official Seal of the Commission for Communications Regulation this 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 this 25 August 2009

EAMONN 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 issue of licences for apparatus for wireless telegraphy for the provision of a Point to Point Radio Link or a Point to Multi-Point Radio Link, for the regulation of such apparatus, and for the payment of fees by persons granted licences for that apparatus.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
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MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
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