



STATUTORY INSTRUMENTS.

S.I. No. 445 of 2009



WIRELESS TELEGRAPHY (UHF TELEVISION PROGRAMME
RETRANSMISSION) REGULATIONS 2009

(Prn. A9/1624)

WIRELESS TELEGRAPHY (UHF TELEVISION PROGRAMME
RETRANSMISSION) 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 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 (UHF Television Programme Retransmission) Regulations 2009.

(2) These Regulations will come into force on 1 January 2010.

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);

“Apparatus” means apparatus for wireless telegraphy (as defined in the Act of 1926) operating in the radio spectrum frequency bands designated by the Commission for UHF Television Programme Retransmission and, in relation to a Licence, means apparatus to which the Licence relates;

“Authorisation Regulations” mean the European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations, 2003 (S.I. No. 306 of 2003);

“Commission” means the Commission for Communications Regulation established under the Act of 2002;

“DTT” means Digital Terrestrial Television;

“Deflector Network” means a network of retransmission stations;

“ETSI” means the European Telecommunications Standards Institute;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 20th November, 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;

“Licence” means a licence granted under these Regulations applies and cognate words shall be construed accordingly;

“Licensed Programme Service” means any of the following programme services:

- (a) television broadcasts (within the meaning of the Wireless Telegraphy (Television Programme Retransmission and Relay) Regulations, 1991 (S.I. No. 252 of 1991)) that originate in another Member State of the European Communities and that fall within the fields coordinated by Council Directive 89/552/EEC¹ of 3 October 1989 as amended by Council Directive 97/36/EEC² of 30 June 1997 and Council Directive 2007/65/EC of 11 December 2007;
- (b) a programme service that originates in the State authorised for the time being by law;

“Licensee” means the holder of a Licence;

“Non-reserved spectrum” means those radio spectrum frequency channels that are not part of the reserved spectrum;

“Reserved spectrum” means radio spectrum frequency channels that are currently used to broadcast national analogue licensed programme service and that are reserved for DTT and/or the further rollout of national analogue licensed programme service at particular locations and with particular characteristics as specified in a document published periodically by the Commission;

“Retransmission” means the reception by means of wireless telegraphy of a licensed programme service and the subsequent transmission in the UHF broadcasting band (470.0 — 862.0 MHz) of that programme service, and cognate words shall be construed accordingly;

“Retransmission station” means apparatus for wireless telegraphy (and any other apparatus associated therewith) that is used for retransmission and is situated at any one location, as particularised in the licence document;

“UHF” means Ultra High Frequency.

(2) In these Regulations unless the contrary intention appears:

- (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;

¹O.J. No. L298 of 17 October 1989, pp. 23-30.

²O.J. No. L202 of 30 July 1997, pp. 60-71.

- (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.

(3) The Interpretation Act, 2005 applies to these Regulations.

Licences to which these Regulations apply

3. These Regulations apply to Licences to keep, have possession of, install, maintain, work and use retransmission stations having the characteristics set out in Part III of the Licence for the purposes of the retransmission of licensed programme services.

Application for Licences and Form of Applications and Licences

4. (1) An application for a Licence shall be made to the Commission and shall be:

- (a) in such form as shall be specified by the Commission; and
- (b) accompanied by a non-refundable application fee, in respect of each frequency channel at each transmission station, as set out in Regulation 9.

(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 its functions under 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) A Licence shall be in the form set out in the Schedule to these Regulations or such other form as the Commission may from time to time determine.

Addresses for notices

5. (1) Every Licensee shall on the grant of his or her licence furnish in writing to the Commission the address and, where appropriate, the fax number and e-mail address, to which notices and other documents under these Regulations may be delivered or sent by post or by telecommunications services, to the Licensee by or on behalf of the Commission and the Licensee shall, as occasion requires, likewise furnish any change of address or fax number or e-mail address, and such notice or document delivered to, or sent by post, or by such telecommunications services, to such address or fax number or e-mail address so furnished shall be deemed for the purposes of these Regulations to have been duly served by the Commission.

(2) Where the service of any notice or document by the Commission is effected by fax or e-mail in accordance with paragraph (1) of this Regulation, the service of such document shall, unless the contrary is proved, be deemed to have been effected at the time at which the sender's fax system generates a

message confirming successful transmission of the total number of pages of the notice or document, or at the time at which the sender's facility for receiving electronic mail generates a message confirming receipt of the e-mail containing the notice or document.

Duration and Renewal of Licences

6. (1) A Licence that has been granted or renewed shall (unless it has been or is revoked) remain in force for the period of one year from the date on which it is expressed to come into operation and, unless renewed, shall then expire completely.

(2) A Licence shall not be renewed by the Commission on the third anniversary after the first grant of the licence but shall then expire completely.

(3) On application by or on behalf of a Licensee to the Commission before the expiration of his or her Licence, the Commission may, renew the Licence for a specified period from the day following the date of expiration of the previous period during which the Licence 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, and no Licence shall be renewed beyond the third anniversary of the date upon which it was first granted.

(4) No Licence granted pursuant to these Regulations shall remain valid after 31 December 2012.

(5) A holder of a Licence granted under the Wireless Telegraphy (UHF Television Programme Retransmission) Regulations, 2006 may apply to renew that Licence under these Regulations.

Conditions of Licences

7. It shall be a condition of each Licence that:

(1) the Licensee shall comply with the conditions contained within the Licence and these Regulations.

(2) the Licensee shall use the Apparatus only for the purpose of Retransmission.

(3) the Licensee shall use Apparatus only on such radio spectrum frequency channels as may be specified in Part III of the Licence.

(4) the Licensee shall not, without the consent of the Commission which shall not be unreasonably withheld, assign his or her 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) the Licensee shall ensure that all apparatus used on or associated with a Deflector Network complies with the standards set for such equipment by the European Communities (Radio Equipment and Telecommunications Terminal Equipment) Regulations, 2001 (S.I. No. 240 of 2001) and any other standards, that may, from time to time, be specified by ETSI or any other appropriate body.

(6) the Licensee shall ensure that non-ionising radiation emissions from the Apparatus or Deflector Network operated by the Licensee, are within the limits specified in the guidelines published by the International Commission for Non-Ionising Radiation Protection ("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.

(7) 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 Standards and any radiation emission standards specified by national and European Community law.

(8) the Licensee shall comply with all commitments and obligations contained in the Schedule of his or her Licence.

(9) the Licensee shall pay the fees set out in Regulation 9 of these Regulations.

(10) the Licensee shall comply with any special conditions imposed under section 8 of the Act of 1972.

(11) the Licensee shall not place any restriction on the make or type of Apparatus which may be used to receive Licensed Programme Services.

(12) the Licensee shall use the Apparatus for the transmission of no more than four frequency channels as contained in the schedule to its Licence.

Enforcement, Amendment, Revocation and Suspension

8. (1) The Commission may amend a Licence from time to time, where it is objectively justifiable and in a proportionate manner. Any amendments shall be in accordance with the Authorisation Regulations and other applicable national or European Community law.

(2) The Commission may amend a Licence where it is of the opinion that, in the interest of ensuring the efficient management and use of the radio frequency spectrum it is necessary to do so.

(3) Without prejudice to paragraph (1) of this Regulation the Commission may, either at the request of a Licensee or if it considers it appropriate to do so, amend a Licence by adding to, deleting from, or altering the radio frequency spectrum specified in the Licence, and any such amendment shall be effected by notice in writing sent from the Commission to the Licensee.

(4) The Commission may revoke a Licence where to do so is objectively justifiable and proportionate. Any revocation shall be in accordance with the

Authorisation Regulations and any other applicable national or European Community law.

Fees

9. (1) An application for a licence under these regulations shall be accompanied by a non-refundable fee of €25 (twenty-five euro) per frequency channel.

(2) Fees shall be payable by a Licensee to the Commission prior to the grant or renewal of a Licence.

(3) The amount of the Licence fee shall be €50 (fifty euro) per transmitter, per annum.

(4) Additional Licence fees may be levied by the Commission in accordance with the provisions of the Authorisation Regulations.

(5) Fees shall be paid to the Commission for Communications Regulation by way of banker's draft, or by such other means as the Commission may decide.

(6) Where a Licence is suspended or revoked, the Licensee shall not be entitled to repayment of any part of the fee paid to the Commission for that Licence.

(7) An amount due and owing by a person in respect of a Licence granted under these Regulations may be recovered by the Commission from the person as a simple contract debt in any court of competent jurisdiction.

(8) If the licence is awarded for a portion of a year then the Licence fee to be paid by the Licensee shall be calculated as follows:

$$A \times (B \div 12) = C$$

Where A is the appropriate annual fee; B is the number of whole months or parts thereof for which the Licence is granted, and C is the appropriate Licence Fee to be paid.

Interference

10. (1) (a) A Licensee shall ensure that all Apparatus and every retransmission station, or part thereof, shall be designed, constructed, installed, maintained, and operated in such manner as not to cause harmful interference with licensed wireless telegraphy apparatus, of whatever kind, used by any other person or body.

(b) If the Commission is satisfied that a Licensee has failed to comply with subparagraph (a) and serves on the Licensee a notice requiring that use of such Apparatus or retransmission station, or part thereof shall cease immediately or on or before a specified date then the Licensee shall comply with that notice and the Licensee shall take such other measures, if any, as may be specified by the Commission in its notice.

(2) (a) A Licensee is not licensed to operate in any area where harmful interference from the lawful operation of any apparatus for wireless telegraphy, broadcasting station, or television broadcasting transmitter, is caused to the reception of any Licensed Programme Services retransmitted by the Licensee.

(b) Subject to sub-paragraph (a), where a Licensee is licensed to retransmit Licensed Programme Services on non-reserved spectrum, the Commission may suspend, revoke or vary his or her Licence where the Licensee suffers harmful interference from any transmissions of DTT.

(3) Where a Licensee is licensed to retransmit Licensed Programme Services, on any radio spectrum frequency channel in either the reserved or non-reserved spectrum, and such retransmission causes, or may cause, interference with transmissions of DTT, then the Commission may suspend, revoke or vary his or her Licence.

Licensee to satisfy all Legal Requirements.

11. Nothing in these Regulations shall absolve a Licensee from any requirement in law to obtain such additional consents, permissions, authorisations or licences as may be necessary for the operation of Apparatus or a Deflector Network. A Licensee is responsible for all costs, expenses and other commitments (financial and non-financial) that incurred by the Licensee in respect of the Licence and the Commission shall bear no responsibility for such costs, expenses or commitments.

SCHEDULE

WIRELESS TELEGRAPHY (UHF TELEVISION PROGRAMME
RETRANSMISSION) REGULATIONS, 2009

Licence under section 5 of the Wireless Telegraphy Act, 1926, to keep and have possession of apparatus for wireless telegraphy for the purpose of operating a UHF television programme retransmission network.

The Commission, in exercise of the powers conferred on it by section 5 of the Wireless Telegraphy Act, 1926 (No. 45 of 1926) and Section 4 of the Communications Regulation (Amendment) Act, 2007 (No. 22 of 2007) hereby grants to the Licensee specified authorisation to keep, have possession of, install, maintain, work and use apparatus as specified in this licence and subject to the terms and conditions as set out in the Wireless Telegraphy (UHF Television Programme Retransmission) Regulations, 2009 (S.I. No. 445 of 2009)

The Commission for Communication Regulation, hereby grants the following Licence to:

.....of...../ having its registered office at
.....

1. The Licence shall come into operation on the DD/MM/YY and unless previously revoked or renewed shall expire on the DD/MM/YY
2. The Licensee shall ensure that it complies with the Technical details and conditions contained in this licence;

Signed on behalf of the Commission for Communications Regulations

.....

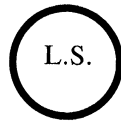
Part I
Licensee

Part II
Address for notices

Part III
The Apparatus,
Places at which the Licensee is authorised by this Licence to keep and have possession of the Apparatus,
Portion of radio frequency spectrum on which the Apparatus is authorised by this Licence to be used,
Particulars of retransmission stations

Part V
Technical Conditions

Part VI
Specific content provided by the Licensee



GIVEN under the Official Seal of the Commission for
Communications Regulation,
16 November 2009.

JOHN DOHERTY.

On behalf of the Commission for Communication 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,
16 November 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 issue of licences to keep and have possession of apparatus for wireless telegraphy for the purposes of the retransmission of licensed programme services in the UHF television bands.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
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