

STATUTORY INSTRUMENT

S.I. No. 172 of 2007

Wireless Telegraphy (1785 - 1805 MHz Wireless Access Platform for Electronic Communications Services) Regulations, 2007.

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The Commission for Communications Regulation, in exercise of the powers conferred on it by section 6(1) of the Wireless Telegraphy Act, 1926 (No. 45 of 1926), transferred to the Commission for Communications Regulation by section 9(1) of the Communications Regulation Act 2002 (No. 20 of 2002) and with the consent of the Minister for Communications, Marine and Natural Resources, pursuant to section 37 of the Communications Regulation Act 2002 hereby makes the following Regulations:

Citation and Commencement

1. (1) These Regulations may be cited as the Wireless Telegraphy (1785 – 1805 MHz Wireless Access Platform for Electronic Communications Services) Regulations, 2007.
- (2) These Regulations come into force on the 25th day of April, 2007.

Interpretation

2. (1) In these Regulations –

“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 operating in the band 1785 MHz to 1805 MHz frequency bands for the purpose of the provision of Wireless Access Platform for Electronic Communications Services and, in relation to a Licence, means apparatus to which the Licence relates;

“Authorisation Regulations” means 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;

“Electronic communications service” has the meaning defined in the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2003 (S.I. No. 307 of 2003);

“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 any lawfully operating radiocommunications service;

“Licence” means a Licence under section 5 of the Act of 1926;

“Licensee” means the holder of a Licence;

“moratorium period” means a period, during which the Commission may, restrict the assignment of, or otherwise transfer of, a Licence, or any of the rights, powers obligations duties or functions of a Licence granted under these Regulations;

“Wireless Access Platform for Electronic Communications Services” means a digital service providing wireless access for the provision of electronic communications services.

- (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;
 - (b) a reference to a regulation or a schedule is a reference to a regulation or schedule of these Regulations;
 - (c) a reference to a paragraph or subparagraph is a reference to a paragraph or subparagraph of the provision in which the reference occurs.
- (3) The Interpretation Act 2005 applies to these Regulations.

Licences to which these Regulations apply

3. (1) These Regulations apply to Licences to keep, have possession of, install, maintain, work and use apparatus for the provision of Wireless Access Platform for Electronic Communications Services having the characteristics set out in Part 2 of the Licence.
- (2) A Licence does not grant to the Licensee any right, interest or entitlement, other than the right to keep, have possession of, install, maintain, work and use the Apparatus.

Application for Licence and Form of Licence

4. (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 purposes of its functions under these Regulations 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 grant a Licence in accordance with the relevant provisions of the Authorisation Regulations.
- (4) 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.

Licensee to satisfy all legal requirements

5. Nothing in these Regulations shall absolve a Licensee from any requirement in law to obtain any approvals, consents, licences, permissions and authorities as may be necessary for the provision of the service and for the exercise of his rights or the discharge of obligations 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 service and the Commission shall bear no responsibility for such costs, expenses or commitments.

Licence Duration and Renewal

6. (1) A Licence shall (unless it has been revoked) be in force for a period of fifteen (15) years from the date on which it comes into operation and shall then expire.
(2) The granting of a Licence shall not be construed as warranting that the Licence shall be granted / renewed at any time in the future.

Licence Fees

7. (1) The Licence will be awarded following an auction to the highest bidder.
(2) The auction reserve price shall be €150,000.
(3) The licence fee to be paid, prior to the issue of any licence, shall be in accordance with the rules of the auction procedure as set down by the Commission.
(4) Licence fees shall not be refundable in any circumstances.

Conditions of Licences

8. It shall be a condition of a Licence that:
 - (1) the Licensee shall comply with the conditions contained within these Regulations and in Part 2 of the Licence;
 - (2) the Licensee shall make full payment of the fee as outlined in Regulation 7 of these Regulations prior to the granting of any licence;
 - (3) the Licensee shall ensure that non-ionising radiation emissions from each radio installation operated under the Licence for the purposes of the Service are within the limits specified by the guidelines published by the International Commission for Non-Ionising Radiation Protection (“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 the European Union and that the wireless telegraphy apparatus operated under the Licence 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 the 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 EC law;

- (4) if the address of the Licensee changes, the Licensee shall, as soon as possible, but no later than 28 (twenty eight) days notify the Commission in writing of the change;
- (5) the Licensee complies 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;
- (6) the Licensee may not, without the consent of the Commission (which shall not be unreasonably withheld, subject to any moratorium period) 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;
- (7) the Licensee complies with obligations under relevant international agreements relating to the use of apparatus or the frequencies to which they are assigned;
- (8) the Licensee shall ensure that the use of the apparatus and provision of the service does not cause harmful interference.

SCHEDULE

Part One

WIRELESS TELEGRAPHY ACT, 1926

Section 5

1785 – 1805 MHz Wireless Access Platform for Electronic Communications Services Licence

Licensee _____

Postal Address in full _____

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 9(1) of the Communications Regulation Act, 2002 (No. 20 of 2002) 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 8 of the Wireless Telegraphy (1785 - 1805 MHz Wireless Access Platform for Electronic Communications Services) Regulations, 2007 (S.I. No. 172 of 2007)

The licensee shall ensure that he complies with the technical restrictions, spectrum details and Licence Conditions contained in Part 2 of this Licence.

The License shall come into operation on the _____ of _____, 20__, and unless previously revoked shall expire on _____ of _____ 20__

Date + Stamp

Signed _____

For and on behalf of the Commission for Communications Regulation

Part Two

Statement of authorised Apparatus

To include;

Description of Apparatus

Places at which the Licensee is authorised to keep and have possession of the Apparatus.

Technical restrictions

Details of spectrum

And where applicable

Rollout plan

Conditions of Licence

GIVEN under the official seal of the Commission for Communications Regulation, this 25th day of
April, 2007



John Doherty

For and on behalf of the Commission for Communications Regulation

The Minister for Communications, Marine and Natural Resources consents to the foregoing Regulations.

GIVEN under the Official Seal of the Minister for Communications, Marine and Natural Resources this
24th day of April, 2007



Noel Dempsey T.D.

Minister for Communications, Marine 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 used solely for the provision of Wireless Access Platform for Electronic Communications Services in the frequency bands 1785 - 1805 MHz, for the regulation of such apparatus and for the payment of fees by persons granted Licences for that purpose.