



STATUTORY INSTRUMENTS.

S.I. No. 197 of 2019



WIRELESS TELEGRAPHY (PUBLIC SERVICE TELEVISION AND SOUND
BROADCASTING LICENCES) REGULATIONS 2019

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WIRELESS TELEGRAPHY (PUBLIC SERVICE TELEVISION AND SOUND BROADCASTING LICENCES) REGULATIONS, 2019

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) (as substituted by section 182 of the Broadcasting Act 2009 (No. 18 of 2009) and with the consent of the Minister for Communications, Climate Action and Environment 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 (Public Service Television and Sound Broadcasting Licences) Regulations, 2019.

Interpretation

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

“Act of 1926” means the Wireless Telegraphy Acts, 1926 to 2009 (No. 45 of 1926);

“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 that utilises radio frequencies for the purposes of providing a broadcasting service.

“Authorisation Regulations” means the European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations, 2011 (S.I. 335 of 2011);

“the Commission” means the Commission for Communications Regulation;

“Framework Regulations” means the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011 (S.I. No. 333 of 2011);

“licence” means a licence granted under section 5 of the Act of 1926 to keep and have possession of apparatus for wireless telegraphy for the provision of an electronic communications network or service and which grants a right of use for radio frequencies;

“licensee” means Raidió Teilifís Éireann or RTÉ.

(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 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;
- (d) a reference to a Directive of the European Parliament and Council shall be the Directive as amended or extended by any subsequent Directive; and

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 10th May, 2019.*

- (e) a reference to a Decision of the European Commission shall be the Decision as amended or extended by any subsequent Decision.

(3) A word or expression that is used in these Regulations and that is also used in the Act of 1926 has, unless the context otherwise requires, the same meaning in these Regulations that it has in the Act of 1926.

(4) A word or expression that is used in these Regulations and that is also used in the Act of 2009 has, unless the context otherwise requires, the same meaning in these Regulations that it has in the Act of 2009.

(5) A word or expression that is used in these Regulations and that is also used in the Framework Regulations or in the Authorisation Regulations has, unless the context otherwise requires, the same meaning in these Regulations that it has in the Framework Regulations or Authorisation Regulations.

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

Licences to which these Regulations apply

3. These Regulations apply to licences as may be granted to RTÉ, a public service broadcaster, permitting RTÉ to keep and have possession of apparatus for wireless telegraphy in the State for the purpose of providing broadcasting services.

Licence applications

4. (1) An application for a licence made to the Commission shall be in writing and shall be in such form as may be determined by the Commission from time to time and the Commission may grant a licence in accordance with the relevant provisions of the Authorisation Regulations.

(2) An application for a licence shall include such information as the Commission may reasonably require for the purposes of its functions under these Regulations and the Authorisation Regulations and the Commission may refuse to grant a licence where the applicant, without reasonable cause, has failed to comply with a requirement to furnish any such information.

(3) A licence to which these Regulations apply shall be in the form specified in Schedule 1, Schedule 2 and Schedule 3 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.

Licence duration

5. (1) A licence shall come into effect on the date on which it is originally granted and without prejudice to the right of the Commission to revoke or suspend the licence, in the event of non-compliance with any of the conditions attached thereto, the licence shall remain in effect until the termination date set out in the licence, whereupon it shall expire.

(2) The maximum duration of any licences granted under these Regulations shall:

- (a) in respect of any licence for a television multiplex be up to 12 years from the date on which it is originally granted; and
- (b) in respect of any licence for a sound broadcasting multiplex, be up to 10 years from the date on which it is originally granted;
- (c) in respect of any licence for analogue sound broadcasting, be up to 10 years from the date on which it is originally granted;

Licence fees

6. (1) The annual licence fee payable to the Commission - for a licence granted under these Regulations permitting the licensee to keep and have possession of apparatus for wireless telegraphy to facilitate the operation of a television multiplex that is capable, in so far as it is reasonable practicable, of being transmitted by digital terrestrial means to the whole community in the State – shall be €117,100, indexed to reflect the annual rate of inflation using the Consumer Price Index. The first indexation shall take place on the 14 December 2020 and shall occur annually thereafter on that same date.

(2) The annual licence fee payable to the Commission - for a licence granted under these Regulations permitting the licensee to keep and have possession of apparatus for wireless telegraphy to facilitate the operation of a sound broadcasting multiplex that is capable, in so far as it is reasonable practicable, of being transmitted by digital terrestrial means to the whole community in the State – shall be €20,500, indexed to reflect the annual rate of inflation using the Consumer Price Index. The first indexation shall take place on 14 May 2020 and shall occur annually thereafter on that same date.

(3) The annual fee for a licence shall be paid before or on the date on which the licence is first granted and shall thereafter fall due on the anniversary of that same date.

(4) No licence shall be granted or renewed without full payment of the applicable fee.

(5) Where any licence fee is payable for a portion of a year it shall be calculated as follows:

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

where A is the annual licence fee payable under subsection (1) or (2); B is the number of whole months for which that fee is payable (if a fee is payable for a period of less than one month, then, for the purpose of these calculations only, it shall be considered to be payable for a period of one month) and C is the actual fee to be paid to the Commission.

(6) All licence fees shall be paid to the Commission 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.

(7) Any licence fee or part thereof payable under these Regulations may be recovered by the Commission as a contract debt in any court of competent jurisdiction.

(8) Where a licence is withdrawn, suspended or revoked, the licensee shall not be entitled to be repaid any part of the relevant licence fee but shall still be liable to pay to the Commission any part of that fee (including interest) that is outstanding.

(9) Where a fee or part of a fee is not paid by its due date, the licensee shall pay to the Commission interest on the fee or part thereof that was or is outstanding. Interest shall accrue from the date when such fee or part thereof fell due until the date of payment of such fee or part thereof and shall be calculated at the same rate payable in respect of late payments in commercial transactions pursuant to the European Communities (Late Payment in Commercial Transactions) Regulations 2012, (S.I. No. 580 of 2012).

Licence conditions

7. (1) The licensee shall:

- (a) comply with these Regulations and with the conditions set out in any licence granted under these Regulations;

- (b) ensure that all apparatus licensed under these Regulations is capable of operating within the radio frequencies specified in the licence;
- (c) ensure that all apparatus licensed under these Regulations is worked and used only in the radio frequencies specified in the licence;
- (d) ensure that all apparatus licensed under these Regulations is installed, maintained, and used so as not to cause harmful interference;
- (e) ensure that all apparatus licensed under these Regulations complies with the European Union (Radio Equipment) Regulations 2017, S.I. No. 248 of 2017;
- (f) ensure that all apparatus licensed under these Regulations is at all times operated by persons properly authorised by the licensee and that all reasonable steps are taken to ensure that unauthorised persons cannot access licensed apparatus at any time;
- (g) pay all applicable licence fees as set out in Regulation 9 and in accordance with the provisions therein;
- (h) furnish to the Commission such information in respect of any licence as may be required by the Commission from time to time;
- (i) comply with any rules to prevent spectrum hoarding as may be laid down by the Commission under the Framework Regulations;
- (j) comply with all obligations under relevant international agreements relating to the use of all apparatus licensed under these Regulations or the frequencies to which they are assigned;
- (k) upon becoming aware of any event likely to materially affect its ability to comply with these Regulations, or with any conditions set out or referred to in any licence, notify the Commission of that fact in writing no later than 5 Working Days upon becoming aware of it.

(2) The Licensee shall not operate any apparatus licensed under these Regulations, and which constitutes or forms part of any sound broadcasting multiplex or a television multiplex, without the Commission's specific approval in writing in respect of the following:

- (i) characteristic frequency;
- (ii) name and geographical co-ordinates of broadcasting stations;
- (iii) effective radiated power;
- (iv) antenna characteristics; and
- (v) antenna height.

Enforcement, Amendment, Withdrawal and Suspension

8. (1) The Commission shall enforce compliance with the conditions attached to any licence in accordance with the Authorisation Regulations.

(2) The Commission may amend any licence from time to time in accordance with the Authorisation Regulations.

(3) The Commission may suspend or withdraw a licence in accordance with the Authorisation Regulations.

Other authorisations and responsibilities

9. Nothing in these Regulations shall absolve the licensee from obtaining all approvals, consents, licences, permissions and authorisations required to design, construct, install, work any apparatus licensed hereunder.

Variation of licence

10. The Commission may amend, or vary, the terms of a licence following such public consultation as may be deemed appropriate and the licensee shall be given reasonable opportunity to make representations regarding the proposed amendment or variation and the Commission shall consider such representations in making any variation.

Limitations of Licence

11. The licensee shall not, without the prior consent in writing of the Commission (such consent not to be unreasonably withheld), assign the licence (or lease, or let the licence). Any consent to transfer granted by the Commission under this paragraph, may be subject to such further conditions as the Commission considers appropriate in the circumstances.

12. The provisions of the International Telecommunication Convention, and of any international convention or international agreement relating to the use of frequencies to which the State may be, or may become, a party during the continuance of this licence, shall be complied with.

Revocations

13. The following statutory instruments are hereby revoked:

- (a) *Digital Terrestrial Television Licence Fees Regulations, 2007* (S.I. No. 796 of 2007);
- (b) *Wireless Telegraphy (Digital Terrestrial Television Licence) Regulations, 2008* (S.I. No. 198 of 2008); and
- (c) *Broadcasting Amendment Act 2007 Digital Sound Broadcasting Licence Fees Regulations 2009* (S.I. No. 80 of 2009).

SCHEDULE 1
WIRELESS TELEGRAPHY ACT, 1926
WIRELESS TELEGRAPHY (PUBLIC SERVICE TELEVISION AND SOUND
BROADCASTING LICENCES) REGULATIONS, 2019

Wireless Telegraphy Licence

The Commission for Communications Regulation in accordance with section 5 of the Wireless Telegraphy Act 1926, grants to the licensee specified authorisation to keep and have possession of apparatus for wireless telegraphy to facilitate the operation of a Digital Terrestrial Television Multiplex as specified in Parts 1 to 4 to this licence subject to the licensee observing the licence conditions set out hereunder.

Licensee

Address for Notices

Commencement and Termination Dates (if applicable):

This licence shall come into effect on **DD MONTH YYYY** (the “Licence Commencement Date”) and subject to revocation, suspension or withdrawal, expires on **DD MONTH YYYY**

Signed: _____

For and on behalf of the Commission for Communications Regulation

Date of Issue: _____

PART 1 – Technical Conditions

The licensee shall comply with the Technical Conditions for Digital Terrestrial Television as per ComReg Document 07/90b

PART 2 - List of transmitter sites

Details of transmitter sites

PART 3 – Licensed System

Digital Terrestrial Television System

PART 4 – Licence Area

National Licence

SCHEDULE 2

WIRELESS TELEGRAPHY ACT, 1926

WIRELESS TELEGRAPHY (PUBLIC SERVICE TELEVISION AND SOUND
BROADCASTING LICENCES) REGULATIONS, 2019

Wireless Telegraphy Licence

The Commission for Communications Regulation in accordance with section 5 of the Wireless Telegraphy Act 1926, grants to the licensee specified authorisation to keep and have possession of apparatus for wireless telegraphy to facilitate the operation of a Digital Sound Broadcasting multiplex as specified in Parts 1 to 4 to this licence subject to the licensee observing the licence conditions set out hereunder.

Licensee

Address for Notices

Commencement and Termination Dates (if applicable):

This licence shall come into effect on DD MONTH YYYY (the “Licence Commencement Date”) and subject to revocation, suspension or withdrawal, expires on DD MONTH YYYY

Signed: _____

For and on behalf of the Commission for Communications Regulation

Date of Issue: _____

PART 1 – Technical Conditions

The licensee shall comply with the Technical Conditions for Digital Sound Broadcasting as per ComReg Document 08/100a, as revised

PART 2 – List of transmitter sites

Details of transmitter sites

PART 3 – Licensed System

Digital Sound Broadcasting System

PART 4 – Licence Area

National Licence

SCHEDULE 3

WIRELESS TELEGRAPHY ACT, 1926

WIRELESS TELEGRAPHY (PUBLIC SERVICE TELEVISION AND SOUND
BROADCASTING LICENCES) REGULATIONS, 2019**Wireless Telegraphy Licence**

The Commission for Communications Regulation in accordance with section 5 of the Wireless Telegraphy Act 1926, grants to the licensee specified authorisation to keep and have possession of apparatus for wireless telegraphy to facilitate the operation of an Analogue Sound Broadcasting Service as specified in Parts 1 and 2 of this licence subject to the licensee observing the licence conditions set out hereunder.

Licensee**Address for Notices****Commencement and Termination Dates (if applicable):**

This licence shall come into effect on DD MONTH YYYY (the “Licence Commencement Date”) and subject to revocation, suspension or withdrawal, expires on DD MONTH YYYY

Signed: _____

For and on behalf of the Commission for Communications Regulation

Date of Issue: _____

PART 1 – Technical Conditions

The licensee shall comply with the Technical Conditions for Analogue Radio as per ComReg Document 12/04a, as revised

PART 2 – List of transmitter sites

Details of transmitter sites



GIVEN under the Official Seal of the Commission for
Communications Regulation

8 May 2019.

GARRETT BLANEY

Chairperson, Commission for Communications
Regulation

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GIVEN under the Official Seal of the Minister for
Communications, Climate Action and Environment.

7 May 2019.

RICHARD BRUTON

Minister for Communications, Climate Action and
Environment

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EXPLANATORY NOTE

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

These Regulations provide for the granting of licences to RTÉ, a public service broadcaster, permitting RTÉ to possess, install, maintain, work and use apparatus for wireless telegraphy in the State for the purpose of providing broadcasting services, for the regulation of such apparatus, and for the payment of fees by RTÉ for such licences as are granted under these Regulations.

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