S.I. 2015/1709 was quashed in a judgement dated 22nd November 2017 (High Court of Justice – Administrative Court – EE Limited v. Office of Communications – Appeal No. C1/2016/3784).

STATUTORY INSTRUMENTS

2015 No. 1709

ELECTRONIC COMMUNICATIONS

The Wireless Telegraphy (Licence Charges for the 900 MHz frequency band and the 1800 MHz frequency band) (Amendment and Further Provisions) Regulations 2015

Made - - - -	*23rd September 2015*
Coming into force - -	*15th October 2015*

The Office of Communications ("OFCOM") make the following Regulations in exercise of the powers conferred by sections 12, 13(2) and 122(7) of the Wireless Telegraphy Act 2006(**a**) (the "Act") and as required by article 6(1) and (2) of the Wireless Telegraphy Act (Directions to OFCOM) Order 2010(**b**).

Before making these Regulations, OFCOM have given notice of their proposal to do so in accordance with section 122(4)(a) of the Act, published notice of their proposal in accordance with section 122(4)(b) of the Act, and have considered the representations made to them before the time specified in the notice in accordance with section 122(4)(c) of the Act.

Citation and commencement

1.—(1) These Regulations may be cited as the Wireless Telegraphy (Licence Charges for the 900 MHz frequency band and the 1800 MHz frequency band) (Amendment and Further Provisions) Regulations 2015 and shall come into force on 15th October 2015.

(2) These Regulations shall not extend to the Channel Islands and the Isle of Man.

Interpretation

2. In these Regulations—

"kHz" means kilohertz;

"licence" means a wireless telegraphy licence of the Public Wireless Networks licence class;

"MHz" means megahertz;

"OFCOM" means the Office of Communications;

"paired 200 kHz channel" means two associated blocks of frequencies of 200 kHz each;

"900 MHz frequency band" means the frequencies from 880.0 to 960.0 MHz; and

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(**a**) 2006 c. 36.
(**b**) S.I. 2010/3024.

"1800 MHz frequency band" means the frequencies from 1710.0 to 1880.0 MHz.

Amendment to the Wireless Telegraphy (Licence Charges) Regulations 2011

3.—(1) The Wireless Telegraphy (Licence Charges) Regulations 2011(**a**) shall be amended in accordance with paragraph (2).

(2) In Schedule 2 (licence charges and payment intervals), under the heading "Public Wireless Networks", omit the following entries—

"Public Wireless Networks		(a) £142,560 for each 2 x 200 kHz national channel in the band 880.0–960.0 MHz.	12 months
		(b) £110,880 for each 2 x 200 kHz national channel in the band 1710.0–1880.0 MHz.	12 months"

Licence charges payable for the 900 MHz frequency band on 31st July 2016

4.—(1) On 31st July 2016 each holder of a licence authorising the use of frequencies in the 900 MHz frequency band shall pay to OFCOM a total sum which comprises £194,989 for each authorisation under its licence of use of a paired 200 kHz channel in that band.

(2) If OFCOM receive notice from a licensee of the licensee's intention to make payment of the total sum due under paragraph (1) in ten equal instalments, regulation 8 shall apply.

Licence charges payable for the 1800 MHz frequency band on 31st October 2015, 28th February 2016 and 31st July 2016

5.—(1) Each holder of a licence authorising the use of frequencies in the frequency ranges 1721.7 to 1736.7 MHz and 1816.7 to 1831.7 MHz shall pay to OFCOM on 31st October 2015 a total sum which comprises £222,073 for each authorisation under its licence of use of a paired 200 kHz channel in those ranges.

(2) Each holder of a licence authorising the use of frequencies in the frequency ranges 1736.7 to 1781.7 MHz and 1831.7 to 1876.7 MHz shall pay to OFCOM on 28th February 2016 a total sum which comprises £185,113 for each authorisation under its licence of use of a paired 200 kHz channel in those ranges.

(3) Each holder of a licence authorising the use of frequencies in the frequency ranges 1710.1 to 1721.7 MHz and 1805.1 to 1816.7 MHz shall pay to OFCOM on 31st July 2016 a total sum which comprises £138,913 for each authorisation under its licence of use of a paired 200 kHz channel in those ranges.

(4) If OFCOM receive notice from a licensee of the licensee's intention to make payment of the total sum due under paragraph (1), (2) or (3) in ten equal instalments, regulation 8 shall apply.

Licence charges payable for the 900 MHz frequency band for each subsequent payment

6.—(1) On 31st October 2016 and on each anniversary of that date, each holder of a licence authorising the use of frequencies in the 900 MHz frequency band shall pay to OFCOM a total sum which comprises the amount in pounds sterling calculated in accordance with paragraph (2) and rounded, if paragraph (3) applies, in accordance with that paragraph, for each authorisation under its licence of use of a paired 200 kHz channel in that band.

(2) The formula to calculate the total sum mentioned in paragraph (1) is—

$$S = 451{,}200 \times (P \div 125.6)$$

(**a**) S.I. 2011/1128, amended by S.I. 2012/1075, 2013/917, 2014/1295, 2015/1334.

where—

(a) "S" means the total sum;

(b) "P" means the most recent CPI that is available on 30th September of the year in which the charges are due; and

(c) "CPI" means the monthly all items consumer prices index published by the UK Statistics Authority.

(3) If the total sum calculated in accordance with paragraph (2) is a fraction of a whole number, it shall be rounded down to the nearest whole number.

(4) If OFCOM receive notice from a licensee of the licensee's intention to make payment of the total sum due under paragraph (1) in ten equal instalments, regulation 8 shall apply.

Licence charges payable for the 1800 MHz frequency band for each subsequent payment

7.—(1) On 31st October 2016 and on each anniversary of that date, each holder of a licence authorising the use of frequencies in the 1800 MHz frequency band shall pay to OFCOM a total sum which comprises the amount in pounds sterling calculated in accordance with paragraph (2) and rounded, if paragraph (3) applies, in accordance with that paragraph, for each authorisation under its licence of use of a paired 200 kHz channel in that band.

(2) The formula to calculate the total sum mentioned in paragraph (1) is—

$$S = 326{,}000 \times \left(P \div 125.6\right)$$

where—

(a) "S" means the total sum;

(b) "P" means the most recent CPI that is available on 30th September of the year in which the charges are due; and

(c) "CPI" means the monthly all items consumer prices index published by the UK Statistics Authority.

(3) If the total sum calculated in accordance with paragraph (2) is a fraction of a whole number, it shall be rounded down to the nearest whole number.

(4) If OFCOM receive notice from a licensee of the licensee's intention to make payment of the total sum due under paragraph (1) in ten equal instalments, regulation 8 shall apply.

Payment by instalments

8.—(1) If OFCOM receive notice from a licensee of the licensee's intention to make payment in ten equal instalments of the total sum prescribed in regulation 4, 5, 6 or 7, the licensee—

(a) shall not be required to make payment at the prescribed time other than in accordance with this paragraph; and

(b) shall make payment of the sum in ten equal instalment payments with the first instalment to be paid to OFCOM on the day which shall be the same day as the total sum was due to be paid to OFCOM and each subsequent instalment to be paid on the same day in each of the nine consecutive months thereafter (or in a month in which there is no such day, on the last day of the month).

(2) Where at any time the licensee fails to make payment in accordance with paragraph (1)(b), the total of the outstanding instalment payments shall become immediately due for payment.

Philip Marnick
Group Director, Spectrum Group
For and by the authority of the Office of Communications

23rd September 2015

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations increase the level of fees payable to OFCOM in respect of the licences of the Public Wireless Networks licence class granted under section 8 of the Wireless Telegraphy Act 2006 (c. 36) for the use of the frequencies in the bands 880.0–960.0 MHz and 1710.0–1880.0 MHz.

Regulation 3 removes the level of such fees from Schedule 2 of the Wireless Telegraphy (Licence Charges) Regulations 2011 (S.I. 2011/1128, amended by S.I. 2012/1075, S.I. 2013/917, S.I. 2014/1295, S.I. 2015/1334) and Regulations 4 to 7 prescribe the new fee levels.

Regulations 4 and 5 prescribe the fees payable on the first payment date following the entry into force of these regulations. Regulations 6 and 7 prescribe the fees payable on 31st October 2016 and on each anniversary of that date.

Regulation 8 allows the holders of these licences to pay fees by ten equal monthly instalments.

A full impact assessment has not been produced for this instrument. A full impact assessment has been produced by the Department for Business, Innovation and Skills in relation to the Wireless Telegraphy Act (Directions to OFCOM) Order 2010 (S.I. 2010/3024), which this instrument implements. A copy of that impact assessment is available from Information Economy, Department for Business, Innovation and Skills, 1 Victoria Street, London, SW1H 0ET or at http://www.legislation.gov.uk/uksi/2010/3024/impacts.