

Subsidiary Legislation made under ss.9, 63 & 82.

## **Communications (Teleport Facility Licence) Regulations 2006**

**LN.2006/073**

*Commencement*

**5.6.2006**

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### **ARRANGEMENT OF REGULATIONS**

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**2006-15**

**Communications**

**2006/073      Communications (Teleport Facility Licence) Regulations  
2006**

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*In exercise of the powers conferred on me by sections 9, 63 and 82 of the Communications Act 2006, and of all other enabling powers, I have made the following regulations.*

**Title.**

1. These Regulations may be cited as the Communications (Teleport Facility Licence) Regulations 2006.

**Interpretation.**

2.(1) For the purposes of these Regulations–

“Antenna” means a device constructed to transmit or receive radio waves;

“Earth Station” means a station for radiocommunications located on the surface of Gibraltar and capable of communicating with one or more satellites and includes–

(a) an Antenna;

(b) a Satellite Control Centre;

“international obligation” means any obligation to which Gibraltar may be subject under the Telecommunications Convention or any other relevant international agreement, convention or treaty;

“Licence” is a Teleport Facility Licence (“TFL”) granted under section 61 (1) of the Act. A TFL is a licence which is issued in order to establish and use one or more specific Earth Stations for the purpose of providing a link by means of radiocommunications between one or more Earth Stations and one or more satellites through the use of specific frequency bands from one or more defined locations;

“Satellite Control Centre” means a facility which performs telemetry, tracking and control of satellites;

“the Act” means the Outer Space Act 1986 of the United Kingdom;

“the Authorisation Regulations” means the Communications (Authorisation and Licensing) Regulations 2006;

“the Order” means the Outer Space Act 1986 (Gibraltar) Order 1996;

“the Act” means the Communications Act 2006.

(2) Except where the context otherwise requires and subject to sub-regulation (1), any word or expression used in these Regulations which is also used in the Act has the same meaning in these Regulations as it has in the Act.

**Application for a Licence.**

3. An application for a Licence shall be accompanied by a non-returnable fee of £500.

**Form of Licence.**

4. The Minister may grant an application for a Licence and issue such a licence in the form set out in Schedule 1.

**Term of Licence.**

5.(1) Subject to sub-regulation (2), a Licence shall be granted for a term of 25 years. The Licence is not transferable except with the prior written consent of the Minister. A transferee of a Licence shall not make use of the Licence until the Minister has so given his consent.

(2) The Minister, after consultation with the Authority, may renew a Licence for further periods of up to 10 years at a time unless the Licence has previously been revoked. The Minister may renew the Licence under the provisions applicable to Licences at the time of renewal, including the provisions relating to—

- (a) the fees payable;
- (b) the classes of bands; and
- (c) the valuation of bands.

**Variation of Licence.**

6.(1) A licensee may apply to the Minister for variation of the terms of the Licence. The application shall be in writing and shall specify the variation sought and the reasons therefor. An application for variation shall be accompanied by a non-returnable fee of £500. The Minister may, after consultation with the Authority, grant the variation subject to such terms as he thinks fit.

(2) A licensee may, in an emergency situation beyond his control, deviate from the technical characteristics and limits specified in the Annex to Schedule 1 on a temporary basis and shall

inform the Authority of such deviation within 24 hours of its occurrence specifying the reasons for the deviation.

(3) If any deviation as described in sub-regulation (2) will, or is likely to, exceed a period of 30 days, the licensee shall apply in writing to the Minister for approval to so operate specifying the reasons for the deviation.

(4) Where the Minister receives an application under sub-regulation (3) and, after consultation with the Authority, is satisfied that the deviation will not amount to a breach of—

- (a) the Act;
- (b) the terms subject to which a Licence may be granted; or
- (c) any international obligation,

he shall, within a reasonable period following receipt of the application, approve it subject to such conditions as he may reasonably impose.

(5) This regulation is without prejudice to regulations 9 and 10 of the Authorisation Regulations.

#### **Revocation or suspension of Licence.**

7.(1) The Minister shall act in accordance with regulation 9 of the Authorisation Regulations whenever he proposes to vary or order the suspension of a Licence.

(2) For the purposes of the present Regulations, the reference in regulation 9 (6) and (7) of the Authorisation Regulations to a notified person having a shorter period for doing the things set out in regulation 9 (3) of the Authorisation Regulations shall be understood as allowing the Minister to revoke or order the suspension of the Licence with immediate effect, particularly where—

- (a) the licensee has contravened any of the terms, provisions or limitations of the Licence including the payment of any licence fee;
- (b) the licensee has furnished information to the Minister under or for the purposes of—
  - (i) any provision of the Act; or
  - (ii) the terms and conditions subject to which the Licence was issued,

which is misleading or inaccurate in any material respect; or

- (c) a case is an urgent case within the meaning of regulation 9 (8) of the Authorisation Regulations.

(3) Should a Licence be revoked or suspended, the Minister may, after consultation with the Authority, give such directions to the licensee as appears to him necessary to secure compliance with any international obligation.

#### **Fee structure.**

8.(1) The fee for a Licence shall be based on—

- (a) the class or classes of frequency bands that the licensee is licensed to use; and  
(b) the number of Earth Stations to be used for the purpose of communicating with one or more satellites.

(2) The classes of frequency bands are set out in Schedule 2.

(3) The fee for each class of frequency band that a licensee is licensed to use shall be as set out in Schedule 3 as adjusted by the application of sub-regulation (4).

(4) The fee for each class of frequency band shall be increased by 4% cumulatively each year effective from 1<sup>st</sup> April next from the date these Regulations enter into force.

(5) That part of the Licence fee which is based on the class or classes of frequency bands that a licensee is licensed to use shall be calculated on the basis that all the bands within that class or classes are used, irrespective of actual usage.

(6) That part of the Licence fee which is based on the class or classes of frequency bands that a licensee is licensed to use shall be payable to the Authority on the grant of the Licence and on each anniversary of the grant during the validity of the Licence.

#### **Fees for Earth Stations.**

9.(1) The fee payable under regulation 8 entitles a licensee to operate up to three Earth Stations.

(2) Under paragraph (b) of regulation 8 (1) and subject to sub-regulation (3), a licensee shall pay to the Authority, on the anniversary of the date of grant of the Licence, an annual fee of £5,000 for each Earth Station above three in number.

(3) If an additional Earth Station as described in sub-regulation (2) enters into service less than 6 months before the anniversary of the date of issue of the Licence, the fee payable to the Authority for the period of use until the anniversary shall be £2,500.

#### **Primary Satellite Control Centre.**

10.(1) Subject to regulation 11, a person licensed under the Act as extended to Gibraltar by the Order must, if directed by the Minister so to do, establish in Gibraltar the Satellite Control Centre through which he must undertake the primary method of telemetry, tracking and control of any satellites the subject of such licence.

(2) A person licensed under the Act as extended to Gibraltar by the Order and to whom a direction of the nature referred to in sub-regulation (1) has been given, must obtain a Licence in accordance with these Regulations for the Satellite Control Centre in Gibraltar through which he is to undertake the primary method of telemetry, tracking and control of any satellites the subject of the licence issued under the Act as extended to Gibraltar by the Order.

#### **Interim Arrangements.**

11.(1) A person may, prior to establishing in Gibraltar the Satellite Control Centre through which he is to undertake the primary method of telemetry, tracking and control of any satellites the subject of a licence issued under the Act as extended to Gibraltar by the Order, establish and operate such a Satellite Control Centre in and from a location outside Gibraltar provided that—

- (a) he proceeds, within a maximum of three years, to establish and operate in Gibraltar the Satellite Control Centre through which he is to undertake the primary method of telemetry, tracking and control of any satellites the subject of a licence issued under the Act as extended to Gibraltar by the Order; and
- (b) the Satellite Control Centre established outside Gibraltar shall only undertake the primary method of telemetry, tracking and control until the Satellite Control Centre referred to in paragraph (a) is established in Gibraltar and able to undertake such functions.

(2) A person who, pursuant to sub-regulation (1), desires to establish and operate a Satellite Control Centre outside Gibraltar must, before so doing, obtain a Licence under these Regulations and must pay a licence fee as if—

- (a) the Satellite Control Centre to be located outside Gibraltar had been located in Gibraltar; and
- (b) such person were using the same class or classes of frequency bands from Gibraltar as he intends to use from wherever such Satellite Control Centre is, or is going to be, providing telemetry, tracking and control.

**Gibraltar Frequency Allocation Table.**

12. The Authority may record in the Gibraltar Frequency Allocation Table—

- (a) the orbital location and such details as may identify each satellite that an Earth Station shall communicate with; and
- (b) the international status of each such satellite.

**SCHEDULE 1**

**Regulation 4**

The following form of licence, appropriately completed, shall be granted to a successful applicant—

**CLASS ( ) TELEPORT FACILITY LICENCE**

**LICENCE NUMBER .....**

**Establishment.**

1. This licence, granted under section 61 (1) of the Communications Act 2006 (the “Act”) on [ ] (the “Date of Issue”) by the Minister to [ ] (“the Licensee”), authorises the Licensee to establish and use the Earth Station or Stations described in the Annex for the purpose of providing a link by means of radiocommunications between such Earth Station or Stations and any satellites described in the Annex through the use of the frequency bands specified in the Annex from the location or locations identified in the Annex **SUBJECT TO THE TERMS OF THIS LICENCE.**

**Purpose of use.**

2. The Licensee shall establish and use the Earth Station or Stations described in the Annex for the purpose of providing a link by means of radiocommunications between such Earth Station or Stations and any satellites described in the Annex through the use of the frequency bands specified in the Annex from the location or locations identified in the Annex.

**Limitations on use.**

3. The Licensee shall, subject to regulation 6 (2) of the Communication (Teleport Facility Licence) Regulations 2006, only operate the Earth Station or Stations described in the “Earth Stations” column of the Annex—

- (a) at the location or locations specified in the “Location” and “Latitude/Longitude” columns of the Annex;
- (b) with the classes of emissions specified in the “Emissions” column of the Annex;
- (c) with the frequencies relating to such classes of emissions specified in the “Frequency Transmitting” and “Frequency Receiving” columns of the Annex;

- (d) with the power relating to such classes of emissions and such frequencies not exceeding that specified in the “Equivalent Isotropically Radiated Power (EIRP)” column of the Annex;
- (e) with the antenna characteristics relating to type, beamwidth, absolute gain, height and direction of maximum radiation specified respectively in the “Antenna Type”, “Antenna Beamwidth”, “Absolute Gain”, “Height AMSL” and “Direction of Maximum Radiation” columns of the Annex;
- (f) at a power density not exceeding that specified in the “Spectral Power Density” column of the Annex;
- (g) for the purpose of communicating with the satellite or satellites identified in the “Satellites” column of the Annex.

**Fees.**

4. The fee for this licence is as detailed in regulations 8 and 9 of the Communications (Teleport Facility Licence) Regulations 2006.

**Variation.**

5. The terms of this licence may only be varied in accordance with regulation 6 of the Communications (Teleport Facility Licence) Regulations 2006.

**Apparatus.**

6. The Licensee shall ensure that, notwithstanding any other term of this licence, the apparatus comprised in any Earth Station the subject of this licence is designed and constructed, and maintained and used, so that its use does not cause any undue radio interference.

**Users of apparatus.**

7.(1) The Licensee shall not permit or suffer any person to use any apparatus comprised in any Earth Station the subject of this licence unless the person is—

- (a) employed by, on secondment to, or otherwise under the direction or control of the Licensee;
- (b) properly trained and suitably qualified to use the apparatus; and
- (c) authorised by the Licensee to use the apparatus.

(2) The Licensee shall ensure that—

- (a) all persons using the apparatus are made aware of the terms of this licence; and
- (b) all such persons comply with the terms of this licence.

**Gibraltar and international requirements.**

8. The Licensee shall, in operating any Earth Station the subject of this licence, comply with—

- (a) the International Telecommunication Convention;
- (b) any other relevant agreement, convention or treaty; and
- (c) the Act and any regulations made thereunder.

**Notification.**

9. The Licensee must notify the Minister of—

- (a) such details as may identify each satellite that an Earth Station the subject of this licence is intended to communicate with; and
- (b) the international status of each such satellite.

**Inspection.**

10. The Licensee shall permit a person authorised by the Authority to—

- (a) have access to any Earth Station the subject of this licence;
- (b) inspect this licence; and
- (c) inspect or test any apparatus comprised in any Earth Station the subject of this licence,

at any reasonable time (or when, in the opinion of the Authority, an urgent situation exists, at any time) for the purpose of verifying compliance with the terms of this licence, or investigating a radio interference problem.

**Closedown.**

11. When, in the opinion of the Minister, after consultation with the Authority—

- (a) the Licensee is in breach of this licence; and
- (b) the breach justifies immediate or future restriction or closedown,

the Licensee shall restrict the operation of, or close down and cease to operate, any Earth Station the subject of this licence (or any apparatus comprised in any such Earth Station) in accordance with the demand of the Minister, or a person authorised by him to that effect, for the period specified in the demand.

**Duration.**

12.(1) This licence shall continue in force for a period of 25 years from the Date of Issue unless previously revoked by the Minister.

(2) In accordance with regulation 5 (2) of the Communications (Teleport Facility Licence) Regulations 2006, the Minister may decide whether to renew the licence and, if so, may renew the licence for a period of up to 10 years.

(3) The Licensee shall surrender this licence to the Minister forthwith upon its revocation or suspension.

**Indemnity.**

13.(1) The Licensee shall indemnify and keep indemnified the Government of Gibraltar against any actions, claims, proceedings, demands, losses, costs and expenses which the Government of Gibraltar may incur, or which may be made against it, as the case may be, arising from or in relation to any breach or alleged breach of or failure to observe and perform the terms and conditions of this licence or through the negligent use, maintenance, operation or control of an Earth Station or Stations.

(2) For the avoidance of doubt the indemnity provided under sub-regulation (1) is independent of and shall have no effect on the obligations of the Licensee under the indemnity provided by section 10 of the Act as extended to Gibraltar by the Order or under any term subject to which a licence under the Act as extended to Gibraltar by the Order may be issued.

**Interpretation.**

14. In this licence—

**2006-15**

**Communications**

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“Antenna” means a device constructed to transmit or receive radio waves;

“Earth Station” means a station for radiocommunications located on the surface of Gibraltar and capable of communicating with one or more satellites and includes–

- (a) an Antenna;
- (b) a Satellite Control Centre;

“international obligation” means any obligation to which Gibraltar may be subject under the Telecommunications Convention or any other relevant international agreement, convention or treaty;

“Satellite Control Centre” means a facility which performs telemetry, tracking and control of satellites;

“the Act” means the Outer Space Act 1986 of the United Kingdom;

“the Authorisation Regulations” means the Communications (Authorisation and Licensing) Regulations 2006;

“the Order” means the Outer Space Act 1986 (Gibraltar) Order 1996;

“the Act” means the Communications Act 2006.

Words and phrases used in this licence which are defined in the Act or the Communications (Teleport Facility Licence) Regulations 2006 have the same meaning in this licence.

Signed by the Minister or a person authorised by him.

Date

**NOTES TO THE LICENCE**

(1) This licence is not transferable without the prior written consent of the Minister.

(2) Subject to regulation 6 (2) of the Communications (Teleport Facility Licence) Regulations 2006, the Licensee must obtain a variation of the conditions subject to which this licence is issued from the Minister before operating any additional Earth Station or making any changes to the Earth Station or Stations or their siting.

(3) The holding of this licence does not relieve the Licensee (or any person whose services the Licensee may contract) of any requirement to hold any other necessary licences.

**SCHEDULE 2**

Regulation 8 (2)

<b>CLASS I</b>	<b>CLASS II</b>	<b>CLASS III</b>	<b>CLASS IV</b>
1.525 – 1.710 GHz	3.600 – 4.200 GHz	10.700 – 12.750 GHz	18.100 – 20.200 GHz
2.500 – 2.690 GHz	5.725 – 6.725 GHz	13.750 – 14.500 GHz	27.500 – 30.000 GHz
	7.025 – 7.075 GHz	17.300 – 18.100 GHz	

**SCHEDULE 3**

Regulation 8 (3)

	<b>VALUE PER MHz</b>	<b>TOTAL VALUE FOR THE CLASS OF FREQUENCY BANDS</b>
<b>CLASS I</b>	£130	£48,800
<b>CLASS II</b>	£60	£107,300
<b>CLASS III</b>	£36	£129,600
<b>CLASS IV</b>	£18	£82,100