

# **SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE**

**No. 3,029 of 2nd March, 1998**

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LEGAL NOTICE NO. 20 OF 1998

## **WIRELESS TELEGRAPHY ACT**

### **TELEPORT FACILITY LICENCE REGULATIONS 1998**

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LEGAL NOTICE NO. 20 OF 1998

**WIRELESS TELEGRAPHY ACT**

**TELEPORT FACILITY LICENCE REGULATIONS 1998**

In exercise of the powers conferred on him by sections 5 and 13 of the Wireless Telegraphy Act, and of all other enabling powers, the Minister charged with responsibility for Trade and Industry has made the following regulations -

**Title.**

1. These regulations may be cited as the Teleport Facility Licence Regulations 1998.

**Interpretation.**

2. In these regulations -

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

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

“Earth Station” means a station for wireless telegraphy 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 or the United Kingdom may be subject under the Telecommunications Convention or any other relevant international agreement, convention or treaty;

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

“the Act” means the Wireless Telegraphy Act;

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

“station for wireless telegraphy” includes the site where such a station may be situate;

“Teleport Facility Licence” is a licence granted under section 5 of the Act authorising a licensee, subject to the provisions of the Act, these regulations and the terms and conditions subject to which the Teleport Facility Licence is issued, to establish and use one or more specific Earth Stations for the purpose of providing a link by means of wireless telegraphy between one or more Earth Stations and one or more satellites through the use of specific frequency bands from one or more defined locations;

Words and phrases defined in the Act have the same meaning in these regulations.

**Application for a Teleport Facility Licence.**

3. (1) An applicant for a Teleport Facility Licence shall apply to the Wireless Officer.
- (2) The application shall be accompanied by a non-returnable fee of £500.

**Consideration of application.**

4. The Wireless Officer shall determine whether to grant a Teleport Facility Licence on the basis of the information provided by the applicant. The Wireless Officer may seek clarification of any information given by the applicant, or further information, as he considers necessary.

**Form of Teleport Facility Licence.**

- 5.(1) The Wireless Officer may grant an application for a Teleport Facility Licence and issue such a licence in the form set out in Schedule 1.

(2) The licensee shall comply with the terms and conditions of the Teleport Facility Licence granted.

**Term of Teleport Facility Licence.**

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

(2) The Wireless Officer may renew a Teleport Facility Licence for further periods of up to 10 years at a time unless the Teleport Facility Licence has previously been revoked. The Wireless Officer may renew the Teleport Facility Licence under the provisions applicable to Teleport Facility 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.

**Refusal of Teleport Facility Licence.**

7.(1) If the Wireless Officer decides to refuse the application, he will so inform the applicant in writing giving the reasons for his refusal.

(2) An applicant whose application is refused may appeal to the Minister within 28 days of the refusal.

**Variation of Teleport Facility Licence.**

8.(1) A licensee may apply to the Wireless Officer for variation of the terms of the Teleport Facility 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 £200. The Wireless Officer may grant the variation subject to such terms as he thinks fit.

(2) A licensee may, in an emergency situation beyond the control of the licensee, deviate from the technical characteristics and limits specified in the Annex to Schedule 1 on a temporary basis and shall inform the Wireless Officer 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 Wireless Officer for approval to so operate specifying the reasons for the deviation.

(4) Where the Wireless Officer receives an application under sub-regulation (3) and is satisfied that the deviation will not amount to a breach of -

- (a) the Act or any regulations made thereunder;
- (b) the terms subject to which a Teleport Facility 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) An applicant whose application for variation is refused may appeal to the Minister within 28 days of the refusal and the Minister may grant (with or without conditions) or refuse the appeal.

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

9.(1) Upon the occurrence of an event specified in sub-regulation (2), the Wireless Officer may, by notice in writing served on a licensee -

- (a) revoke the Teleport Facility Licence with immediate effect or with effect from a specified date; or
- (b) suspend the Teleport Facility Licence for;
  - (i) a specified period;
  - (ii) until the occurrence of a specified event; or
  - (iii) until specified conditions are complied with.

(2) The Wireless Officer may exercise the powers contained in sub-regulation (1) if the licensee has -

- (a) so requested;
- (b) failed to comply with any of the conditions of the Teleport Facility Licence including the payment of any licence fee;  
or
- (c) furnished information to the Wireless Officer under or for the purposes of
  - (i) any provision of the Act or any regulations made thereunder; or
  - (ii) the terms and conditions subject to which the Teleport Facility Licence was issued;

which is misleading or inaccurate in any material respect.

(3) A licensee whose Teleport Facility Licence is revoked or suspended may appeal to the Minister within 28 days of the revocation or suspension and the Minister may grant (with or without conditions) or refuse the appeal.

**Power to give directions.**

10.(1) If it appears to the Wireless Officer that a Licensee has -

- (a) contravened a provision of the Act or any regulations made thereunder;
- (b) failed to satisfy an obligation to which it is subject by virtue of the Act or any such regulations; or
- (c) failed to comply with a condition of the Teleport Facility Licence including the payment of any licence fee,

he may give such directions to the licensee as appears to him necessary to secure compliance with the Act, any regulations made thereunder or with the conditions of the Teleport Facility Licence.

(2) Should a Teleport Facility Licence be revoked or suspended, the Wireless Officer may give such directions to the licensee as appears to him necessary to secure compliance with any international obligations.

**Fee structure.**

11.(1) The fee for a Teleport Facility 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 from the date these regulations enter into force.

(5) That part of the Teleport Facility 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 Teleport Facility 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 Wireless Officer on the grant of the licence and on each anniversary of the grant during the validity of the licence.

**Fees for Earth Stations.**

12.(1) The fee payable under regulation 11 entitles a licensee to operate up to three Earth Stations.

(2) Under paragraph (b) of regulation 11(1) and subject to sub-regulation (3), a licensee shall pay to the Wireless Officer, on the anniversary of the



date of issue of the Teleport Facility 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 Teleport Facility Licence, the fee payable to the Wireless Officer for the period of use until the anniversary shall be £2,500.

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

13.(1) Subject to regulation 14, an entity licensed under the Act as extended to Gibraltar by the Order must, if directed by the Wireless Officer so to do, establish in Gibraltar the Satellite Control Centre through which it must undertake the primary method of telemetry, tracking and control of any satellites the subject of such licence.

(2) An entity 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 Teleport Facility Licence in accordance with these Regulations for the Satellite Control Centre in Gibraltar through which it 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.**

14.(1) An entity may, prior to establishing in Gibraltar the Satellite Control Centre through which it 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) that entity proceeds, within a maximum of three years, to establish and operate in Gibraltar the Satellite Control Centre through which it 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) An entity which, pursuant to sub-regulation (1), desires to establish and operate a Satellite Control Centre outside Gibraltar must, before so doing obtain a Teleport Facility 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 entity were using the same class or classes of frequency bands from Gibraltar as it intends to use from wherever such Satellite Control Centre is, or is going to be, providing telemetry, tracking and control.

**Gibraltar Frequency Register.**

15. The Wireless Officer may record in the Gibraltar Frequency Register -

- (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 5

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 5 of the Wireless Telegraphy Act (the "Act") on (the "Date of Issue") by the Wireless Officer 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 wireless telegraphy 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 wireless telegraphy 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 8(2) of the Teleport Facility Licence Regulations 1998, 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 11 and 12 of the Teleport Facility Licence Regulations 1998.

#### **Variation**

5. The terms of this licence may only be varied in accordance with Regulation 8 of the Teleport Facility Licence Regulations 1988.

#### **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 -

- (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 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 Wireless Officer 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 Wireless Officer 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 Wireless Officer, 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 Wireless Officer -

- (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 Wireless Officer, or a person authorised by him to that effect, for the period specified in the demand.

#### **Period of licence**

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

(2) In accordance with regulation 6(2) of the Teleport Facility Licence Regulations 1998, the Wireless Officer may decide whether to renew the licence and, if so, for what period of up to 10 years.

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

(4) Any licence, however described, which the Wireless Officer has previously granted to the Licensee under the Act in respect of any of the Earth Stations the subject of this licence is revoked.

#### **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-clause (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 -

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

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

“Earth Station” means a station for wireless telegraphy 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;

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

“the Act” means the Wireless Telegraphy Act;

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

“station for wireless telegraphy” includes the site where such a station may be situate.

Words and phrases defined in the Act have the same meaning in this licence.

Signed by the Wireless Officer or a person authorised by him.

Date

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#### NOTES TO THE LICENCE

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

(2) Subject to regulation 8(2) of the Teleport Facility Licence Regulations 1998, the Licensee must obtain a variation of the conditions subject to which this licence is issued from the Wireless Officer 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 11(2)

CLASS I	CLASS II	CLASS III	CLASS IV
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 11(3)

Value per MHz	Total value for the
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		<b>class of frequency bands</b>
Class I	£100	£37,500
Class II	£50	£82,500
Class III	£25	£90,000
Class IV	£12.50	£57,000

Dated this 2nd day of March, 1998.

P C MONTEGRIFFO,  
Minister for Trade and Industry.