

TELECOMMUNICATIONS ORDINANCE 2004
FREQUENCY MANAGEMENT REGULATIONS 2005

Arrangement of Regulations

REGULATION

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FREQUENCY MANAGEMENT REGULATIONS 2005

(Legal Notice 33 of 2005)

MADE by the Governor under section 64 of the Telecommunications Ordinance 2004

Citation

1. These Regulations may be cited as the Frequency Management Regulations and shall come into operation on 1st January, 2006.

Interpretation

2. (1) In these Regulations unless the context otherwise requires –

“Channelling Plan” means a plan for the division of spectrum within a particular band among potential users;

“Government” means the Government of the Turks and Caicos Islands;

“Ordinance” means the Telecommunications Ordinance 2004;

“Radio Regulations” means the Radio Regulations of the International Telecommunication Union, as they may be revised from time to time at any Regional Administrative Radio Conference or World Administrative Radio Conference; and

“Spectrum Plan” means the table of radio frequency allocations and band plan for spectrum in the Turks and Caicos Islands.

(2) Unless otherwise specified, terms used in these Regulations shall have the meanings assigned to them under the Ordinance.

Public interest in frequency management

3. In making all decisions regarding spectrum allocation, frequency assignments, and other matters under these Regulations, the Commission shall take into account the following considerations –

- (a) the objects of the Ordinance;
- (b) the likely effects on existing and future availability and uses of spectrum;
- (c) the efficient use of spectrum;
- (d) any regional agreements, standards and arrangements applicable to the allocation and use of spectrum in the Turks and Caicos Islands;

- (e) any applicable international standards, the treaties of the International Telecommunication Union, the Radio Regulations and other agreements; and
- (f) the overriding public interest in efficient utilisation of the spectrum for various public and private telecommunications purposes.

Spectrum Plan and allocation of bands

4. (1) The Commission shall within eight (8) months of the commencement date, produce and make available an interim Spectrum Plan, based on the spectrum plan of the Turks and Caicos Islands.

(2) The Commission shall –

- (a) publish in the Gazette a notice announcing that the interim Spectrum Plan has been produced;
- (b) thereafter initiate a public consultation within the Turks and Caicos Islands, and regionally and internationally; and
- (c) give due consideration to any comments it receives.

(3) Following the public consultation described in subsection (2), the Commission shall adopt and publish the final Spectrum Plan.

(4) The interim Spectrum Plan and the final Spectrum Plan each shall, taking into account section 39 of the Ordinance, specify:

- (a) which services may be provided within each frequency band within the Turks and Caicos Islands, based on the Radio Regulations, regional arrangements and national requirements and priorities;
- (b) which uses shall require a spectrum licence or shall be exempt from such a requirement;
- (c) which bands shall be available for shared use, and which may be licensed on an exclusive basis;
- (d) arrangements for visitors to the Turks and Caicos Islands using radio transmitting devices;
- (e) the policy on the length of term for spectrum licences and for termination of spectrum licences and reassignment of bands;
- (f) the bands reserved for use by the Government or for use by agencies of the United Kingdom of Great Britain;
- (g) the procedures to be followed by the Commission when granting a spectrum licence; and

(h) whether or not any fees are to be paid to the Government pursuant to section 33(2) of the Ordinance on the award of spectrum licences in addition to any fees payable to the Commission.

(5) The Commission may amend the Spectrum Plan from time to time, including for the purpose of re-allocating spectrum for uses other than as provided in the existing Spectrum Plan.

(6) Where the Commission considers it useful or appropriate to do so, it may adopt a Channelling Plan for any band of spectrum.

(7) The Commission –

(a) may monitor trends and developments, and use in the Turks and Caicos Islands, of the spectrum;

(b) may, from time to time and with due regard to the considerations set forth in section 2, propose changes to the Spectrum Plan;

(c) publish in the Gazette a notice announcing any changes proposed pursuant to clause (b);

(d) thereafter initiate a public consultation with regard to such changes; and

(e) give due consideration to any comments it receives.

(8) The Commission shall cause the interim and final Spectrum Plan to be available on its web site and otherwise as it may determine.

Spectrum licences

5. (1) Subject to the Ordinance, applications for spectrum licences shall be made in accordance with the Telecommunications and Frequency Licensing Regulations 2005.

(2) The Commission shall determine the level of fees to be paid by holders of spectrum licences in accordance with the Spectrum Fee Regulations 2005, as specified in the Spectrum Plan and as otherwise established by the Commission in connection with the assignment of frequency bands.

Monitoring and harmful interference

6. (1) The Commission shall monitor uses of the spectrum in the Turks and Caicos Islands for the purpose of ensuring that only the holders of spectrum licences are using spectrum assigned to such licensees.

(2) The Commission may choose the time and location of its monitoring activities.

(3) The Commission may respond to complaints of interference or other difficulties resulting from actual or alleged misuse of the spectrum by taking such measures as it deems necessary, including directly monitoring such misuses.

(4) Where, as a result of its frequency monitoring activities, or in response to any report of unlawful or harmful use of the spectrum, the Commission has reason to believe that a person is –

- (a) operating any radiocommunications apparatus or other equipment in a manner that is causing or is likely to cause harmful interference; or
- (b) using any frequency band outside the scope of its spectrum licence, or is in breach of any condition of any award or is using any frequency band in an unlawful or unauthorised manner,

the Commission may, in addition to any of its powers under the Ordinance or any spectrum licence, require the person concerned forthwith, or within any time period specified by the Commission, to provide full details, orally or in writing, of his radiocommunications transmitting and receiving activities, and of the equipment used and its technical specifications, both at the time of the request and at any other relevant time.

(5) In order to perform its functions under sections 51, 56 and 57 of the Ordinance, the Commission may, on reasonable notice and at reasonable times, having first obtained a warrant pursuant to section 58 of the Ordinance, make such entry and inspect any equipment or article used by the person concerned for or in connection with the alleged unlawful or harmful activities.

Re-allocation of frequencies

7. (1) Where the Commission has determined that frequencies are to be re-allocated, the Commission shall cause to be published a public notice containing –

- (a) details of the frequencies to be re-allocated; and
- (b) a requirement that all parties to be affected submit to the Commission by a specified date in the format of a sworn statutory declaration the details of the estimate of their cost of migration as a result of the re-allocation.

(2) The Commission shall determine whether any party shall be compensated for a re-allocation of frequencies and, if it determines that compensation should be paid, whether such compensation shall be paid by the new users of the frequencies or by the Government.

(3) The Commission may retain an expert to verify the estimates provided under subsection (1) and such report of the expert shall be binding.

MADE this 23rd day of December, 2005.

**RICHARD TAUWHARE, MVO
GOVERNOR**