



# Radiocommunications Amendment Regulations 2007

Anand Satyanand, Governor-General

## Order in Council

At Wellington this 3rd day of December 2007

Present:

His Excellency the Governor-General in Council

Pursuant to sections 116, 133A, 134, and 135 of the Radiocommunications Act 1989, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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## Regulations

- 1 Title**  
These regulations are the Radiocommunications Amendment Regulations 2007.
- 2 Commencement**  
These regulations come into force on 1 February 2008.
- 3 Principal regulations amended**  
These regulations amend the Radiocommunications Regulations 2001.
- 4 Prohibition on transmission of radio waves**
  - (1) Regulation 6(1) is amended by omitting “15” and substituting “15H”.

- (2) Regulation 6(2) is amended by omitting “15” and substituting “15H”.

## **5 Matters chief executive must take account of**

- (1) Regulation 12 is amended by revoking subclause (2) and substituting the following subclause:

“(2) For the purpose of assisting the chief executive to take into account the matter referred to in subclause (1)(b), the applicant for a radio licence must, when applying for that licence, supply a certificate from an authorised person referred to in regulation 46(ba) or (bb).”

- (2) Regulation 12(3) is amended by omitting “subsection” and substituting “subclause”.

## **6 Terms, conditions, and restrictions**

Regulation 14(3)(a) is amended by omitting “15(1)(a)” and substituting “15G”.

## **7 New regulations 15 to 15H substituted**

Regulation 15 is revoked and the following regulations are substituted:

### **“15 Suspension or revocation of general user radio licence**

“(1) The chief executive may suspend or revoke a general user radio licence by notice in the *Gazette*.

“(2) No notice of revocation under subclause (1) may have an effective date preceding the date of notification.

### **“15A Transfer, suspension, or revocation of exemption**

“(1) The chief executive may transfer, suspend, or revoke an exemption by notice in writing to the holder of that exemption.

“(2) No notice of revocation under subclause (1) may have an effective date preceding the date of notification.

### **“15B Immediate revocation of radio licence on certain grounds**

“(1) The chief executive may, with immediate effect, revoke a radio licence on any of the grounds set out in subclause (2) by notice in writing to the licensee.

- “(2) The grounds for revocation are—
- “(a) a licensee breaching a term, condition, or restriction of the licence:
  - “(b) a licensee failing to pay any fee payable under these regulations (in whole or in part):
  - “(c) a licensee breaching an agreement with a Minister or a chief executive of a government department relating to the use of the licence:
  - “(d) the licence is not in sufficient use as determined by the chief executive under regulation 15C:
  - “(e) a licensee using a licence for a purpose other than the purpose for which it was granted:
  - “(f) to prevent harmful interference:
  - “(g) to protect national security:
  - “(h) to enable New Zealand to comply with an international agreement.
- “(3) No notice of revocation under subclause (1) may have an effective date preceding the date of notification.

**“15C Whether radio licence is not in sufficient use**

- “(1) The chief executive must consider 1 or more of the following when determining whether a radio licence is not in sufficient use:
- “(a) the use that has been made of the licence:
  - “(b) the use of the licence in light of the licence’s terms, conditions, and restrictions (for example, the actual power of transmissions as compared with the maximum power specified on the licence):
  - “(c) the amount and pattern of use of the licence compared with licences that authorise—
    - “(i) similar types of transmission; or
    - “(ii) the use of similar types of transmitting equipment:
  - “(d) whether the licensee has the use of suitable transmitting equipment to conduct the transmission of radio waves under the licence:
  - “(e) the time reasonably required to acquire and install the equipment necessary to conduct the transmission of radio waves under the licence:

- “(f) whether the licensee is able to provide the same or equivalent service as the service that may be provided under the licence via—
    - “(i) another radio licence or spectrum licence held by the licensee; or
    - “(ii) a telecommunications network available to the licensee;
  - “(g) any other relevant considerations;
  - “(h) any special circumstances justifying the continuation of the licence.
- “(2) For the purpose of determining whether a licence is not in sufficient use, the chief executive may request the licensee to make declarations relating to 1 or more of the matters referred to in subclause (1)(a) to (h).
- “(3) The licensee must provide declarations in response to a request under subclause (2) within 20 working days.
- “(4) The chief executive may request further information or declarations from the licensee, and, if so, the licensee must provide the information or declarations within 20 working days.
- “(5) A licensee’s failure to provide information or declarations in accordance with subclause (2), (3), or (4) must be treated as meaning that the licence is not in sufficient use.

**“15D Revocation of radio licences of longer and unlimited duration**

- “(1) The chief executive may revoke radio licences of unlimited duration and radio licences that have a remaining term of 5 or more years by—
- “(a) giving the licensee notice in writing that the licence is revoked with effect from a date not less than 5 years from the date of the notice; or
  - “(b) giving the licensee—
    - “(i) a programme to manage the cessation of the transmission of radio waves under that licence; and
    - “(ii) notice in writing that the licence is revoked on a date specified in that programme.

- “(2) The programme referred to in subclause (1)(b) must, as far as is reasonably practicable, enable the licensee to continue providing the same or an equivalent service as the service that may be provided under the licence, both—
  - “(a) during the term of the programme; and
  - “(b) after the licence is revoked.
- “(3) The chief executive must consult with the licensee before revoking a licence under subclause (1)(b).
- “(4) This regulation does not limit regulation 15B.

**“15E Revocation of radio licences of shorter duration**

- “(1) The chief executive may revoke radio licences that have a remaining term of less than 5 years by giving the licensee—
  - “(a) a programme to manage the cessation of the transmission of radio waves under that licence; and
  - “(b) notice in writing that the licence is revoked on a date specified in that programme.
- “(2) The programme referred to in subclause (1) must, as far as is reasonably practicable, enable the licensee to continue providing the same or an equivalent service as the service that may be provided under the licence, both—
  - “(a) during the term of the programme; and
  - “(b) after the licence is revoked.
- “(3) The chief executive must consult with the licensee before revoking a licence under subclause (1).
- “(4) This regulation does not limit regulation 15B.

**“15F Suspension of radio licence**

- “(1) If the chief executive suspects, on reasonable grounds, that there may be a ground to revoke a radio licence under regulation 15B, the chief executive may suspend the licence for as long as is reasonably necessary to determine whether a ground exists.
- “(2) If the chief executive determines that there is a ground to revoke a suspended licence, the chief executive—
  - “(a) may revoke the licence; or
  - “(b) may continue the suspension until satisfied that there is no longer a ground to revoke the licence.

- “(3) If the chief executive determines that there is no ground to revoke a suspended licence, the chief executive must (unless there is some other ground to suspend or revoke the licence) notify the licensee that the radio licence is no longer suspended with effect from the date of the notification.

#### **“15G Transfer of radio licence**

The chief executive may transfer a radio licence—

- “(a) when requested to do so by the licensee; or
- “(b) with the consent of the licensee.

#### **“15H Surrender of radio licence**

- “(1) A licensee may surrender a radio licence.
- “(2) The surrender must be in writing and takes effect from the date of surrender.
- “(3) When the chief executive receives the surrender, the chief executive must revoke the licence.”

### **8 Fees payable to chief executive for radio licences**

Regulation 38(1) is amended by omitting “fourth” and substituting “third”.

### **9 Fees payable to chief executive for spectrum licences**

Regulation 39(2) is amended by omitting “fourth” and substituting “third”.

### **10 Discount for payment using online service**

The example in regulation 44A is amended by—

- (a) omitting “2006” in each place where it appears and substituting in each case “2008”;
- (b) omitting “\$1,170 (\$1,300 less 10%)” and substituting “\$450 (\$500 less 10%)”.

### **11 New regulations 44B and 44C inserted**

The following regulations are inserted after regulation 44A:

#### **“44B Discount for holder of eligible licence who undertakes to provide interference investigation report**

- “(1) This regulation applies to the holder of an eligible licence if the holder—

- “(a) elects in writing to the chief executive that the holder will, when making a complaint of harmful interference in relation to any eligible licence, give the chief executive an interference report; and
  - “(b) pays the holder’s annual administration fees using an online service; and
  - “(c) has paid all amounts payable under regulation 44C.
- “(2) If the holder of an eligible licence holds more than 1 eligible licence, an election under subclause (1) applies to all of those licences.
- “(3) If this regulation applies, the holder of an eligible licence or eligible licences is entitled to both of the following:
- “(a) a 10% discount on the total amount of annual administration fees for eligible licences (because the payments will be made using an online service); and
  - “(b) a further 10% discount on the total amount of annual administration fees for eligible licences (because of the election under subclause (1)).
- “(4) In this regulation and in regulation 44C,—

“**eligible licence** means—

“(a) a radio licence:

“(b) any spectrum licence for which the Crown is the manager except for a licence that is described on its face as ‘Other < 10 dBW (Spectrum)’, ‘Other ≥ 10 dBW & < 20 dBW (Spectrum)’, ‘Other ≥ 20 dBW & < 30 dBW (Spectrum)’, or ‘Other ≥ 30 dBW (Spectrum)’

“**interference** does not include interference that may be the subject of a notice under section 108 of the Act

“**interference report** means a written report that identifies, so far as the person making it is reasonably able, the location, source, nature, and ownership of the interfering equipment that is suspected of causing interference to the reception of transmissions made under an eligible licence.

**Example**

Radio Licensee Limited is the holder of 2 radio licences and 2 spectrum licences. These licences are for—

- a radio licence for a multiple repeater with bandwidth of 12.5 kHz (licence fee \$500):



- a radio licence for a fixed satellite service with 1 transponder accessed (licence fee \$300);
- a television broadcasting UHF spectrum licence for a radio transmitter with 50 dBW e.i.r.p. (licence fee \$500);
- a spectrum licence for a radio transmitter with 30 dBW (1 000 watts) e.i.r.p or more (licence fee \$300).

The first 3 licences are eligible licences; the last one is not as it is described on its face as ‘Other > = 30 dBW (Spectrum)’.

Radio Licencee Limited elects to provide an interference report if complaining about harmful interference in relation to any of its eligible licences. It will pay its fees online. All fees are due on the same day.

If Radio Licencee Limited pays by credit card over the Ministry of Economic Development’s website, the correct amount payable would be \$1,310 (\$500 less 20%, plus \$300 less 20%, plus \$500 less 20%, plus \$300 less 10%).

#### “44C Obligation to repay discount in certain circumstances

“(1) The holder of an eligible licence who has made an election under regulation 44B(1)(a) must pay the chief executive, on demand, the amount calculated under subclause (2) if either or both of the following apply:

“(a) the holder does not give the chief executive an interference report when making a complaint of harmful interference:

“(b) the holder cancels the election given under regulation 44B(1)(a).

“(2) The amount payable is the total of the amounts calculated in respect of each eligible licence using the following formula:

$$\frac{a}{365} \times b$$

where—

a is the most recent discount that the holder has received for that particular eligible licence under regulation 44B(3)(b)

b is the number of days from either of the following dates until the next annual administration fee is due for that eligible licence:

(a) if subclause (1)(a) applies, the date a complaint of harmful interference is made without an interference report:

- (b) if subclause (1)(b) applies, the date the cancellation is given to the chief executive.

“(3) If either of the circumstances described in subclause (1) apply to a holder of the eligible licences, the holder may not make another election under regulation 44B(1)(a) until the next anniversary of the holder’s election.”

## **12 Disclosure of information on Register**

- (1) Regulation 46(ba) is amended by omitting “12(b)” and substituting “12(1)(b)”.
- (2) Regulation 46(bb) is amended by omitting “15” and substituting “15H”.

## **13 New regulations 46A and 46B inserted**

The following regulations are inserted after regulation 46:

### **“46A Meaning of inappropriate receivers**

For the purposes of the Act, an inappropriate receiver is declared to be an apparatus that is intended to receive VHF–FM sound broadcasting transmissions and that was not originally manufactured to receive sound broadcasting transmissions on all frequencies in the range of frequencies beginning at 87.5 MHz and ending at 108 MHz, whether or not the apparatus is used in conjunction with another associated apparatus, positioned between the receiver and the antenna, that is intended to allow the reception of sound broadcasting transmissions on all frequencies in that range.

### **“46B Another class of law enforcement official**

For the purposes of section 133A(2)(b) of the Act, employees or agents of the Department of Corrections are another class of law enforcement official.”

## **14 Schedule 5 amended**

Part 2 of Schedule 5 is amended by adding the following item:

- (g) failure of a rightholder or manager or holder of a radio licence to notify the Registrar of the person’s new name or address in accordance with section 24A of the Act
- 250      1,250

**15 New Schedule 6 substituted**

Schedule 6 is revoked and the Schedule 6 set out in the Schedule of these regulations substituted.

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## Schedule New Schedule 6 substituted

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### Schedule 6 Fees payable to chief executive for radio and spectrum licences (GST inclusive)

Class of licence code	Class of radio or spectrum licence	Annual administration fee (\$)
<b>Land mobile services (radio licences only)</b>		
<i>Repeaters (2-frequency)</i>		
LR1	Multiple repeaters on a common channel throughout New Zealand with bandwidth 12.5 kHz or less	500
LR2	Multiple repeaters on a common channel throughout New Zealand with bandwidth more than 12.5 kHz	600
LR3	Single repeater with 7 dBW (5 watts) e.i.r.p. or less	300
LR4	Single repeater with more than 7 dBW (5 watts) e.i.r.p.	250
<i>Simplex (single frequency)</i>		
LS1	Multiple radio transmitters on a common frequency throughout New Zealand with bandwidth 12.5 kHz or less	250
LS2	Multiple radio transmitters on a common frequency throughout New Zealand with bandwidth more than 12.5 kHz but less than or equal to 25 kHz	300
LS3	Multiple radio transmitters on a common frequency throughout New Zealand with bandwidth more than 25 kHz	300
LS4	Other radio transmitters (per licence)	250
<i>Paging</i>		
LP1	Multiple radio transmitters on a common frequency throughout New Zealand	200
LP2	Radio transmitters with less than or equal to 7 dBW (5 watts) e.i.r.p.	250
LP3	Radio transmitters with more than 7 dBW (5 watts) e.i.r.p. but less than or equal to 14 dBW (25 watts) e.i.r.p.	450
LP4	Radio transmitters with more than 14 dBW (25 watts) e.i.r.p.	200

## Schedule 6—continued

Class of licence code	Class of radio or spectrum licence	Annual administration fee (\$)
<b>Fixed services (radio licences only—fee per radio transmitter)</b>		
FP1	Point-to-point—frequency less than or equal to 1 GHz	200
FP2	Point-to-point—frequency more than 1 GHz	200
FM1	Point-to-multipoint and multipoint-to-point	200
<b>Broadcasting services (radio and spectrum licences)</b>		
<i>Sound broadcasting less than 30 MHz (MF or HF)</i>		
BA1	Radio transmitters with less than 30 dBW e.i.r.p.	450
BA2	Radio transmitters with 30 dBW e.i.r.p. or more but less than 36 dBW e.i.r.p.	1,200
BA3	Radio transmitters with 36 dBW e.i.r.p. or more but less than 40 dBW e.i.r.p.	1,500
BA4	Radio transmitters with 40 dBW e.i.r.p. or more	1,000
<i>Sound broadcasting more than 30 MHz (VHF or UHF)</i>		
BF1	Radio transmitters with less than 10 dBW e.i.r.p.	450
BF2	Radio transmitters with 10 dBW e.i.r.p. or more but less than 20 dBW e.i.r.p.	550
BF3	Radio transmitters with 20 dBW e.i.r.p. or more but less than 30 dBW e.i.r.p.	400
BF4	Radio transmitters with 30 dBW e.i.r.p. or more but less than 40 dBW e.i.r.p.	400
BF5	Radio transmitters with 40 dBW e.i.r.p. or more	400
<i>Television broadcasting less than 300 MHz (VHF)</i>		
BV1	Radio transmitters with less than 10 dBW e.i.r.p.	300
BV2	Radio transmitters with 10 dBW e.i.r.p. or more but less than 30 dBW e.i.r.p.	500
BV3	Radio transmitters with 30 dBW e.i.r.p. or more but less than 50 dBW e.i.r.p.	5,000
BV4	Radio transmitters with 50 dBW e.i.r.p. or more	22,000

## Schedule 6—continued

Class of licence code	Class of radio or spectrum licence	Annual administration fee (\$)
<i>Television broadcasting more than 300 MHz (UHF)</i>		
BU1	Radio transmitters with less than 10 dBW e.i.r.p.	500
BU2	Radio transmitters with 10 dBW e.i.r.p. or more but less than 30 dBW e.i.r.p.	400
BU3	Radio transmitters with 30 dBW e.i.r.p. or more but less than 40 dBW e.i.r.p.	350
BU4	Radio transmitters with 40 dBW e.i.r.p. or more but less than 50 dBW e.i.r.p.	450
BU5	Radio transmitters with 50 dBW e.i.r.p. or more	500
<b>Other services (radio and spectrum licences)</b>		
<i>Maritime and aeronautical (radio licences only)</i>		
OM1	Ship, aircraft, or mobile	350
OM2	Land (including maritime coast stations)	300
OM3	Repeater (2-frequency)	300
<i>Amateur (radio and spectrum licences)</i>		
OA1	Beacon, repeater, or fixed link	50
<i>Radiodetermination (radio licences only)</i>		
OR1	Radiodetermination (including radiolocation and radionavigation)	250
<i>Satellite (radio licences only)</i>		
OS1	Fixed satellite service (per transponder accessed)	300
OS2	Other satellite services (not shared with fixed services)	300
OS3	Other satellite services (shared with fixed services)	300
<i>Telemetry or telecommand (radio licences only)</i>		
OT1	Telemetry or telecommand (including space telecommand)	250
<i>Reception protection (radio licences only)</i>		
OP1	Co-channel reception protection from terrestrial transmissions	200
<i>Miscellaneous (radio and spectrum licences)</i>		
OZ1	Radio transmitters with less than 20 dBW (100 watts) e.i.r.p.	300

Schedule 6—*continued*

Class of licence code	Class of radio or spectrum licence	Annual administration fee (\$)
OZ2	Radio transmitters with 20 dBW (100 watts) e.i.r.p. or more but less than 30 dBW (1 000 watts) e.i.r.p.	300
OZ3	Radio transmitters with 30 dBW (1 000 watts) e.i.r.p. or more	300
ZFC	General user licences	nil

Martin Bell,  
for Clerk of the Executive Council.

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### Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations amend the Radiocommunication Regulations 2001 (the **principal regulations**). They come into force on 1 February 2008.

*Regulation 5* amends regulation 12 to remove an applicant's right to require the chief executive of the Ministry of Economic Development (the **chief executive**) to commission engineering work about the technical compatibility of a proposed radio licence.

*Regulation 7* substitutes *new regulations 15 to 15H* into the principal regulations. *New regulation 15B* describes the situations when the chief executive may immediately revoke radio licences without prior notice. These situations include where the licensee has breached the licence, has not paid fees, or is not using the licence sufficiently (in the opinion of the chief executive). In other situations, the chief executive is required to give notice before revoking a radio licence. *New regulation 15C* sets out the considerations and processes for how the chief executive is to decide whether a licence is being sufficiently used.

The suspension of radio licences is provided for in *new regulation 15F*. Licences may only be suspended if the chief executive suspects a ground for revocation exists. The transfer of radio licences is provided for in *new regulation 15G*. Transfer is now only possible if

the holder of the licence requests it or if the holder consents. The revocation, transfer, and suspension of general user radio licences and exemptions are left unchanged from the current mechanisms in the principal regulations. The current regulation 15(2) is replaced by *new regulation 15H*, providing that if a licensee wishes to surrender a radio licence at any time, the licensee may do so with effect from the date of surrender.

*Regulation 11* inserts *new regulations 44B and 44C*. These regulations enable a new facility whereby holders of certain eligible licences may elect to provide an interference report if making a complaint of interference. Eligible licences are all radio licences and, except for 4 types, all spectrum licences for which the Crown is the manager. Licence holders making the election receive a 10% discount on the fees due for eligible licences. The discount is forfeitable if the election is cancelled or not honoured.

*Regulation 13* inserts *new regulation 46A*, which declares the meaning of inappropriate receivers for the purposes of the Radiocommunications Act 1989 (the **Act**). Essentially, these are receivers that were not originally manufactured to receive broadcasting transmissions on the full New Zealand FM range.

*Regulation 13* also inserts *new regulation 46B*, which declares that employees or agents of the Department of Corrections are another class of law enforcement official under section 133A(2)(b) of the Act. This means they are authorised to intercept a radiocommunication for the purpose of avoiding prejudice to the maintenance of the law. It is an offence to do this without being authorised under section 133A.

*Regulation 14* specifies the penalties for the infringement offence of a rightholder, manager, or holder of a radio licence failing to notify the Registrar of the person's new name or address in accordance with section 24A.

Consequential changes are made in *regulations 4, 6, 8, 9, 10, and 12*. *Regulation 15* inserts a new fees schedule into the principal regulations.

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Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 6 December 2007.

These regulations are administered by the Ministry of Economic Development.

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