Revised Regulations of Anguilla: T6-3

TELECOMMUNICATIONS ACT (R.S.A. c. T6)

TELECOMMUNICATIONS FREQUENCY MANAGEMENT REGULATIONS

Note: These Regulations are enabled under section 51 of the Telecommunications Act, R.S.A. c. T6.

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Interpretation

1. (1) In these Regulations, unless the context otherwise requires—

"Act" means the Telecommunications Act;

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

"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;

"Spectrum Plan" means the table of radio frequency allocations and band plan for Anguilla to be adopted by the Minister based on present and anticipated future use of the spectrum.

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

Public interest in frequency management

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

(a) the objects of the Act;

(b) the likely impacts on existing and future availability and uses of spectrum;

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(c) the efficient use of spectrum;

(d) any regional agreements, standards and arrangements applicable to the allocation and use of spectrum in Anguilla;

(e) any applicable international standards, ITU treaties and other agreements;

(f) the overriding public interest in efficient utilisation of the spectrum for various public and private telecommunications purposes.

Spectrum Plan and allocation of bands

3. (1) The Minister shall propose and publish a Spectrum Plan within 6 months from 31st August 2004.

(2) The final Spectrum Plan published in accordance with subsection (6) shall specify—

(a) which services may be provided within each frequency band within Anguilla, based on the Radio Regulations, regional arrangements and national requirements and priorities;

(b) which uses shall require a frequency authorisation or shall be exempt from such a requirement;

(c) which bands shall be available for shared use, and which will be authorised on an exclusive basis;

(d) arrangements for visitors to Anguilla using radio transmitting devices;

(e) the policy on the length of term for frequency authorisations and for termination of frequency authorisations and reassignment of bands;

(f) the bands reserved for Government use or for use by agencies of the United Kingdom of Great Britain;

(g) the procedures to be followed by the Commission when granting a frequency authorisation, which may include any of the procedures permitted under section 25(6) of the Act; and

(h) whether or not charges are to be paid to the Government of Anguilla on the award of frequency authorisations in addition to any fees payable to the Commission.

(3) Prior to the publication of the Spectrum Plan the Minister may propose and publish an interim Spectrum Plan.

(4) Following publication of the interim Spectrum Plan, the Minister shall initiate a public consultation within Anguilla, and regionally and internationally and give due consideration to any comments or requests made to him.

(5) Following the public consultation, the Minister shall adopt and publish the final Spectrum Plan.

(6) The Minister may amend the Spectrum Plan from time to time, including for the purpose of re-allocating frequency bands for uses other than as provided in the existing Spectrum Plan. Where a proposed re-allocation may have an effect on an existing use of spectrum, the Minister shall undertake a public consultation.

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

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(8) The Minister shall, in consultation with the Commission, monitor the trends and developments, and use in Anguilla, of the spectrum and may, from time to time, and having regard to the relevant considerations, propose changes to the Spectrum Plan to reflect new requirements. Any such proposal shall be published and consulted on prior to it being adopted.

(9) The Minister shall cause the Spectrum Plan to be available on the web site of the Commission and otherwise as he may determine.

(R.A. 27/2004 s. 1)

Frequency authorisations

4. (1) Subject to the provisions of the Act and these Regulations, applications for frequency authorisations shall be made to the Commission in accordance with the Telecommunications and Frequency Licensing Regulations and the Telecommunications Code.

(2) The Commission shall determine, in consultation with the Minister, the level of fees to be paid by authorised spectrum users for the rights to such authorisations. Fees may include one-time payments for the assignment of frequency bands, based upon the value of these scarce resources to the people of Anguilla, and ongoing payments to support the costs of regulation and monitoring of the spectrum by the Commission.

Monitoring and harmful interference

5. (1) The Commission may regularly monitor uses of the spectrum in Anguilla to validate that authorised parties utilise only those frequency ranges which they have been assigned. The Commission may choose the time and location of its monitoring activities, without necessarily notifying spectrum users of its actions. The Commission may also respond to specific complaints from users of interference or other difficulties ostensibly resulting from misuse of the spectrum, by conducting directed monitoring of the potential infractions.

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

(a) operating any facility, terminal equipment or other equipment in a manner likely to cause harmful interference; or

(b) using any frequency band outside the scope of its frequency authorisation, in breach of any condition of its award or otherwise in an unlawful or unauthorised manner,

the Commission may, in addition to any of its powers under section 12 of the Public Utilities Commission Act[1] or under any frequency authorisation issued to him, require the person concerned forthwith, or within any time period specified by the Commission, to provide full details, orally or in writing, of his radio transmitting and receiving activities, and of the equipment used and its technical specifications and set-up, both at the time of the request and at any other relevant time.

(Am. in L.R. 15/12/2014)

(3) In order to perform its functions under section 38 of the Act and under the Public Utilities Commission Act, the Commission may, on reasonable notice and at reasonable times, having first obtained a warrant pursuant to section 39 of the Act, 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.

Reallocation of frequencies

6. (1) Where the Minister has determined in accordance with section 26 of the Act that frequencies are to be reallocated the Commission shall cause to be published a public notice containing—

(a) details of the frequencies to be reallocated; and

[1] This section has been corrected to reflect the renumbering of the Public Utilities Commission Act, R.S.A. c. P175 *(15/12/2014)*.

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(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 reallocation.

(2) The Minister shall determine whether any party shall be compensated and in the case of compensation whether such compensation shall be paid by the new users of the frequencies or by the Government.

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

Citation

7. These Regulations may be cited as the Telecommunications Frequency Management Regulations, Revised Regulations of Anguilla, T6-3.

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