

# A Guide to the Radiocommunications Regulations 2001

## Introduction

Changes to existing regulations are required to give effect to various provisions of the Radiocommunications Amendment Act 2000. These have been achieved by the amendment, simplification and consolidation of all existing regulations operative under the Radiocommunications Act 1989, viz:

Radiocommunications (Radio) Regulations 1993;  
Radiocommunications (Forms) Regulations 1990; and  
Radiocommunications (Fees) Regulations 1993.

## Outline of changes

### Electromagnetic compatibility

Electromagnetic compatibility (EMC) describes the ability of all electrical, electronic and radio devices to operate satisfactorily in their electromagnetic environment. This means that such equipment will neither cause interference to radio reception, nor be susceptible to malfunction in the presence of radiocommunications transmissions.

By safeguarding the radio spectrum from pollution by interfering equipment, the spectrum's economic value and utility is preserved. Control of the immunity to interference of susceptible equipment ensures that the equipment continues to function in the intended manner and that public safety is not compromised.

The provisions in the existing regulations relating to radiocommunications interference have been rewritten to provide a more straightforward description of the requirements, and provide for much of the detail to be notified to industry through the *Gazette*. This mechanism will facilitate any future changes that become necessary with the increasingly rapid development and introduction of new technologies.

The revised regulations are also designed to facilitate regulatory harmonisation with Australia for a wide range of electrical, electronic and radio products under the provisions of the Trans-Tasman Mutual Recognition Arrangement (TTMRA). Implementation of these provisions will assist in minimising compliance costs across industry, particularly where the export or importation of electrical and electronic products is concerned.

Provision for compulsory recall of equipment, as foreshadowed in the amended Act, has been introduced to provide for the situation where equipment that does not comply with an applicable standard or code of practice, or has been declared prohibited equipment, has been installed, used, sold, distributed or manufactured. The product recall provision will be able to be invoked only by the Minister.

The amended Act provides for the introduction of infringement offences and infringement fees. These include both EMC compliance infringements and unlicensed transmissions. The regulations set out the actions that constitute infringement offences, any one of which could compromise the integrity of licensed radiocommunication services to some extent. An associated schedule specifies the form of infringement notice and levels of the infringement fees.

#### Availability of licensing database for public search

The Register of Radio Frequencies has always been open for public search. However, this database has only contained records of management rights (both Crown and privately held) and the associated spectrum licences. The Ministry has historically maintained a separate non-public radio (administrative) licence database, which constitutes the bulk of its licence records.

The amended Act provides for the radio licence database also to be open to public search, and in preparation for this the Ministry has merged the two databases. The regulations now specify the ways in which this combined database may be searched. The regulations also limit disclosure of information in the combined database that relates to radiocommunications affecting the security or defence of New Zealand.

#### Forms required for spectrum licences

The current regulations specify the content of a range of forms required by the Registrar (of Radio Frequencies) in order to operate the various processes related to the registration of spectrum licences, and the consolidated regulations continue this practice. Several additional forms have been introduced, and the detail on all forms has been reviewed and revised where necessary in the interests of improved clarity.

#### Licence fees

There are no changes to the levels of licence fees contained in schedules to the present regulations which have been transferred across to the new consolidated regulations. Where no expiry date is specified, a radio licence remains valid until revoked, and a fee is payable for the period up to the date of revocation.

All fees set under the consolidated regulations will, until paid in full, constitute a debt to the Crown and may be recovered by civil action.

#### **Details of new regulations**

The Annex contains a more detailed description of the new consolidated regulations, listed by regulation.

**ANNEX****RADIOCOMMUNICATIONS REGULATIONS 2001****DESCRIPTION OF REGULATIONS**

Any reference to “the Act” is a reference to the Radiocommunications Act 1989 and its amendments. Those regulations noted as “self-explanatory” essentially repeat the provisions of the former regulations.

**1–5 Title; Commencement; Interpretation; Application of regulations; Application of other laws**

- self-explanatory.

*Radio licences*

**6 Prohibition on transmission of radio waves**

- provides for licensing the transmission of radio waves (under Part XIII of the Act), which replaces the former concept of licensing the use of transmitting apparatus itself.

**7 Applications**

- self-explanatory.

**8 Grant of radio licence**

- replicates the provisions of former regulation 12. It specifies an increased level of minimum detail required on a radio licence, including provision to specify the protection afforded from harmful interference from co-channel emissions.

**9 Grant of general user radio licence**

- formerly a general licence.

**10 Grant of exemption from requirement for radio licence**

- self-explanatory.

**11 Validity**

- provides that a radio licence remains valid until revoked or until the expiry date (where specified) is reached. The validity of a licence is no longer directly linked to the fee payable under regulation 38. (Recovery of unpaid fees is provided for under regulation 42.)

**12 Matters chief executive must take account of**

- expands the technical compatibility requirements to include spectrum licences as well as radio licences. It also includes reference to general policies of Government made under section 112 of the Act.

**13 Agreements with other persons**

- equivalent to former regulation 11 (“licensing of channels”), and covers the deemed provisions applying to persons with whom agreements to transmit have been made.

**14 Terms, conditions, and restrictions**

- includes limitations on the transferability of radio licences.

**15 Transfer, suspension, or revocation**

- self-explanatory.

*Licence to supply radio transmitters*

**16–17 Prohibition on supply of radio transmitters; Applications**

- self-explanatory.

**18 Grant of licence to supply radio transmitters**

- replicates the provisions of former regulations 23 and 25. (The requirements for returns of radio transmitters supplied are now set out in Schedule 2.)

**19 Terms, conditions, and restrictions**

- includes provision for the chief executive to specify transmitters for which a return is not required.

**20-21 Validity; Transfer, suspension, or revocation**

- self-explanatory.

*Certificates of competency*

**22 Operation of radio transmitters**

- provides for certificates of competency where these are required as a condition of the transmission of radio waves, and sets out prohibition and offence provisions.

**23 Applications**

- self-explanatory.

**24 Issue of certificate of competency**

- sets out the requirements covering the issue of certificates, including provision for the chief executive's discretion in this matter. (The classes of certificates are now set out in Schedule 3.)

**25-27 Terms, conditions, and restrictions; Validity; Suspension or revocation**

- self-explanatory.

**28 Examinations**

- sets out the general provisions for examinations, including the chief executive's discretion to vary the manner in which examinations are carried out. (The examination requirements are now set out Schedule 4.)

**29-31 Re-examination; Recount of marks awarded; Recognition of foreign operator certificates**

- self-explanatory.

*Electromagnetic compatibility*

**[Replaces completely all provisions under the former Part V (Radio Interference)]**

**32 Notification in Gazette**

- sets out a comprehensive listing of all provisions relating to electromagnetic compatibility which the chief executive may prescribe by notice in the *Gazette*. It includes classes of equipment; standards; codes of practice; levels of conformity; labelling requirements; declarations of conformity; document security and availability; documentation, test facilities, and competent persons; prohibited equipment; exempt equipment; and minimum field strengths that apply to radiocommunication reception.

Equipment, while under test for compliance with the regulations, is exempt from these provisions.

**33 Power to impose additional conditions**

- provides for the chief executive to impose additional conditions by notice in the *Gazette* or in writing.

**34 Monitoring of compliance**

- provides for the submission of samples of equipment, test reports, technical construction files, or other associated documentation.

**35 Interference with radiocommunications**

- provides for harmful interference to be assessed relative to a minimum field strength for the wanted signal.

**36 Compulsory recall**

- provides for equipment that fails to meet the requirements of a standard or code of practice, or that has been declared prohibited equipment, to be recalled by the Minister.

**37 Infringement offences**

- sets out infringement offences covering actions that are contrary in any way to the requirements provided for under regulations 32 to 36; or the use of a radio transmitter other than in accordance with a radio or spectrum licence, or an exemption. (The infringement form and infringement fees are set out in Schedule 5.)

*Fees*

**38 Fees payable to chief executive for radio licences**

- sets out the requirements for the application fee and the annual fee payments for a radio licence; and provides for proportional payment of the annual fee for a period of less than 12 months.

**39 Fees payable to chief executive spectrum licences**

- sets out the requirements for the annual fee payment for a spectrum licence and the associated fee calculation method; and provides for proportional payment of the annual fee for a period of less than 12 months.

**40-41 Other fees payable to chief executive; Fees payable to Registrar**

- self-explanatory.

**42 Recovery of fees**

- provides that any unpaid fees constitute a debt to the Crown until paid in full, and may be recovered through the courts; and permits arrangements with any person to collect, or assist with collecting, any such debts.

**43 Fees inclusive of GST**

- self-explanatory.

**44 Power to waive fees**

- provides for discretion to waive fees, in whole or in part, where the quality of life of a natural person is seriously affected, or the nature of the service is such that no extra costs are incurred, or an inter-country agreement relating to exemption of fees exists.

Discretion to waive fees is also provided for where migration of a service to a different frequency (or band) takes place in order to make available a particular frequency (or band) for a new purpose.

*Miscellaneous provisions***45 Search references for access to Register**

- lists eight available search references.

**46 Disclosure of information on Register**

- specifies the persons to whom protected information on the Register may be made available.

**47 Registrar's forms**

- advises that the forms are set out under Schedule 7.

**48 Radiocommunication within territorial limits**

- self-explanatory.

*Revocations and transitional provisions***49 Revocations**

- relate to the former Radiocommunications (Fees), (Forms) and (Radio) regulations.

**50 Transitional provisions**

- specify the deeming provisions and requirements that apply to radio licences, exemptions from licensing, licences to supply, and certificates granted before the regulations came into force.

*Schedule 1*

*Terms, conditions and restrictions applying to every radio licence  
and exemption from radio licensing*

**1-10** **Technical compliance; Operational compliance; Responsibility for observance of provisions; Notification of change of address; Compliance with directions; No monopoly conferred; Operator of radio transmitter to hold valid operator certificate; Callsigns; Documents must be available for inspection; Dismantling of radio transmitter when contravention has taken place**

- self-explanatory. ("False or misleading communication" is now covered under the First Schedule of the amended Act.)

*Schedule 2*

*Returns in respect of supply of radio transmitters*

- specifies the details that must be included in returns of equipment supplied.

*Schedule 3*

*Classes of certificates of competency*

- lists the five classes of certificates of competency (plus other classes prescribed in the International radio Regulations).

*Schedule 4*

*Examinations for certificates of competency*

- sets out the examination requirements for the five classes of certificate listed in Schedule 3.

*Schedule 5*

*Infringement notice and infringement fees*

**Part 1** - sets out the form of an infringement notice covering details of the alleged offence, payment of the infringement fee, summary of rights, defences, further action, non-payment of the fee and guidance on queries and correspondence.

**Part 2** - sets out a schedule of infringement fees.

*Schedule 6*

*Fees*

**Part 1** - sets out the fees payable to the chief executive for radio licences.

**Part 2** - sets out the fees payable to the chief executive for spectrum licences.

**Part 3** - sets the fees payable to the chief executive for other items.

**Part 4** - sets out the fees payable to the Registrar.

*Schedule 7*

*Forms*

- lists the 25 forms required under the management rights regime, followed by the required format of all forms.