

L.N. 168 of 2017

**Telecommunications (Level of Spectrum Utilization Fee)
(Fixed and Other Links) Regulation**

(Made by the Secretary for Commerce and Economic Development under section 32I(2) of the Telecommunications Ordinance (Cap. 106))

1. Commencement

This Regulation comes into operation on 1 January 2018.

2. Interpretation

In this Regulation—

designated frequency band (指定頻帶) means any of the frequency bands set out in Part 7 of the Schedule to the Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) Order (Cap. 106 sub. leg. Y);

earth station (地球站) has the meaning given by section 2(1) of the Telecommunications (Carrier Licences) Regulation (Cap. 106 sub. leg. V);

electronic news gathering or outside broadcast link (電子新聞採訪或外勤廣播鏈路) means a radio transmission path that is established through the use of terrestrial portable or transportable radio equipment for electronic news gathering or outside broadcast services;

fixed carrier licence (固定傳送者牌照) has the meaning given by section 2(1) of the Telecommunications (Carrier Licences) Regulation (Cap. 106 sub. leg. V);

fixed link (固定鏈路) means a radio transmission path that is established between fixed locations for radiocommunications purposes;

licence (牌照) means a specified carrier licence or a specified non-carrier licence;

licensed spectrum user (持牌頻譜使用者) means a person who is authorized to use the radio spectrum in a designated frequency band for a specified service under a licence;

satellite uplink (衛星上傳鏈路) means a radio transmission path that is established between an earth station and a space station of a satellite system in an earth-to-space direction;

self-provided external telecommunications system licence (自設對外電訊系統牌照) means a licence issued under section 7(5) of the Telecommunications Ordinance (Cap. 106) for establishing and maintaining the licensee's own circuits for its own communications with places outside Hong Kong;

space station (空間電台) has the meaning given by section 2(1) of the Telecommunications (Carrier Licences) Regulation (Cap. 106 sub. leg. V);

space station carrier licence (空間電台傳送者牌照) has the meaning given by section 2(1) of the Telecommunications (Carrier Licences) Regulation (Cap. 106 sub. leg. V);

specified carrier licence (指明傳送者牌照) means—

- (a) a fixed carrier licence;
- (b) a space station carrier licence; or
- (c) a unified carrier licence;

specified non-carrier licence (指明非傳送者牌照) means—

- (a) a self-provided external telecommunications system licence; or
- (b) a wide band link and relay station licence;

specified service (指明服務) means—

- (a) establishing and maintaining a fixed link;
- (b) establishing and maintaining an electronic news gathering or outside broadcast link; or
- (c) establishing and maintaining a satellite uplink;

unified carrier licence (綜合傳送者牌照) has the meaning given by section 2(1) of the Telecommunications (Carrier Licences) Regulation (Cap. 106 sub. leg. V);

wide band link and relay station licence (闊頻帶鏈路中繼電台牌照) means a licence issued under section 7(5) of the Telecommunications Ordinance (Cap. 106) to a public telecommunications service or utility service provider for establishing and maintaining fixed links within Hong Kong.

3. **Application**

This Regulation does not apply to—

- (a) a person who is not a licensed spectrum user; or
- (b) a consular post within the meaning of the Consular Relations Ordinance (Cap. 557).

4. **Spectrum utilization fee**

- (1) Subject to subsections (4) and (5) and section 5, a spectrum utilization fee as set out in the Schedule is payable for every MHz of spectrum assigned under a licence in relation to—
 - (a) an electronic news gathering or outside broadcast link;
 - (b) a fixed link; or
 - (c) a satellite uplink.

- (2) For a specified carrier licence—
 - (a) if the licence is issued before, and is in force on, 1 January 2020, the spectrum utilization fee is payable—
 - (i) on 1 January 2020; and
 - (ii) after that, on each anniversary of the date of issue of the licence while it remains in force; or
 - (b) if the licence is issued on or after 1 January 2020, the spectrum utilization fee is payable—
 - (i) on the date of issue of the licence; and
 - (ii) after that, on each anniversary of the date of issue of the licence while it remains in force.
- (3) For a specified non-carrier licence—
 - (a) if the licence is issued—
 - (i) before, and is in force on, 1 January 2020, the spectrum utilization fee for the remaining period of validity of the licence is payable on 1 January 2020; or
 - (ii) on or after 1 January 2020, the spectrum utilization fee for the full period of validity of the licence is payable on the date of issue of the licence; and
 - (b) if the licence is renewed on or after 1 January 2020, the spectrum utilization fee for the full period of validity of the licence is payable on the date of renewal of the licence.
- (4) If any of the following periods is less than 12 months, the spectrum utilization fee payable for the period is calculated on a pro rata basis—

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- (a) the period beginning on 1 January 2020 up to but excluding the immediately following anniversary of the date of issue of the licence while it remains in force;
 - (b) the period beginning on any payment date up to and including the expiry date of the licence.
- (5) If any of the following periods is longer than 12 months, the spectrum utilization fee payable for the period is calculated on a pro rata basis—
- (a) in relation to a specified non-carrier licence that is issued before, and is in force on, 1 January 2020—the period beginning on 1 January 2020 up to and including the expiry date of the licence;
 - (b) in relation to a specified non-carrier licence that is issued on or after 1 January 2020—the period of validity of the licence.
- (6) In calculating the spectrum utilization fee, a fraction of 1 MHz is treated as a whole MHz.

5. Transitional

- (1) No spectrum utilization fee is payable for the 24 months beginning on 1 January 2018.
 - (2) For the 12 months beginning on 1 January 2020, the spectrum utilization fee payable is reduced by 70%.
 - (3) For the 12 months beginning on 1 January 2021, the spectrum utilization fee payable is reduced by 30%.
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Schedule

[s. 4]

Spectrum Utilization Fee

1. The spectrum utilization fee payable per MHz of spectrum per electronic news gathering or outside broadcast link, fixed link or satellite uplink is as follows—
 - (a) if the spectrum is assigned exclusively to a licensed spectrum user—
 - (i) for a wide band link and relay station licence—\$36,000 for every 12 months; or
 - (ii) for any other licence—\$21,600 for every 12 months; or
 - (b) if any part of the spectrum is assigned to a licensed spectrum user on a non-exclusive or shared basis—
 - (i) for the designated frequency band of 2055–2095 MHz—\$10,800 for every 12 months;
 - (ii) for the designated frequency band of 5875–6425 MHz—\$432 for every 12 months; and
 - (iii) for each of the designated frequency bands of 6425–7100 MHz, 7421–7900 MHz, 8275–8500 MHz and 10700–11700 MHz—
 - (A) for a wide band link and relay station licence—\$6,000 for every 12 months; or
 - (B) for any other licence—\$3,600 for every 12 months.

Telecommunications (Level of Spectrum Utilization Fee) (Fixed and Other Links)
Regulation

L.N. 168 of 2017
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Edward YAU
Secretary for Commerce and
Economic Development

4 October 2017

Telecommunications (Level of Spectrum Utilization Fee) (Fixed and Other Links)
Regulation

Explanatory Note
Paragraph 1

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Explanatory Note

This Regulation prescribes the level of spectrum utilization fee payable for using the radio spectrum in any of the frequency bands set out in Part 7 of the Schedule to the Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) Order (Cap. 106 sub. leg. Y).

2. The Regulation also provides for the exemption of certain persons from payment of the fee, and the reduction or waiver of the fee in certain circumstances.