STATUTORY INSTRUMENTS

2018 No. 86

ELECTRONIC COMMUNICATIONS

The Wireless Telegraphy (Licence Award) Regulations 2018

Made - - - -	*24th January 2018*
Coming into force - -	*31st January 2018*

[F1]The Office of Communications ("OFCOM"), in exercise of the powers conferred by section 14(1), (2), (3), (4), (6) and (7) and section 122(7) of the Wireless Telegraphy Act 2006 ("the Act"), make the following Regulations.

Before making these Regulations OFCOM have given notice of their proposal to do so in accordance with section 122(4)(a) of the Act, published notice of their proposal in accordance with section 122(4)(b) of the Act and have considered the representations made to them before the time specified in that notice in accordance with section 122(4)(c) of the Act.

F1 2006 c.36.

Modifications etc. (not altering text)

C1 Regulations applied (1.2.2018) by The Wireless Telegraphy (Limitation of Number of Licences) Order 2018 (S.I. 2018/89), **art. 2(2)**

PART 1

Introductory

Citation, commencement, and extent

1.—(1) These Regulations may be cited as the Wireless Telegraphy (Licence Award) Regulations 2018 and shall come into force on 31stJanuary 2018.

(2) These Regulations shall not extend to the Channel Islands or the Isle of Man.

Interpretation

2.—(1) In these Regulations—

"2.3 GHz additional price" has the meaning given in regulation 76;

"2.3 GHz assignment stage bid" shall be construed in accordance with regulation 72(1);

"2.3 GHz assignment stage option" has the meaning given in regulation 72(4);

"2.3 GHz assignment stage option list" has the meaning given in regulation 72(4);

"2.3 GHz base price A" has the meaning given in regulation 41(1);

"2.3 GHz base price B" has the meaning given in regulation 41(3);

"2.3 GHz bid limit" shall be construed in accordance with regulation 20;

"2.3 GHz licence" has the meaning given in regulation 91(a);

"2.3 GHz refusal payment" shall be construed in accordance with regulation 103;

"2.3 GHz winning option" has the meaning given in regulation 99(1);

"2.3 GHz withdrawn lot licence" has the meaning given in regulation 91(b);

"3.4 GHz additional price" has the meaning given in regulation 84;

"3.4 GHz assignment stage bid" shall be construed in accordance with regulation 77(1);

"3.4 GHz assignment stage option" has the meaning given in regulation 77(4);

"3.4 GHz assignment stage option list" has the meaning given in regulation 77(4);

"3.4 GHz base price A" has the meaning given in regulation 41(2);

"3.4 GHz base price B" has the meaning given in regulation 41(4);

"3.4 GHz licence" has the meaning given in regulation 91(c);

"3.4 GHz minimum requirement" means the number of 3.4 GHz lots selected by a bidder (if any) as its minimum requirement in the application submitted by that bidder to OFCOM in accordance with regulation 4(3)(a)(i);

"3.4 GHz refusal payment" shall be construed in accordance with regulation 103;

"3.4 GHz winning option" has the meaning given in regulation 100(2);

"3.4 GHz withdrawn lot licence" has the meaning given in regulation 91(d);

"additional 3.4 GHz lot" shall be construed in accordance with regulation 78(2)(a);

"additional deposit" has the meaning given in regulation 17(1);

"additional price" means the 2.3 GHz additional price or the 3.4 GHz additional price;

"applicant" means a body corporate making an application for a licence;

"applicant group" means in relation to an applicant—

(a) that applicant;

(b) each associate of that applicant; and

(c) each person in respect of whom the applicant has delivered to OFCOM a completed document in the form set out in Schedule 3;

"assignment stage" has the meaning given in regulation 22;

"assignment stage bid" means a 2.3 GHz assignment stage bid or a 3.4 GHz assignment stage bid;

"assignment stage form" shall be construed in accordance with regulation 71;

"assignment stage option" means a 2.3 GHz assignment stage option or a 3.4 GHz assignment stage option;

"assignment stage round" shall be construed in accordance with regulation 68;

"associate" means, in relation to an applicant or bidder, a person who has a material interest in that applicant or bidder;

"authorised person" means a person specified by an applicant in its application as authorised to bind that applicant for all purposes relating to the award process;

"bidder" means an applicant which has qualified to bid in the award process and which has not withdrawn from the award process on or before the last day for withdrawal;

"bidder group" shall be construed in accordance with regulation 9;

"bidder ranking list" has the meaning given in regulation 34(2);

"category one bidders" has the meaning given in regulation 34(1)(a);

"category two bidders" has the meaning given in regulation 34(1)(b);

"category three bidder" has the meaning given in regulation 34(1)(c);

"confidential information" means, in relation to any applicant or bidder, any information which is not in the public domain and which, if it were made public or disclosed to another applicant (or potential applicant) or bidder or a member of their respective applicant or bidder group, would be likely to affect decisions that such other applicant (or potential applicant) or bidder may make in relation to the award process;

"current round" means, except in regulations 49 to 52 where the meaning in regulation 49 applies, the principal stage round that has begun but has not yet ended;

"deadline", in relation to any requirement imposed on any person by or under these Regulations, means (as the case may require)—

(a) the time;

(b) the date; or

(c) the date, and the time on that date;

by which that requirement must be fulfilled by that person;

"electronic auction system" means the system established by OFCOM for bidders to participate in the award process;

"eligibility event" shall be construed in accordance with regulation 52;

"eligibility limit" means, in relation to a bidder, a number of eligibility points which limits the bids that may be made by the bidder in a principal stage round;

"eligibility points used" shall be construed in accordance with regulation 51;

"excess demand" shall be construed in accordance with regulation 55(2);

"existing spectrum holdings" has the meaning given in regulation 5(1);

"existing immediately useable spectrum holdings" has the meaning given in regulation 5(2);

"existing overall spectrum holdings" has the meaning given in regulation 5(3);

"financial exposure" shall be construed in accordance with regulation 63;

"GHz" means gigahertz;

"grant stage" has the meaning given in regulation 22;

"initial deposit" shall be construed in accordance with regulation 4;

"last day for withdrawal" has the meaning given in regulation 15(1);

"leftover 3.4 GHz lots" has the meaning given in regulation 78(2)(b)(ii);

"licence" means a wireless telegraphy licence to be granted pursuant to these Regulations to establish or use a wireless telegraphy station or install or use wireless telegraphy apparatus in the United Kingdom at frequencies comprised in one or more of the 2.3 GHz lots or 3.4 GHz lots to be determined in accordance with the procedure set out in these Regulations;

"material interest" means, whether held directly or indirectly—

(a) any interest (construed in accordance with sections 820 to 825 of the Companies Act 2006 [F2]) in—

(i) any share which carries, or any shares which together carry, more than twenty-five per cent of the votes entitled to be cast at a general meeting of the applicant or bidder; or

(ii) any share or shares in the case where the consent of the holder of that share or those shares is required for the conduct of any business of the applicant or bidder; or

(b) the right to appoint or remove a majority of the applicant's or bidder's board of directors;

"MHz" means megahertz;

"most recent round" means the principal stage round that has most recently ended;

"OFCOM" means the Office of Communications;

"OFCOM's bank account" means the bank account nominated by OFCOM for the purposes of the award process, details of which are published on their website;

"overall bid list" has the meaning given in regulation 35(3);

"overall bid constraint" shall be construed in accordance with regulation 21;

"pounds" means pounds sterling;

"pre-existing licence" means the licence with number 1111442 which authorises the establishment, installation and use of wireless telegraphy stations and wireless telegraphy apparatus in the frequency ranges 3480-3500 MHz and 3580-3600 MHz [F3] held by UK Broadband Limited;

"pre-existing licence holder" means UK Broadband Limited (a company with company registration number 04713634);

"previous round" means the principal stage round that immediately preceded the most recent round;

"principal stage" has the meaning given in regulation 22;

"principal stage bid" shall be construed in accordance with regulation 27;

"principal stage form" shall be construed in accordance with regulation 26;

"principal stage round" shall be construed in accordance with regulation 25;

"recorded spectrum holdings" means recorded immediately useable spectrum holdings and recorded overall spectrum holdings;

"recorded immediately useable spectrum holdings" shall be construed in accordance with regulation 19(2);

"recorded overall spectrum holdings" shall be construed in accordance with regulation 19(3);

"refusal payment" shall be construed in accordance with regulation 103;

"replacement licence" is a licence applied for under this award process which authorises the use of frequencies comprised in a block of eight 3.4 GHz lots on substantially the same terms, conditions and limitations which apply to the pre-existing licence;

"required assignment stage deposit" shall be construed in accordance with regulation 89;

"required final principal stage deposit" shall be construed in accordance with regulation 64;

"round" means a period of time specified by OFCOM during which bidders may make bids in accordance with the procedure set out in these Regulations;

"round event" shall be construed in accordance with regulation 28;

"round price" shall be construed in accordance with regulations 29 and 30;

"standing high bid status" shall be construed in accordance with regulations 33 to 36;

"third party" has the meaning given in regulation 4(3)(a)(iii)(ee);

"third party parent" has the meaning given in regulation 4(3)(a)(iii)(ff);

"total 2.3 GHz base price A" has the meaning given in regulation 42(1);

"total 2.3 GHz base price B" has the meaning given in regulation 42(3);

"total 3.4 GHz base price A" has the meaning given in regulation 42(2);

"total 3.4 GHz base price B" has the meaning given in regulation 42(4);

"total auction sum" shall be construed in accordance with regulation 104;

"total base price" means, in respect of a bidder, the sum of that bidder's total 2.3 GHz base price A (if any), total 2.3 GHz base price B (if any), total 3.4 GHz base price A (if any) and total 3.4 GHz base price B (if any);

"total frequencies associated with a principal stage form" has the meaning given in regulation 44(2);

"valid 2.3 GHz assignment stage bid" shall be construed in accordance with regulation 74;

"valid 3.4 GHz assignment stage bid" shall be construed in accordance with regulation 80;

"valid assignment stage bid" means a valid 2.3 GHz assignment stage bid or a valid 3.4 GHz assignment stage bid;

"valid assignment stage form" shall be construed in accordance with regulation 71;

"valid combination of 2.3 GHz assignment stage bids" shall be construed in accordance with regulation 75;

"valid combination of 3.4 GHz assignment stage bids" shall be construed in accordance with regulation 82 or 83 as the context requires;

"valid request to carry forward its eligibility limit" shall be construed in accordance with regulation 26;

"valid withdrawal of standing high bid status" shall be construed in accordance with regulation 26;

"valid principal stage bid" shall be construed in accordance with regulation 26;

"valid principal stage form" shall be construed in accordance with regulation 26;

"winning 2.3 GHz assignment stage bid" shall be construed in accordance with regulation 75;

"winning 3.4 GHz assignment stage bid" shall be construed in accordance with regulation 81;

"winning assignment stage bid" means a winning 2.3 GHz assignment stage bid or a winning 3.4 GHz assignment stage bid;

"winning bidder" means a winning bidder for 2.3 GHz lots or a winning bidder for 3.4 GHz lots;

"winning bidder for 2.3 GHz lots" means a bidder who made bids for 2.3 GHz lots which became winning principal stage bids in accordance with regulations 38 or 39;

"winning bidder for 3.4 GHz lots" means a bidder (including the pre-existing licence holder if it is a bidder) who made bids for 3.4 GHz lots which became winning principal stage bids in accordance with regulations 38 or 40 and also the pre-existing licence holder in respect of eight 3.4 GHz lots if it is deemed to be a winning bidder under regulation 23;

"winning combination of valid 2.3 GHz assignment stage bids" shall be construed in accordance with regulation 75;

"winning combination of valid 3.4 GHz assignment stage bids" shall be construed in accordance with regulation 81;