

# **Act on Radio Frequencies**<sup>1</sup>

## PART 1

### *Scope of application*

**1.**-(1) This Act shall apply to the use of radio frequencies.

(2) The Act shall also apply to supervision of interference to radio equipment, telecommunications terminal equipment and electrical and electronic apparatus caused by:

- 1) the use of radio frequencies, and
- 2) electromagnetic phenomena.

(3) In this Act, radio frequencies shall mean electromagnetic waves in the frequency range up to 3,000 GHz propagated in space without artificial guide.

## PART 2

### *General framework for spectrum management*

#### *Purpose and prioritisation*

**2.**-(1) The purpose of the Act is to promote competition and efficient spectrum use and to ensure that essential public interest considerations are met.

(2) In this Act, essential public interest considerations shall mean considerations that are essential to society as a whole, including the availability of services essential to society, or essential public interest considerations that may not be expected to be met by the market to a sufficient extent. Essential public interest considerations may be media policy considerations, including considerations bearing on public service activities, research, national defence and the use of radio frequencies by emergency and public safety services. Also relevant are considerations bearing on electronic communications services, the availability of which may be of great economic importance to society.

(3) Where it is necessary to prioritise between the purposes mentioned in subsection (1), these shall be weighted in the following order:

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<sup>1</sup> This Act contains rules implementing parts of Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Official Journal 2002, no. L 108, p.21) and parts of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Official Journal 2002, no. L 108, p.33).

- 1) Ensuring that essential public interest considerations are met.
- 2) Promoting competition.
- 3) Efficient spectrum use.

(4) However, where spectrum resources are so limited that the issue of licences to several different applicants will make it impossible to ensure all users access to the services in question, efficient spectrum use shall be given a higher priority than promoting competition.

#### *Political framework for spectrum management*

**3.-**(1) The Minister for Science, Technology and Innovation shall lay down a spectrum policy framework mandate. The spectrum policy framework mandate shall contain binding guidelines for the National IT and Telecom Agency's general prioritisation of the use of frequencies in Denmark and the National IT and Telecom Agency's administration of this Act.

(2) When laying down the spectrum policy framework mandate under subsection (1), the Minister for Science, Technology and Innovation shall set rules determining what essential public interest considerations, cf. section 2(2), might imply, in case of spectrum scarcity, cf. section 7(6), that the Minister for Science, Technology and Innovation should decide the assignment method to be adopted, cf. section 9.

#### *National frequency plan*

**4.** The National IT and Telecom Agency shall lay down a frequency plan containing an overview of the framework for using and inter-prioritising all radio frequencies.

#### *Decision to liberalise spectrum use*

**5.-**(1) The Minister for Science, Technology and Innovation shall decide whether spectrum use should be liberalised.

(2) Liberalisation of spectrum use means that the use of frequencies in a given frequency band is made service and technology neutral, so that no requirement is made for providing a specific service or using a specific technology in the frequency band concerned.

(3) In the basis for decisions made under subsection (1) the following considerations may be included:

- 1) Flexible use is recommended or has been decided at an international or European level.
- 2) Flexible use is demanded by the market.

- 3) Flexible use is expected to be able to promote innovation regarding equipment, technology or services.
- 4) Flexible use is not expected to result in an increased level of unacceptable interference to spectrum use.
- 5) The requirement that essential public interest considerations have to be met, cf. section 2(2), does not argue against liberalisation.

(4) A decision on liberalisation made by the Minister for Science, Technology and Innovation under subsection (1) shall be incorporated by the National IT and Telecom Agency into a frequency plan as mentioned in section 4.

(5) In connection with a decision made by the Minister for Science, Technology and Innovation under subsection (1), the National IT and Telecom Agency may decide to relax the terms for spectrum use in licences to use radio frequencies in the frequency band(s) covered by the decision.

### PART 3

#### *Licence for frequency use*

#### *Licensing requirements*

**6.-**(1) Radio frequencies shall solely be used on the basis of a licence issued by the National IT and Telecom Agency, subject to subsections (2)-(5).

(2) The National IT and Telecom Agency shall lay down rules under which certain radio frequencies can be used without a licence, and shall specify rules for such use.

(3) Radio frequencies in radio installations solely intended for reception of radio frequencies can be used without a licence.

(4) Following negotiation with the Minister of Defence, the Minister for Science, Technology and Innovation may lay down rules for the use of radio frequencies by the national defence force, including rules under which radio frequencies may be used by the national defence force without a licence.

(5) The police may use radio frequencies without a licence for the purpose of disturbing or interrupting radio and telecommunications etc. as an element in intervention undertaken pursuant to section 791c of the Administration of Justice Act.

#### *Issue of licences successively as licence applications are received*

**7.-**(1) The National IT and Telecom Agency shall issue licences to use radio frequencies successively as applications for licences are received.

(2) In case several applications for the same radio frequencies are received on the same day, and where frequency scarcity under subsection (6) is not in evidence, the licence shall be issued by drawing lots. If one of these applications for the same radio frequencies is submitted by an existing holder of a licence to use the radio frequencies applied for, this application will be regarded as received first under subsection (1).

(3) If the National IT and Telecom Agency receives one or more applications for a licence to use radio frequencies that are covered by a licence already issued at the date of application, but where there is no frequency scarcity under subsection (6), the National IT and Telecom Agency shall notify the existing licensee of such reception. It will then be possible for the existing licensee, within a time limit specified by the National IT and Telecom Agency, to apply for renewal of the existing licence. The existing licensee's application, if submitted within the specified time limit, will be regarded as having been received first under subsection (1).

(4) The National IT and Telecom Agency shall reject an application to use radio frequencies which are covered, at the date of application, by a licence already issued if the National IT and Telecom Agency receives the application earlier than two years before expiry of the licence to use the radio frequencies in question. Furthermore, the National IT and Telecom Agency shall reject an application to use radio frequencies which are not used at the date of application if the National IT and Telecom Agency receives the application earlier than three months before the licence in question is desired to be issued.

(5) The National IT and Telecom Agency may postpone the issue of licences under subsection (1) for the purpose of examining whether frequency scarcity is in evidence under subsection (6).

(6) Frequency scarcity is in evidence when the National IT and Telecom Agency ascertains that there are more than one applicant for the same radio frequency or frequencies in a given geographical area, and where, as a result, the National IT and Telecom Agency will not be able to meet all applications received, including by indicating possibilities of using radio frequencies which, in the opinion of the National IT and Telecom Agency, are substitutable in relation to the radio frequencies applied for.

#### *Advertisement of available spectrum*

**8.-**(1) The National IT and Telecom Agency may initiate an advertisement of available radio spectrum for the purpose of determining whether frequency scarcity is in evidence under section 7(6).

(2) On the basis of the National IT and Telecom Agency's advertisement of available radio spectrum under subsection (1), interested parties may submit an application to the National IT and Telecom Agency, cf. subsections (3) and (4).

(3) When advertising available radio spectrum, the National IT and Telecom Agency shall decide:

- 1) what information should be included in applications under subsection (2), and

2) the deadline for applications.

(4) Applications under subsection (2) shall be accompanied by a deposit. The National IT and Telecom Agency shall specify rules for the amount of the deposit, the procedure for payment, including documentation thereof, as well as repayment and interest on deposits paid.

(5) Applications for licences to use radio frequencies received before advertisement of the radio spectrum in question has been initiated shall be cancelled if the National IT and Telecom Agency, following postponement of the issue of licences, cf. section 7(5), initiates advertisement of the radio spectrum in question. When initiating the advertisement, the National IT and Telecom Agency shall notify such applicants that new applications are to be submitted under subsection (2) in connection with the advertisement.

(6) The National IT and Telecom Agency shall reject applications that do not meet the requirements mentioned in subsections (3) and (4).

(7) If the National IT and Telecom Agency ascertains, after completing the advertisement of radio spectrum, that frequency scarcity is not in evidence, cf. section 7(6), the National IT and Telecom Agency shall issue licences to use the radio spectrum covered by the advertisement in accordance with the applications that have not been rejected under subsection (6).

*Issue of licences in case of frequency scarcity and for the purpose of meeting essential public interest considerations*

**9.-**(1) The Minister for Science, Technology and Innovation shall decide the method of assignment when the National IT and Telecom Agency has ascertained that frequency scarcity is in evidence, cf. section 7(6), and that the issue of licences falls within rules laid down pursuant to section 3(2).

(2) The Minister for Science, Technology and Innovation shall decide under subsection (1) whether the National IT and Telecom Agency, as a basis for issuing licences, should:

- 1) hold an auction under the rules in section 10,
- 2) implement a public tender process under the rules in section 11, or
- 3) issue licences successively as licence applications are received, cf. section 7(1).

(3) If the Minister for Science, Technology and Innovation decides, under subsection (2), no. 1 or 2, that the National IT and Telecom Agency is to hold an auction or implement a public tender process, the Minister for Science, Technology and Innovation shall decide the following:

- 1) whether there are special considerations to be met during the auction or tender process,
- 2) the types and number of licences to be included in the auction or tender process,
- 3) minimum requirements,

- 4) the minimum bid sum and reserve price in case an auction is held,
- 5) exclusion from the auction or tender process, and
- 6) the criteria to be considered important in evaluating tenders received in case a tender process is implemented.

**10.-**(1) In case of auctions in which essential public interest considerations have to be met by virtue of decisions made under section 9, the National IT and Telecom Agency shall make further decisions on implementing the auction and on the terms of the licences issued on the basis of the auction.

(2) The National IT and Telecom Agency's decision under subsection (1) may include the following:

- 1) the auction method, auction documents, holding of the auction, and conditions for participating in the auction,
- 2) deposit and bank guarantee,
- 3) allocation of licences,
- 4) guidelines for the purpose of obviating bidder behaviour that may restrict or is intended to restrict competition in connection with the auction,
- 5) waiver of the right to claim any form of compensation other than monetary claims,
- 6) compensation and sanctions for violating rules specified for the auction, by way of exclusion from the auction, revocation of licences already issued, and penalties, and
- 7) that the participants in the auction have to pay the costs associated with the National IT and Telecom Agency's preparation and holding of the auction and issue of licences.

(3) Besides the terms mentioned in section 9(3), no. 3, and section 14, the National IT and Telecom Agency's decision about terms in licences issued on the basis of the auction may include the following:

- 1) duration and renewal of licences,
- 2) terms for payment in respect of the licences, including payment in connection with any subsequent transfer, and
- 3) that sections 23 and 24, for a specified period, will not be applicable to licences issued by auction.

(4) The National IT and Telecom Agency shall issue licences after having held an auction as mentioned in subsection (1).

**11.-**(1) In case of a public tender process implemented on the basis of a decision under section 9, the National IT and Telecom Agency shall make further decisions on implementing the public tender process and on the terms of the licences issued on the basis of the public tender process.

(2) The National IT and Telecom Agency's decision under subsection (1) may include the following:

- 1) the tendering method, including any initial round seeking expressions of interest, tender documents, implementation of the tender process, and the conditions for participating in the tender process,
- 2) allocation of licences,
- 3) guidelines for the purpose of obviating tenderer behaviour that may restrict or is intended to restrict competition in connection with the tender process,
- 4) compensation and sanctions for violating rules specified for the tender process, by way of exclusion from the process, revocation of licences already issued, and penalties,
- 5) that the participants in the public tender process have to pay the costs associated with the National IT and Telecom Agency's preparation and implementation of the tender process and issue of licences, and
- 6) deposit.

(3) Besides the terms mentioned in section 9(3), no. 3, and section 14, the National IT and Telecom Agency's decision about terms in licences issued on the basis of an implemented public tender process may include the following:

- 1) duration and renewal of licences, and
- 2) that sections 23 and 24, for a specified period, will not be applicable to licences issued by public tendering.

(4) The National IT and Telecom Agency shall issue licences after having implemented a public tender process as mentioned in subsection (1).

*Other issue of licences in case of frequency scarcity*

**12.-**(1) In case of frequency scarcity, cf. section 7(6), where essential public interest considerations do not have to be met under rules laid down pursuant to section 3(2), the National IT and Telecom Agency shall hold an auction.

(2) In connection with the holding of an auction the National IT and Telecom Agency may decide the following:

- 1) the types and number of licences to be included in the auction,

- 2) the auction method, auction documents, holding of the auction, and conditions for participating in the auction,
- 3) deposit and bank guarantee,
- 4) minimum bid sum,
- 5) allocation of licences,
- 6) guidelines for the purpose of obviating bidder behaviour that may restrict or is intended to restrict competition in connection with the auction,
- 7) waiver of the right to claim any form of compensation other than monetary claims,
- 8) compensation and sanctions for violating rules specified for the auction, by way of exclusion from the auction, revocation of licences already issued, and penalties, and
- 9) that the participants in the auction have to pay the costs associated with the National IT and Telecom Agency's preparation and holding of the auction and issue of licences.

(3) When holding the auction, the National IT and Telecom Agency, besides terms as mentioned in section 14, may make decisions about specifying terms in licences issued on the basis of the auction; about the duration and renewal of licences; and about payment for the licences, including in connection with any subsequent transfer.

(4) The National IT and Telecom Agency shall issue licences after having held an auction as mentioned in subsection (1).

#### *Test licences*

**13.-**(1) The National IT and Telecom Agency may issue test licences for the purpose of testing a specified technology or service.

(2) In connection with the issue of test licences, the National IT and Telecom Agency may allow spectrum use which is not in conformity with the frequency plan, cf. section 4.

(3) The National IT and Telecom Agency shall specify terms for test licences. Such terms may include requirements that test results should be communicated to the National IT and Telecom Agency after completion of the test.

#### *Licence terms*

**14.-**(1) In connection with the issue of licences, the National IT and Telecom Agency shall specify terms for the use of radio frequencies. Such terms may include restrictions requiring a specific technology to be used if the National IT and Telecom Agency considers that such restrictions are necessary for the purpose of:

- 1) avoiding unacceptable interference,



- 2) protecting public health against electromagnetic fields, or
- 3) complying with a restriction set on the provision of a specific service.

(2) The National IT and Telecom Agency may prescribe terms that constitute a restriction on the provision of a specific service if such restrictions are deemed necessary by the Agency to fulfil a general interest objective, including:

- 1) safety of life,
- 2) promotion of social, regional or territorial cohesion,
- 3) efficient use of radio spectrum, or
- 4) promotion of cultural and linguistic diversity and media pluralism.

(3) The terms that the National IT and Telecom Agency may prescribe under subsections (1) and (2) may include:

- 1) radio engineering requirements, e.g.
  - a) frequency mask,
  - b) maximum emitted power,
  - c) maximum height of antenna and antenna characteristics,
  - d) modulation types and spectral width, and
  - e) frequency stability,
- 2) requirements for the purpose of avoiding interference,
- 3) requirements with the aim of implementing commitments following from international frequency cooperation or cooperation within the EU,
- 4) determining the geographical extension of the application area of the licences issued,  
or
- 5) requirements for the purpose of ensuring that essential public interest considerations are met.

(4) Subject to application, the National IT and Telecom Agency may relax terms for providing a specific service or using a specific technology if the Agency no longer deems it necessary to maintain these terms under subsections (1) and (2).

**15.-**(1) When issuing licences after an auction, cf. section 10, the National IT and Telecom Agency shall specify terms corresponding to those specified for the auction pursuant to section 9(3), no. 3, and section 10(3).

(2) In case fewer bids are received than the number of licences to be auctioned off, the National IT and Telecom Agency shall issue licences to the party or parties that have submitted bids in conformance with the conditions specified for participating in the auction. For such licences, exclusively terms as mentioned in subsection (1) shall be specified.

(3) If the number of bids is equal to, or exceeds, the number of licences to be auctioned off, the National IT and Telecom Agency shall issue licences to the party or parties that have submitted bids in conformance with the conditions specified for participating in the auction. For such licences, terms as mentioned in subsection (1) shall be specified.

**16.**-(1) When issuing licences after a public tender process, cf. section 11, the National IT and Telecom Agency shall specify terms corresponding to those specified for the tender process pursuant to section 9(3), no. 3, and section 11(3).

(2) In case fewer tenders are received than the number of licences put out to tender, the National IT and Telecom Agency shall issue licences to the party or parties that have submitted tenders in conformance with the conditions specified for participating in the tender process. For such licences, exclusively terms as mentioned in subsection (1) shall be specified.

(3) If the number of tenders is equal to, or exceeds, the number of licences put out to tender, the National IT and Telecom Agency shall issue licences to the party or parties that have submitted tenders in conformance with the conditions specified for participating in the tender process. For such licences, terms as mentioned in subsection (1) shall be specified, including requirements for geographical and population coverage and network rollout. In addition, terms shall be specified on the basis of the tender submitted by the tenderer.

(4) The National IT and Telecom Agency shall meet requests from holders of licences issued on the basis of a previously completed public tender process to the effect that the terms for the licence in question be set at the minimum requirements applicable to the previously completed public tender process if the National IT and Telecom Agency, after holding a new auction or implementing a new public tender process in respect of licences in the same frequency band designated for the same specific use, has issued fewer licences than the number designated for implementing the new auction or the new public tender process.

**17.**-(1) When issuing licences after an auction, cf. section 12, the National IT and Telecom Agency shall specify terms corresponding to those specified for the auction pursuant to section 12(3), no. 3.

(2) In case fewer bids are received than the number of licences to be auctioned off, the National IT and Telecom Agency shall issue licences to the party or parties that have submitted bids in conformance with the conditions specified for participating in the auction. For such licences, exclusively terms as mentioned in subsection (1) shall be specified.

(3) If the number of bids is equal to, or exceeds, the number of licences to be auctioned off, the National IT and Telecom Agency shall issue licences to the party or parties that have submitted bids in conformance with the conditions specified for participating in the auction. For such licences, terms as mentioned in subsection (1) shall be specified.

**18.-**(1) Terms as mentioned in section 16(3), 3rd sentence, may only be extended to apply for a maximum of one year after the date by which the requirement for geographical and population coverage and network rollout specified in the licence has been met. However, such terms shall apply for a minimum of two years after the issue of the licence.

(2) Notwithstanding subsection (1), the National IT and Telecom Agency, when issuing the licences, may specify terms for coverage or rollout for the entire licence period if the total number of licences issued for a specific use, together with any other competing services provided, is not deemed by the Agency to ensure sufficient competition in the relevant market.

(3) Where terms have been specified under subsection (2), the National IT and Telecom Agency may decide during the licence period that the terms be cancelled. It shall be a condition of such cancellation that the period specified in subsection (1) has expired and that the National IT and Telecom Agency considers that developments in the overall competitive situation justify the cancellation.

#### *Duration and renewal*

**19.** The National IT and Telecom Agency shall specify rules on the duration of the individual categories of licences issued pursuant to section 7(1), section 10(4), section 11(4), section 12(4), and section 13(1), unless otherwise decided pursuant to section 10 or 11.

**20.** The National IT and Telecom Agency may specify rules on simplified procedures for renewal of licences, unless otherwise decided pursuant to section 10 or 11.

### PART 4

#### *Administration of licences*

##### *Transfer of licences*

**21.-**(1) Transfer of licences may be made without prior approval, subject to subsections (3)-(5). Transfer of licences may be made by way of a complete transfer, transfer of parts of a frequency band covered by a licence, or parts of the geographical coverage area of a licence. Licences may be returned to the National IT and Telecom Agency to the same extent.

(2) A licensee shall notify the National IT and Telecom Agency immediately after having made an agreement on transfer. This information shall be published by the National IT and Telecom Agency.

(3) The National IT and Telecom Agency may lay down rules prescribing that a licensee's plans on transfer under subsection (1) shall be notified to the National IT and Telecom Agency, and that this information be published by the National IT and Telecom Agency.

(4) The Minister for Science, Technology and Innovation may lay down rules prescribing that transfer or return of parts of licences issued after an auction, cf. section 10, or a public tender

process, cf. section 11, shall not be made except with the prior approval of the National IT and Telecom Agency.

(5) The Minister for Science, Technology and Innovation may lay down rules prescribing that subsection (1) shall not be applicable to licences to use radio frequencies designated for radio or TV purposes, cf. section 35(1).

*Anti-competitive behaviour*

**22.** A licensee must not establish a market position so significant that the licensee might prevent efficient use of spectrum resources to the detriment of competition.

*Modification and revocation of licences*

**23.**-(1) Subject to one year's notice, the National IT and Telecom Agency may prescribe new terms or modify terms for using radio frequencies if this is necessary in order to:

- 1) ensure fulfilment of commitments following from international frequency cooperation or cooperation within the EU, or
- 2) meet essential public interest considerations, cf. section 2(2).

(2) The National IT and Telecom Agency may prescribe new or modified terms under subsection (1) at a notice shorter than one year if this is necessary in order to safeguard human life or health.

(3) For the purpose of eliminating unacceptable interference to frequency use which is not caused by violating this Act, rules laid down in pursuance thereof, or terms in a licence, the National IT and Telecom Agency may prescribe new terms or modify terms already specified in licences issued.

**24.** Subject to one year's notice, the National IT and Telecom Agency may revoke licences if this is necessary in order to:

- 1) ensure fulfilment of commitments following from international frequency cooperation or cooperation within the EU, or
- 2) meet essential public interest considerations, cf. section 2(2), subject to section 37(1).

**25.** The National IT and Telecom Agency shall revoke a licence if the licensee fails to pay frequency charges due, cf. section 50.

**26.** The National IT and Telecom Agency may revoke a licence if the licensee grossly violates the Act, rules laid down in pursuance of the Act, or terms in the licence.

## PART 5

*Radio examinations, call signs and identification numbers*

- 27.** The National IT and Telecom Agency may lay down rules under which the use of radio frequencies in the amateur service and amateur-satellite service, aeronautical radio services and maritime radio services will be conditional on an examination having been passed.
- 28.** The National IT and Telecom Agency shall specify rules for examinations as mentioned in section 27.
- 29.** The National IT and Telecom Agency shall lay down rules on the issue of call signs and identification numbers.
- 30.** The National IT and Telecom Agency shall lay down rules on the use of call signs and identification numbers.

## PART 6

*Obligation to observe secrecy, frequency use in extraordinary situations etc.*

- 31.** The National IT and Telecom Agency shall lay down rules on the obligation to observe secrecy for all parties that receive radio signals without the signal being intended for the recipient or the general public.
- 32.** The Minister for Science, Technology and Innovation may lay down rules on the use of radio frequencies during crises and in times of war, or during disasters and other extraordinary situations in times of peace.
- 33.** When necessary on account of the security of the State, the National IT and Telecom Agency may prohibit the use of specific radio frequencies. It may be required that transmitting stations using radio frequencies that fall within such a prohibition be handed over to a public authority for deposit.

## PART 7

*Use of radio frequencies designated for radio or TV purposes*

- 34.** The rules of sections 35-37 shall apply to radio frequencies designated for radio or TV purposes in the frequency plan, cf. section 4.
- 35.**-(1) The National IT and Telecom Agency may issue licences, cf. sections 7 and 13, to use radio frequencies which, in the frequency plan, cf. section 4, are designated for radio or TV purposes, for radio or TV purposes and for purposes other than radio or TV.
- (2) In connection with the issue of licences under subsection (1), licences for radio or TV purposes shall take precedence over licences for purposes other than radio or TV.

**36.**-(1) The issue of a licence for radio or TV purposes, cf. section 35(1), shall only be allowed if the applicant has a right to provide programme services or if the applicant has a right to distribute sound and television programmes by means of terrestrial digital broadcasting networks pursuant to the Radio and Television Broadcasting Act or rules issued in pursuance thereof.

(2) The National IT and Telecom Agency may only issue a licence for radio or TV purposes under section 35(1) if the transmitters desired to be used are located within the geographical area in which the applicant has a right to provide programme services or distribute sound and television programmes.

(3) In case the radio frequencies applied for have been announced by the Radio and Television Board under the Radio and Television Broadcasting Act or rules issued in pursuance thereof for use in a specific area, the transmitters desired to be used shall be located within this area.

(4) Licences for radio or TV purposes issued under section 35(1) shall lapse if the right to provide programme services or the right to distribute sound and television programmes by means of terrestrial digital broadcasting networks pursuant to the Radio and Television Broadcasting Act has lapsed or been revoked indeterminately.

(5) Subject to negotiation between the Minister for Science, Technology and Innovation and the Minister of Culture, the National IT and Telecom Agency may, when issuing licences for radio and TV purposes, cf. section 35(1), lay down terms based on media policy considerations in addition to terms laid down in pursuance of section 14.

**37.**-(1) Subject to negotiation between the Minister for Science, Technology and Innovation and the Minister of Culture, the National IT and Telecom Agency may, at one year's notice, revoke licences for radio or TV purposes, cf. section 35(1), with a view to meeting media policy considerations.

(2) Subject to negotiation between the Minister for Science, Technology and Innovation and the Minister of Culture, the National IT and Telecom Agency may, at six months' notice, revoke licences for purposes other than radio or TV, cf. section 35(1), with a view to meeting media policy considerations.

**38.** It shall not be permitted to use radio frequencies for broadcasting radio or TV programmes on the open sea or in the airspace above this.

## PART 8

### *Delivery of information*

**39.**-(1) The National IT and Telecom Agency may require users of radio frequencies to deliver all information and all material deemed relevant by the Agency for administration of this Act and rules and terms laid down in pursuance thereof.

(2) The National IT and Telecom Agency's request under subsection (1) shall be accompanied by details indicating the specific purposes for which the information or material is to be used.

**40.**-(1) The National IT and Telecom Agency may require licensees to deliver information and material about financial, statistical, frequency-related and other matters for the purpose of preparing reports, statistics, etc.

(2) The National IT and Telecom Agency may require that the information and material referred to in subsection (1) be delivered regularly at predetermined dates.

(3) The National IT and Telecom Agency's request under subsection (1) shall be accompanied by details indicating the specific purposes for which the information or material is to be used.

## PART 9

### *The National IT and Telecom Agency's supervision etc.*

**41.**-(1) The National IT and Telecom Agency shall supervise compliance with this Act and the rules and terms laid down in pursuance of the Act.

(2) The National IT and Telecom Agency's supervision under subsection (1) shall be subject to the following prioritisation:

- 1) Interference having consequences that may cause danger to human life or health.
- 2) Other interference and violation of the Act and the rules and terms laid down in pursuance of the Act.

(3) As part of its general supervision, cf. subsection (1), the National IT and Telecom Agency may monitor specific frequency bands for the purpose of:

- 1) detecting specific interference caused by frequency use or other electromagnetic phenomena,
- 2) ensuring compliance with this Act and the rules and terms laid down in pursuance of the Act, and
- 3) ensuring fulfilment of commitments following from international frequency cooperation or cooperation within the EU.

**42.**-(1) In case of violations of the Act or the rules and terms laid down in pursuance of the Act, the National IT and Telecom Agency may issue an order under which the owner or the user of the radio equipment, telecommunications terminal equipment or the electrical or electronic apparatus causing the violation is required to:

- 1) take the necessary measures to eliminate interference, including repair, insertion of extra filters and correction of faults due to inadequate or defective installation or wrong operation of the relevant radio equipment, telecommunications terminal equipment or electrical or electronic apparatus,

- 2) bring the frequency use in compliance with the Act and the rules and terms laid down in pursuance of the Act, and
- 3) stop the operation of radio equipment, telecommunications terminal equipment and electrical and electronic apparatus.

(2) In case of interference, the National IT and Telecom Agency may, on-site:

- 1) perform an inspection of radio equipment, telecommunications terminal equipment and electrical and electronic apparatus, and
- 2) disconnect radio equipment, telecommunications terminal equipment and electrical and electronic apparatus causing interference to other apparatus whose function is decisive for human life or health.

**43.** The National IT and Telecom Agency may issue orders for the purpose of bringing violations of section 22 to an end.

**44.-(1)** On proper proof of identity and without a court order, the National IT and Telecom Agency shall have access to public and private property for the purpose of eliminating interference to services, radio equipment, telecommunications terminal equipment and electrical and electronic apparatus whose function is decisive for human life or health.

(2) If necessary, the police will assist in ensuring access to public and private property as mentioned in subsection (1). Subject to negotiation with the Minister of Justice, the Minister for Science, Technology and Innovation may lay down detailed rules about this.

(3) As soon as possible, and not later than 24 hours from the time when the National IT and Telecom Agency has obtained enforced access as mentioned in subsection (1), the Agency shall submit the matter to the court. The court will decide by an order whether the intervention can be approved. If the court finds that the intervention should not have been made, the court will notify this to the Minister for Science, Technology and Innovation.

## PART 10

### *Delegation and right of instruction and exemption*

**45.-(1)** The Minister for Science, Technology and Innovation may lay down rules under which other public authorities and private persons are authorised, wholly or partly, to carry out tasks following from rules issued in pursuance of sections 27-30. However, this shall not apply to rules laid down in pursuance of sections 27-30, subject to subsection (2).

(2) The Minister for Science, Technology and Innovation may lay down rules under which public authorities authorised to carry out tasks under subsection (1) may specify rules as mentioned in sections 28 and 29.

**46.-(1)** The Minister for Science, Technology and Innovation shall not be in a position to give official orders to the National IT and Telecom Agency on the Agency's handling of authority functions in specific cases; on handling and decision of individual cases; on the National IT



and Telecom Agency's issue of rules in areas where the Agency is authorised to do so; or on other supervisory activities of the National IT and Telecom Agency for the purpose of ensuring compliance with this Act and rules issued in pursuance thereof.

(2) The Minister for Science, Technology and Innovation may not grant exemptions from rules issued by the Minister for Science, Technology and Innovation in pursuance of this Act.

(3) The Minister for Science, Technology and Innovation shall not be in a position to give official orders to public authorities or private persons that are authorised, wholly or partly, to carry out tasks, cf. section 45(1), regarding the specific cases and tasks that the public authority or private person is authorised to carry out.

## PART 11

### *Complaints*

**47.-**(1) Complaints about the National IT and Telecom Agency's decisions under this Act and rules issued in pursuance thereof, including complaints about the Agency's case administration, may be submitted to the Telecommunications Complaints Board, subject to section 48.

(2) Complaints about decisions according to rules issued in pursuance of this Act made by public authorities authorised under section 45 may be submitted to the Telecommunications Complaints Board.

(3) (2) The Telecommunications Complaints Board may require the parties to give all information deemed relevant for the purpose of processing cases.

**48.** Arrangements and decisions made by the National IT and Telecom Agency pursuant to sections 10-12 may not be brought before any other administrative authority.

**49.** Complaints about decisions made by private persons who, pursuant to rules issued under section 45(1), are authorised to carry out tasks for which the National IT and Telecom Agency may prescribe rules under sections 27-30, may be submitted to the National IT and Telecom Agency.

## PART 12

### *Charges and fees*

**50.-**(1) The National IT and Telecom Agency shall collect frequency charges from licensees.

(2) The charges mentioned in subsection (1) shall be fixed annually in the Finance Act and be published by the National IT and Telecom Agency.

**51.-**(1) The National IT and Telecom Agency may lay down rules on fees for:

- 1) holding examinations and issuing certificates, including copies of certificates, cf. section 28,
- 2) issuing call signs and identification numbers, cf. section 29,
- 3) sending reminders in case of failure to pay fees, cf. nos. 1 and 2, and frequency charges, cf. section 50, and
- 4) quarterly division of the payment of frequency charges, cf. section 50.

(2) The National IT and Telecom Agency and other public authorities and private persons authorised to carry out tasks under section 45(1) shall collect fees as fixed under subsection (1).

## PART 13

### *Sanctions and penalty provisions*

**52.**-(1) The National IT and Telecom Agency may impose enforcement fines on a licensee for the purpose of enforcing actions to be taken by the licensee under the licence terms.

(2) For the purpose of enforcing delivery of information, the National IT and Telecom Agency may impose enforcement fines on any party required under sections 39 and 40 to deliver such information to the Agency.

(3) If a licensee fails to comply with an order issued by the National IT and Telecom Agency pursuant to section 43, the Agency may impose enforcement fines on the licensee for the purpose of enforcing compliance therewith.

**53.** The Telecommunications Complaints Board may impose enforcement fines on licensees for the purpose of enforcing orders.

**54.**-(1) Any person who:

- 1) violates section 6(1) and section 38,
- 2) fails to comply with terms laid down under section 13(3) and sections 14-17,
- 3) fails to comply with orders issued pursuant to section 42(1) and section 43,
- 4) fails to deliver information under sections 39 and 40, or
- 5) violates EU Regulations in the frequency area,

shall be liable to a fine.

(2) Rules issued under this Act may prescribe punishment in the form of fines in case the rules are violated.

(3) Criminal liability may be imposed on companies etc. (legal persons) under the rules of Part 5 of the Penal Code.

(4) In assessing the penalty for failure to comply with orders issued pursuant to section 43, cf. subsection (1), no. 3, the amount of the fine, besides being fixed under the general rules of Part 10 of the Penal Code, shall also take into account the legal person's turnover during the last year before the judgment is obtained or a fine is imposed.

## PART 14

### *Coming into force etc.*

**55.** This Act shall come into force on 1 January 2010.

**56.** The following Acts shall be repealed:

- 1) Act No. 84 of 11 June 1897 on Telegraphs and Telephones.
- 2) Act No. 270 of 22 May 1986 on Granting Concessions for the Establishment and Operation of Certain Telecommunications Services.
- 3) Act on Certain Staff-related Conditions in Connection with the Establishment of South Jutland Telecom A/S, cf. Consolidated Act No. 399 of 13 May 1992.
- 4) Act on Certain Conditions in the Telecommunications Field, cf. Consolidated Act No. 501 of 22 June 1995.
- 5) Act No. 289 of 29 April 1992 on Certain Staff-related Conditions in Connection with the Transfer of Tasks from the National Telecom Agency, South Jutland Telecom A/S and Telecom A/S to Tele Danmark Mobil A/S.
- 6) Act on Radio Frequencies, cf. Consolidated Act No. 680 of 23 June 2004.

**57.**-(1) Executive Orders issued in pursuance of the following Acts shall remain in force until repealed or replaced by rules issued in pursuance of this Act, subject to subsection (2):

- 1) Act on Radiocommunications, cf. Consolidated Act No. 297 of 22 April 1992,
- 2) Act No. 394 of 10 June 1997 on Radiocommunications and Assignment of Radio Frequencies, and
- 3) Act on Radio Frequencies, cf. Consolidated Act No. 680 of 23 June 2004.

(2) The following Executive Orders shall be repealed when this Act comes into force:

- 1) Executive Order No. 549 of 20 June 1996 on Public Invitation to Tender for Establishment and Operation of DCS1800 Networks and ERMES Networks with Associated Basic Services.

- 2) Executive Order No. 71 of 27 January 2000 on Public Invitation to Tender for Licences to Establish and Operate Fixed Wireless Access Networks (FWA).
- 3) Executive Order No. 131 of 24 February 2000 Amending the Executive Order on Public Invitation to Tender for Licences to Establish and Operate Fixed Wireless Access Networks (FWA).
- 4) Executive Order No. 326 of 8 May 2000 on Public Invitations to Tender for Licences to Establish and Operate Public Networks Especially for Emergency and Safety Purposes and other Forms of Specific Communications Requirements.
- 5) Executive Order No. 1013 of 5 October 2006 on Auction of Nationwide Licence to Use Radio Frequencies in the Frequency Bands 453.0-457.5 MHz and 463.0-467.5 MHz.
- 6) Executive Order No. 214 of 28 March 2000 on Public Invitation to Tender for Licences to Establish and Operate Public Digital 2nd Generation Mobile Networks.
- 7) Executive Order No. 1014 of 5 October 2006 on Auction of Nationwide Licence to Use Radio Frequencies in the Frequency Bands 872-876 MHz and 917-921 MHz.

**58.**-(1) Licences issued pursuant to the Acts mentioned in section 57(1), or Act No. 468 of 12 June 1996 on Public Mobile Communications shall remain in force.

(2) Mobile licences issued pursuant to Act No. 468 of 12 June 1996 on Public Mobile Communications shall lapse if the frequency licences associated with the mobile licences issued pursuant to the Acts mentioned in subsection (1) are no longer in force.

(3) This Act and rules issued in pursuance thereof shall apply to licences issued under the Acts mentioned in subsection (1).

(4) Licences issued by an auction or a public tender process carried out in pursuance of the Acts mentioned in subsection (1) shall continue without application for periods determined in connection with the specific auction or public tender process.

(5) The Minister for Science, Technology and Innovation may lay down rules prescribing that transfer or return of parts of licences issued by auction or a public tender process pursuant to the Acts mentioned in subsection (1), or Act No. 1266 of 20 December 2000 on Auction of Licences for 3rd Generation Mobile Networks shall not be made except with the prior approval of National IT and Telecom Agency.

(6) The National IT and Telecom Agency may lay down rules about the duration of licences issued before 1 July 1997 which do not have a specific duration already.

**59.**-(1) Decisions to hold an auction of licences or implement a public tender process in respect of licences made in pursuance of the Act on Radio Frequencies, cf. Consolidated Act No. 680 of 23 June 2004, which have not been executed when this Act comes into force shall be executed on the basis of the rules of the Act on Radio Frequencies, cf. Consolidated Act No. 680 of 23 June 2004.

(2) Decisions to implement an auction process in respect of licences made in pursuance of Act No. 1266 of 20 December 2000 on Auction of Licences for 3rd Generation Mobile Networks which have not been executed when this Act comes into force shall be executed on the basis of the rules of Act No. 1266 of 20 December 2000 on Auction of Licences for 3rd Generation Mobile Networks.

**60.** Act No. 1266 of 20 December 2000 on Auction of Licences for 3rd Generation Mobile Networks, as amended by section 59 of Act No. 421 of 6 June 2002, shall be amended as follows:

**1.** *Section 1* shall be worded as follows:

"1. This Act shall apply to the holding of an auction of licences to establish and operate 3rd generation mobile networks in the following frequency bands: 1900-1980 MHz and 2110-2170 MHz."

**2.** *Section 3(1)* shall be worded as follows:

"Section 5, section 13, section 21(1)-(3), sections 22 and 23, sections 39-44, sections 46 and 47, section 50 and sections 52-54 of the Act on Radio Frequencies shall apply correspondingly."

**61.** This Act shall not extend to the Faroe Islands and Greenland except that all or any of the provisions hereof may be brought into force by Royal Decree for Greenland subject to any variations in their operation necessitated by the specific conditions prevailing in Greenland.