



**Isle of Man**

*Ellan Vannin*

AT 11 of 1988

# **RADIO MASTS REGULATION ACT 1988**





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## RADIO MASTS REGULATION ACT 1988

*Received Royal Assent:* 15 April 1988  
*Passed:* 19 April 1988  
*Commenced:* 1 November 1991

**AN ACT** to prohibit the erection or use of radio masts and antennae without the consent of the Telecommunications Commission; and for connected purposes.

### **1 Prohibition on erection, use, etc of radio masts**

- (1) Subject to the provisions of this Act, no person shall —
- (a) erect or replace a radio mast or antenna;
  - (b) install or replace any antenna on a radio mast; or
  - (c) use any radio mast or antenna for the purpose of transmitting or receiving radio waves,
- otherwise than under and in accordance with a licence granted by the Telecommunications Commission (in this Act referred to as ‘the Commission’).
- (2) Subsection (1) shall only apply to fixed radio masts and fixed antennae —
- (a) on land in the Island, or
  - (b) on fixed marine structures within the territorial waters of the Island.
- (3) No licence may be granted by the Commission to —
- (a) the Crown or any agent of the Crown;
  - (b) a Government, or any minister, department or agent of a government of a country or territory outside the Island;
  - (c) any body corporate carrying on any trade or business, or providing any service where —
    - (i) the body carries on its undertaking under the national ownership of any country or territory outside the Island; or

- (ii) control of that body vests in the Government of any country or territory outside the Island;
  - (d) any persons specified in an order made for the purpose of this paragraph by the Council of Ministers<sup>1</sup>,  
without the approval of the Governor in Council in the case of a licence to which paragraph (a) applies, or the Council of Ministers in any other case<sup>2</sup>
- (4) Subsection (3)(a) and (d) shall not affect the generality of subsection (3)(b) and (c).
  - (5) Subsection (3) shall not apply to any Department of the Government nor to any Statutory Board.
  - (6) An order under subsection (3)(d) shall not come into operation until it is approved by Tynwald.
  - (7) For the purposes of subsection (3)(c)(ii), 'control' means the power, by whatever means, to secure that the affairs of the body corporate are conducted in accordance with the wishes of the government in question.
  - (8) A person who, without reasonable excuse, contravenes or causes or permits some other person to contravene subsection (1), shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000.

## 2 **Snaefell mountain: special restrictions**

- (1) The Commission shall not permit the erection or installation of more than 2 radio masts on any part of Snaefell mountain except in such cases and subject to such conditions as Tynwald may by resolution specify.
- (2) Licences for the erection, installation or replacement of a radio mast on any part of Snaefell mountain shall only be granted –
  - (a) in respect of one mast, to a Government Department nominated for the purpose by the Council of Ministers; and<sup>3</sup>
  - (b) in respect of the other mast, to the Civil Aviation Authority and H.M. Coastguard (or either of them).
- (3) The Commission shall not grant a licence for the erection, installation or replacement of an antenna on any part of Snaefell mountain other than for an antenna which is installed on one of the radio masts referred to in subsection (1).
- (4) Section 1(3) shall not apply to a licence for the erection, installation or replacement of a radio mast on any part of Snaefell mountain.

### 3 Exemptions

- (1) The Department of Home Affairs may by order exempt any description of radio mast or antenna from section 1(1).
- (2) Without prejudice to the generality of subsection (1) and subject to subsection (3), section 1(1) shall not apply to a radio mast or antenna that is used exclusively for domestic purposes.<sup>4</sup>
- (3) An order under subsection (1) may modify subsection (2).
- (4) An order under this section shall be laid before Tynwald as soon as practicable after it is made and, if Tynwald at the sitting before which the order is laid or at the next following sitting fails to approve the order, it shall thereupon cease to have effect.

### 4 Licences: supplementary provisions

- (1) An application for a licence under this Act shall be in such form and shall be accompanied by such information as may be required by the Commission.
- (2) The Commission may by order made with the concurrence of the Treasury prescribe the fees to be paid to the Commission on the making of an application for a licence under this Act and, but without prejudice to the generality of that power, —
  - (a) a separate fee may be prescribed in respect of each radio mast and each antenna to which the application relates; or
  - (b) a single fee may be prescribed in respect of any system of radio masts or antennae of a type specified in the order.
- (3) In addition to the licence fee under subsection (2), a licence holder shall pay such further fee as may be so prescribed in respect of each year or part of a year for which a licence is in force in excess of 1 year.
- (4) An order under this section shall not come into operation until it is approved by Tynwald.
- (5) The Commission shall in relation to every application for a licence under this Act —
  - (a) grant the licence;
  - (b) grant the licence, subject to conditions; or
  - (c) refuse the application.
- (6) The term of a licence under this Act shall be for so long as may be specified in the licence being a period not exceeding 5 years.
- (7) A licence under this Act is not transferable.
- (8) Any person who, for the purpose of obtaining a licence under this Act knowingly or recklessly gives any information which is false in a material particular shall be guilty of an offence and liable on summary

conviction to a fine not exceeding £5,000.

## 5 Revocation of licence

- (1) The Commission may by notice in writing revoke a licence under this Act if —
  - (a) the licence-holder or an officer, employee or agent of the licence-holder is convicted of an offence under section 4 (8) in relation to that licence;
  - (b) the licence-holder has contravened, or caused or permitted the contravention of, any condition subject to which the licence was granted; or
  - (c) the licence-holder has failed to pay any fee due under section 4.
- (2) Before revoking a licence under this Act the Commission shall give the licence-holder concerned a reasonable opportunity of making representations as to the proposed revocation.
- (3) Where a licence is revoked under this section, the Commission may at the same time direct that the former licence-holder shall, within such reasonable period as is specified, remove or cause the removal of the radio mast or, as the case may be, antenna and any other works carried out in connection with such mast or antenna.
- (4) If the former licence-holder fails to comply with a direction under subsection (3), the Commission may undertake the necessary work and recover the cost as a civil debt from the former licence-holder.

## 6 Review of decisions

- (1) Any applicant for a licence under this Act who is aggrieved by a decision of the Commission under section 4(5) or 5(1) may, within 28 days of the decision, make written application to the Council of Ministers to review that decision.<sup>5</sup>
- (2) The Council of Ministers shall regulate its procedures when undertaking a review of a decision of the Commission<sup>6</sup>.
- (3) The Council of Ministers may confirm, vary or reverse the decision of the Commission<sup>7</sup>.
- (4) The decision of the Council of Ministers under this section shall be final<sup>8</sup>.
- (5) In the case of an application for a review by the Crown or an agent of the Crown this section has effect with the substitution of “Governor in Council” for “Council of Ministers” (wherever occurring).<sup>9</sup>

## 7 Offences: supplementary provisions

- (1) Where any person has been convicted of an offence of contravening section 1(1)(a), the court may order that person to remove the radio mast or, as the case may be, antenna and any other works carried out in connection with such mast or antenna.
- (2) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.
- (3) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (4) In any proceedings for an offence under this Act it is a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid such an act or omission by himself or any person under his control.

## 8 General restriction on disclosure of information

- (1) Subject to the provisions of this section, no technical information relating to —
  - (a) the specifications of any radio mast or antenna which is the subject of any application or licence under this Act; or
  - (b) the signals which may be transmitted or received by means of any such mast or antenna,shall be disclosed without the consent of the applicant or, as the case may be, licence holder.
- (2) Subsection (1) does not apply to any disclosure of information which is made —
  - (a) for the purpose of facilitating the performance of any functions of Tynwald, the Governor in Council, the Department of Home Affairs or the Commission under this Act; or
  - (b) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings.
- (3) Any person who discloses any information in contravention of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000 or to a term of imprisonment not exceeding 6 months, or both.<sup>10</sup>

## 9 Interpretation

(1) In this Act —

“**antenna**” includes all forms of aerials and dishes designed or adapted for transmitting or receiving radio waves;

“**the Commission**” has the meaning given by section 1(1);

“**condition**” includes limitation;

“**domestic purposes**” means the use by an individual of a radio mast or antenna for his own personal and household purposes (including use in the course of a hobby);

“**radio mast**” means any structure which is designed or adapted to support an antenna.

(2) This Act is additional to and not in derogation of any other statutory provision.

## 10 Act to bind Crown

This Act binds the Crown.

## 11 Short title and commencement

(1) This Act may be cited as the Radio Masts Regulation Act 1988.

(2) This Act shall come into operation on such day or days as may be appointed by order made by the Department of Home Affairs and such an order may appoint different days for different provisions and for different purposes.

(3) An order under subsection (2) may contain such transitional and incidental provisions as appear to the Department of Home Affairs to be necessary or expedient in connection with the provisions of this Act which are thereby brought into force (wholly or partly), including such adaptations of those provisions or any provisions of this Act then in force as appear to it to be necessary or expedient in consequence of the partial operation of this Act (whether before, on or after the day appointed by the order).<sup>11</sup>

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement

### Table of Renumbered Provisions

Original	Current

### Table of Endnote References

<sup>1</sup> Para (d) amended SD 861/11.

<sup>2</sup> Subs (3) amended by SD 861/11

<sup>3</sup> Para (a) amended by SD 861/11.

<sup>4</sup> Subs (2) amended by GC356/91.

<sup>5</sup> Subs (1) amended by SD861/11.

<sup>6</sup> Subs (2) amended by SD861/11.

<sup>7</sup> Subs (3) amended by SD861/11.

<sup>8</sup> Subs (4) amended by SD861/11.

<sup>9</sup> Subs (5) inserted by SD 861/11.

<sup>10</sup> Subs (3) amended by Criminal Justice (Penalties, Etc.) Act 1993 s 1.

<sup>11</sup> ADO (whole Act) 1/11/1991 (GC286/91).