

# SAINT LUCIA

STATUTORY INSTRUMENT, 2008, No. 119

[ 29th December, 2008 ]

In exercise of the powers conferred by section 73 of the Telecommunications Act, Cap. 8.11 the Minister responsible for Telecommunications, makes these Regulations:

## PART I

### PRELIMINARY

#### Citation

1. These Regulations may be cited as the Telecommunications (Spectrum Management) Regulations 2008.

#### Interpretation

2. In these Regulations —

“Act” means the Telecommunications Act, Cap. 8.11;

“ECTEL” has the same meaning as that ascribed to it in the Telecommunications Act, Cap. 8.11;

“harmful interference” means any radiation or induction that endangers the functioning of a radio navigation service or of a safety service or obstructs or repeatedly interrupts a radio service operating in accordance with the table of frequency allocations and these Regulations;

“incidental emissions” means radio-frequency energy generated and emitted during the course of normal operation of a device that is not intentionally designed to generate or emit unwanted radio frequency energy;

“radio” means the general term applied to the use of electromagnetic waves of frequencies arbitrarily lower than 3,000GHz, propagated in space without artificial guide;

“radio frequency” means any frequency within the electromagnetic spectrum associated with radio wave propagation;

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“radio station” means any facility or installation that emits or receives radio frequencies;

“Region 2” means the geographical area defined by the International Telecommunication Union that covers North America, Central America and South America and the Caribbean;

“station” means one or more transmitters or receivers or a combination of transmitters or receivers, including the accessory equipment, necessary at one location for carrying out a radio communication service, or the radio astronomy service.

**Application**

3.— (1) These Regulations apply to all matters relating to the management and monitoring of radio frequency.

(2) All persons utilising radio frequency for, or in relation to the operation of a telecommunications network, or providing a telecommunications service, shall obtain frequency authorisation for the use of such frequency.

**PART II****MANAGEMENT OF SPECTRUM****Commission to manage spectrum**

4.— (1) The Commission shall manage and control the use of electromagnetic spectrum in Saint Lucia.

(2) Subject to the ECTEL recommended regional radio spectrum plan, the Commission may establish a national plan for the allocation and assignment of radio frequencies and review and amend such plan whenever necessary.

(3) The regional radio spectrum plan shall comply with the regional plan of frequency allocation of Region 2 and the Master Table of Frequencies of the International Telecommunication Union.

(4) The National Plan shall also take into consideration the policy and objectives related to future use of Radio Frequency in Saint Lucia.

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(5) The management of electro-magnetic spectrum shall as far as is practicable, be in conformity with the Regional Radio Spectrum Plan recommended by ECTEL.

**Commission to use monitoring equipment**

5.— (1) The Commission shall monitor the use of radio frequencies in Saint Lucia in order to ensure compliance with these Regulations and that holders of frequency authorization comply with the conditions, regulations and terms of those authorizations.

(2) The Commission may use spectrum management and monitoring equipment to detect illegal use of frequencies or equipment.

(3) The results of such monitoring shall be prima facie evidence of the use of radio frequencies and radio equipment in Saint Lucia.

**Commission to coordinate its management activities**

6. Where the management of the spectrum involves the use of the electro-magnetic spectrum by the armed forces, police force, public security or civil aviation, the Commission may consult with the relevant body.

**Temporary use of frequencies**

7.— (1) The Commission may recommend that the Minister authorise, on a temporary basis only, the use of frequencies outside the scope of the Regional Radio Spectrum Plan for projects of short duration or emergencies if the Commission considers that exceptional circumstances require the utilisation, and that harmful interference will not be caused to services operating in accordance with the Regional Spectrum Management Plan or the National Plan if established.

(2) The frequency authorisations referred to in sub-regulation (1) shall not be used for any commercial purpose or to develop any service to be operated on frequencies other than those allocated to that service.

(3) All frequency authorisations, except those issued for projects of short duration or emergencies, shall, prior to their issuance be forwarded to ECTEL for its advice and comments.

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(4) All frequency authorisations issued for projects of short duration or emergencies shall as soon as practicable be forwarded to ECTEL for its information.

**Use of government agency frequency by non-government agency**

**8.—** (1) Where a frequency has been assigned to a government agency the Commission, may recommend to the Minister that he or she grants permission to a non-governmental agency to use that frequency.

(2) The recommendation in sub-regulation (1) shall be made after consultation with the appropriate government agency and ECTEL.

(3) In the consultation referred to in sub-regulation (2) the relevant government agency shall certify that the frequency required by the non-governmental agency is necessary for the purpose of coordinating activities between the government and non governmental agencies.

(4) A recommendation made pursuant to sub-regulation (1) may include the following conditions:

- (a) the non governmental agency shall not cause harmful interference to a frequency authorisation holder;
- (b) in the event the non governmental agency causes harmful interference to a frequency authorisation holder the non governmental agency shall take immediate steps, up to and including cessation of operation, to eliminate the harmful interference;
- (c) where a frequency authorisation holder causes harmful interference to a non governmental agency, the frequency authorisation holder may take such steps as it deems necessary to eliminate the harmful interference.

**Capacity of equipment**

**9.** Equipment utilised by a frequency authorisation holder shall be capable of being adapted within a reasonable time frame so that it may receive and transmit on any frequency in the bands assigned to the holder of that authorisation.

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## PART III

## ROLE OF COMMISSION

**Guidelines for assigning frequencies**

**10.** In recommending to the Minister in relation to the assignment of frequencies, the Commission shall take into account —

- (a) the views of ECTEL;
- (b) representations or objections that are timely and duly made and not withdrawn;
- (c) the availability of frequencies and the ability for sharing the frequencies;
- (d) the distribution of frequencies between commercial, non-commercial, rural, urban, military or other categories;
- (e) the need for, and location of radio frequency spectrum in use, or to be used by the national Government; and
- (f) the technical characteristics of the equipment involved, and its capability to interconnect with other communications equipment and networks.

**Management of electro- magnetic spectrum**

**11.**— (1) Subject to the Act and these Regulations, the Commission shall:

- (a) manage and control incidental emissions or emissions from exempted low powered emitters of the electro-magnetic spectrum;
- (b) manage and control the use of the electro-magnetic spectrum from, to and within the territory of Saint Lucia; and
- (c) put into place measures, give directives and make recommendations to prohibit or minimize the incidence of those emissions.

(2) The Commission may issue a directive requiring a person to comply with technical regulation in respect of the emission of electro-magnetic radiation from equipment of any description.

(3) The Minister may limit the number of frequency authorisations in a given frequency band, after a public consultation, to ensure the efficient use and management of the electro-magnetic spectrum.

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(4) A public consultation under sub-regulation (3) shall be for the purpose of bringing matters to which it relates to the attention of those likely to be affected and to provide opportunity for comment.

(5) The public consultation shall be in accordance with the Commission's established guidelines and published on the Commission's website, in the Gazette and in a local newspaper with general circulation in Saint Lucia.

**Harmful interference**

**12.—** (1) Where the Commission receives a complaint of harmful interference resulting from the operation of a radio station the Commission shall as soon as is practicable investigate that complaint.

(2) Where the Commission determines that the source of the harmful interference is from within another ECTEL Member State the affected Commission shall immediately notify ECTEL.

(3) Where ECTEL is notified pursuant to regulation 12 (2), ECTEL shall request the Commission of the other ECTEL Member State to investigate the complaint.

(4) Where a Commission finds evidence to support a complaint, it shall give the alleged wrongdoer seven days from the date of service of the notice to satisfactorily respond to the complaint.

(5) Upon request of the alleged wrongdoer, the Commission may extend by not more than seven days, the time required to satisfactorily remedy the harmful interference.

(6) Where the party is a frequency authorisation holder and does not request an extension pursuant to regulation 12(5) and it fails to satisfy the Commission that it is not causing harmful interference as alleged or fails to remedy the breach, the Commission shall immediately submit to the Minister a report including details of the complaint, results of the investigation, any response from the frequency authorisation holder and the Commission's recommendation to revoke, suspend or vary the non-statutory terms and conditions of the frequency authorisation.

(7) The Minister, upon receipt of the recommendation from the Commission, shall give that frequency authorisation holder notice in writing in accordance with the Act of the Minister's intention to revoke

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or suspend the frequency authorisation specifying the ground on which he proposes to do so, and giving the frequency authorisation holder an opportunity to —

- (a) present his or her views;
- (b) satisfy the Minister that it is not causing the harmful interference as alleged;
- (c) provide satisfactory reasons why the frequency authorisation should not be revoked or suspended or its non-statutory terms or conditions varied.

(8) Where harmful interference is from a source in a non-ECTEL Member State, the Commission shall advise ECTEL and ECTEL shall as soon as is practicable initiate the procedure established by the International Telecommunication Union for the management of electromagnetic interference between its ECTEL Member States.

(9) If after the Commission has conducted the investigation it is of the view that the harmful interference is from an unauthorized source within Saint Lucia it shall:

- (a) advise the offender of the illegal operation and request that the offender ceases and desists from transmitting on unauthorized frequency;
- (b) in the event that the offender fails to comply with the Commission's request the Commission shall as soon as is practicable advise ECTEL and submit a report including the results of its investigation to the Director of Public Prosecutions detailing the breach of the Act.

**Obligation to give information**

13.— (1) A licensee or frequency authorisation holder, its agents or servants on or at any premises or place entered by an inspector or other authorised officer of the Commission under this regulation, shall give to the inspector or other authorised officer any information he or she may reasonably require for the purposes of these Regulations and shall not hinder or obstruct him or her in the performance of his or her functions.

(2) In this regulation “authorised officer” means an officer authorised in writing by the Minister.

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## PART IV

## MISCELLANEOUS

**Reassignment of Radio Frequencies**

**14.—** (1) The Minister may, on the advice of the Commission and consistent with the Regional Spectrum Management Plan, reassign frequency:

- (a) to allow for the introduction of new technology;
- (b) where it is necessary to ensure the efficient use of the radio spectrum;
- (c) where the overall demand for radio frequency for a particular telecommunications service cannot be met; or
- (d) where a frequency authorisation holder requests frequency held by another frequency authorisation holder and the Minister considers it appropriate to do so.

(2) The Commission shall, before advising the Minister regarding the reassignment of radio frequency:

- (a) consult with ECTEL;
- (b) allow any person likely to be affected by the proposed activity an opportunity to make representations;
- (c) ensure that any person licensed to provide telecommunications services or establish and operate a telecommunications network is able to maintain continuity in the provision of the relevant services or networks;
- (d) give holders of existing frequency authorisations reasonable notice of the pending reassignment; and
- (e) where necessary publish specific objectives and non-discriminatory procedures for the proposed reassignment.

(3) Where a reassignment is made pursuant to sub-regulation (1) (d), a frequency authorisation holder shall not be entitled to compensation.

(4) Where a reassignment is made pursuant to sub-regulation (1) (d), the holder of a frequency authorisation for that frequency may be entitled to compensation from the requesting licensee.



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(5) Compensation referred to under sub-regulation (4) shall be for costs reasonably incurred in complying with that reassignment.

**Revocation**

**15.** The Telecommunications (Spectrum Management) Regulations, Cap. 8.11 are hereby revoked.

Made this 15th day of December, 2008.

GUY JOSEPH,  
*Minister responsible for telecommunications.*

