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# RADIOCOMMUNICATIONS RULES

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Communications Commission of Kiribati

**1 DECEMBER 2014**

**CCK 042014**

PART 1 - PRELIMINARY

1. Section 63 of the Communications Act 2012 provides that the Commission has exclusive responsibility for managing the use of the radio spectrum in Kiribati. The Act also requires the Commission to make a range of rules planning for the use of spectrum and licensing, technical standards and managing interference.

*Short title and effective date*

2. These rules may be cited as the Radiocommunications Rules 2014 and are effective as of 1 December 2014.

*Definitions and Interpretation*

Words used in these rules have the same meaning as in the Communications Act 2012, including the definitions set forth below:

‘Act’ means the Communications Act of 2012

‘Apparatus’ means any equipment or device capable of effecting radiocommunications, whether by transmission or reception or both

‘Call sign’ means a unique series of letters and/or numbers allocated to a radiocommunications user for identification purposes

‘Certificate of Proficiency’ means a certificate of proficiency issued under Part 9

‘Citizen band station’ means a station operating a citizen band service in the 27 MHZ or 470MHZ bands for personal two-way, short distance, voice communication, radiotelephone service which may be used by any person in the community for personal communication within the geographical limits of Kiribati

‘Day’ means a calendar day

‘Harmful interference’ means any emission, radiation, or induction which—

- (a) endangers the functioning of a radionavigation service or other safety service; or
- (b) seriously degrades, obstructs or repeatedly interrupts radiocommunications authorised under the Act

‘ITU Convention’ means the Constitution and Convention of the International Telecommunication Union signed on 22 December 1992 as amended from time to time

‘ITU-R Recommendations’ constitute a set of international technical standards developed by the Radiocommunication Sector of the ITU

‘Licence year’ means the period of 12 months from the anniversary of the date that the license was issued.

‘Person’ means a natural or legal person

‘Radio Regulations’ means the Radio Regulations published by the International Telecommunication Union in pursuance of recommendations of the World Radio Conferences, as amended from time to time, and includes the appendices to those Radio Regulations and any additional Regulations

‘Regulatory Framework’ means the Communications Act of 2012; and any rules, decisions, orders, determinations, and technical standards made by the Commission in its lawful exercise of its powers under the Act

‘Safety Convention’ means the International Convention for the Safety of Life at Sea 1960 signed in London on 17 June 1960, as amended from time to time

‘Ship’ means every kind of vessel or floating or submerged craft of any size, which is not a ship that is permanently moored

‘Station’ means one or more transmitters or receivers or a combination thereof, including accessory equipment, necessary at one location for carrying on a radiocommunications service.

## PART 2 – SPECTRUM PLANNING

### *Spectrum plan*

3. A spectrum plan shall:
  - (a) divide parts of the radio spectrum into frequency bands; and
  - (b) specify the general purpose or purposes for which each frequency band may be used.
4. When preparing a spectrum plan, the Commission shall have regard to relevant ITU-R recommendations.

### *Frequency allocation plans*

5. The Commission shall also prepare and publish frequency allocation plans, which—
  - (a) shall be consistent with the spectrum plan;
  - (b) shall provide for —
    - i. the purposes for which any part of a frequency band (including any particular frequency or frequency channel) may be used; and
    - ii. parts of the spectrum to be reserved for the provision of public or community services, if appropriate for the relevant frequency band; and
  - (c) may apply to a specified area or for a specified period.
6. When preparing a frequency band plan, the Commission shall have regard to relevant ITU-R recommendations.

### *Revocation and variation of plans*

7. The Commission may revoke or vary a spectrum plan or frequency allocation plan.
8. Before revoking or varying a plan under rule 7, the Commission shall conduct a public consultation and publish a draft of that plan.

*Reallocation of spectrum*

9. The Commission may make a written declaration that one or more specified parts of spectrum are subject to reallocation in accordance with these rules after a specified period.
10. Before making a declaration under rule 9, the Commission shall conduct a public consultation and publish a draft of the declaration.
11. The Commission may only make a written declaration if it is necessary to implement a variation to the spectrum plan or any frequency allocation plan and it is consistent with international spectrum planning or the international obligations of the Republic of Kiribati.
12. The specified period shall be at least one year.
13. For each part of the spectrum specified in the spectrum re-allocation declaration, the declaration shall state whether the part of the spectrum should be re-allocated by allocating spectrum licences, apparatus licences or permits.
14. If the Commission makes a declaration, it shall promptly publish the declaration and notify each licensee it considers may be affected by the declaration.
15. After the end of the specified period, all licences relating to the specified parts of the spectrum shall be revoked under Section 38 of the Act.
16. The Commission may give directions requiring any licensee to take the necessary actions to give effect to the declaration.

PART 3 - RADIOCOMMUNICATIONS LICENSING

17. The Commission may issue:
  - (a) a spectrum licence to authorize a person to use designated parts of the radio spectrum in designated geographical areas
  - (b) an apparatus licence to authorize a person to use designated radio frequency transmitting devices within designated frequencies and geographic areas; and
  - (c) A permit to authorize a person to use radio frequencies and devices for a specified period, which is less than one calendar year.
18. A device is exempt from requiring a licence or a permit if:

- (a) it is being operated in the reasonable belief that its operation is necessary to deal with an emergency involving a serious threat to a person or the environment or to prevent substantial damage to or loss of property; or
- (b) it only operates in the bands specified in the spectrum plan for industrial, scientific and medical applications.

*Eligibility*

19. Any application for radio licence must be made by an eligible person. The following are eligible persons for the purpose of these rules:
- (a) a company incorporated under the Companies Ordinance of Kiribati or a foreign company registered under the Companies Ordinance
  - (b) any society registered under the Cooperative Societies Ordinance
  - (c) a natural person over the age of 18, except for an Amateur Radio Operators licence
  - (d) a Kiribati government agency or an organization or statutory body created pursuant to the laws of Kiribati.
20. An application must be consistent with the national spectrum plan and its frequency allocation plans and the applicable Regulatory Framework.

*Licence term*

21. The Commission shall issue a spectrum or apparatus licence for a duration set out in Schedule 1.

*Application process*

22. The Commission shall generally issue spectrum and apparatus licences to the first eligible applicants. The Commission may also assign spectrum licences on a market basis.

*Applications for a licence to first eligible applicants*

23. A person may apply for a spectrum or apparatus licence listed in Schedule 1 at any time.
24. Applications shall include:
- (a) a completed radiocommunications licence application form
  - (b) the application fee and the first years annual licence fee described in Schedule 1.
25. Applications that are submitted without the required fees will be rejected and the applicant must start the process again.

26. The Commission shall approve or reject an application for a spectrum or apparatus licence within a period not to exceed 15 days from the date of receiving an applicant's application form.
27. In cases where an application has been rejected, the Commission shall provide detailed reasons for the rejection, which shall be consistent with Section 35 of the Act.
28. In cases where applications are approved, the Commission shall include any additional special conditions in the licence that it believes are necessary to manage interference.

*Applications for a licence on a market basis*

29. In cases where demand for spectrum may exceed supply, the Commission may allocate any spectrum on a market basis whether by competitive tender, auction or other commercial negotiations.
30. Where the Commission proposes to allocate spectrum on a market basis, it shall prepare a marketing plan, which shall be published on its website.
31. The marketing plan prepared under rule 30 shall include:
  - (a) the relevant allocation process that the Commission proposes to use, whether by competitive tender, auction, or other commercial negotiations
  - (b) the methods, procedures and timetable to be followed
  - (c) details of how the relevant spectrum is to be apportioned among the spectrum licences to be issued and any percentage of the spectrum and frequency band that is to be reserved for future use or for public or community services
  - (d) any special conditions that may be included in a spectrum licence to be issued
  - (e) any other matter as the Commission may consider necessary.

PART 4 - RADIOCOMMUNICATIONS LICENCE CONDITIONS

32. The general conditions that shall apply to all holders of radiocommunications licences include the obligations to:
  - (a) provide written notice to the Commission when any details provided in the applicant's licence application are no longer complete or accurate, within 7 days of the relevant change occurring
  - (b) pay the relevant annual licence fee by the licence anniversary date each year
  - (c) comply with the Regulatory Framework, and in particular any rules related to technical standards
  - (d) permit any person authorized by the Commission to have access to radio equipment, to inspect the equipment to ensure that it is in compliance with the licence and the Regulatory Framework, and to remove, confiscate or otherwise deliver redundant any equipment that is not in compliance with its licence and the Regulatory Framework

- (e) take all necessary steps to ensure that no harmful interference is caused and to eliminate such interference and to cease the operation of any apparatus causing harmful interference until such time as the interference has been eliminated
- (f) not impersonate another person or other transmitter or use the call-sign of another station
- (g) not knowingly transmit, or make a signal containing any profane or obscene language
- (h) comply with the requirements of all relevant international conventions relating to ICT, including the International Convention for the Safety of Life at Sea and the ITU Convention and the recommendations made under that convention
- (i) not transmit or cause or allow to be transmitted a false or deceptive distress signal or call
- (j) accept with absolute priority a distress call or message regardless of its origin and reply and/or take immediate action in respect of the call or message and without unnecessary delay, retransmit it to the appropriate authority.

33. A spectrum licence shall include special licence conditions at least specifying:

- (a) the part or parts of the spectrum in which operation of radio frequency transmitting devices are authorised under the licence;
- (b) the maximum permitted level of radio emission that may be caused by operation of radio frequency transmitting devices under the licence
- (c) the geographical area within which operation of the radio frequency transmitting devices is authorised under the licence, which may be all of Kiribati
- (d) that the spectrum licensee be required to use the spectrum allocated by the spectrum licence efficiently and effectively; and
- (e) that the spectrum licensee coordinates with other spectrum licensees and apparatus licensees within the same geographical area with a view to minimising interference.

34. An apparatus licence shall include special conditions at least specifying:

- (a) the frequency, bandwidth, type of emission and power of apparatus permitted to be used under the licence;
- (b) that no material change (including alteration, modification and repositioning) of an apparatus permitted to be used under the licence shall be made without the prior written approval of the Commission;
- (c) that the Commission may require from the licensee any report, analysis or other information regarding any apparatus or the use of spectrum used under the licence; and
- (d) that the licensee coordinate with other radiocommunications licensees within the same geographical area before deploying any device to minimise any potential interference
- (e) that the licensee clearly exhibits its licence at all times in the room or place where the apparatus is situated.

*Amendment of licence conditions*

35. The Commission may vary the general licence conditions of a licence, after public consultation and after publishing a draft of the amendment, where

- (a) new or amended international treaties, commitments, recommendations, standards or the laws of the Republic of Kiribati require the modification; or

- (b) the modification will further the objectives of the Act.
36. The Commission may vary special licence conditions after consultation with the affected licensees.
37. A licensee may, by written notice to the Commission, apply to vary a licence condition. If the Commission is satisfied that the application has merit, the Commission shall
- (a) if the application relates to a general licence condition, conduct a public consultation about the proposed variation; and
  - (b) if the application relates to a special licence condition, consult with any licensees the Commission considers may be affected by the proposed variation.
38. The Commission shall only vary a licence condition in response to an application from a licensee where it is satisfied that there are compelling reasons to do so.

#### PART 5 - LICENSING FEES

##### *Annual licence fees*

39. The annual license fees for spectrum and apparatus licences issued to the first eligible applicants shall be the fees set out in Schedule 1. These fees shall be paid as part of the initial application process and on the licence anniversary date thereafter.
40. For a spectrum licence issued on a market basis, the fee will be according to the amount and timetable determined during the relevant allocation process.

##### *Penalty for non-payment*

41. A licensee that has not paid its annual license fee:
- (a) within 30 days of the time period specified in rule 39 or 40 or another mutually agreed timeframe, shall incur a surcharge of 10% of the licence fee, which shall be payable in addition to the licence fee
  - (b) within 90 days, shall be subject to the Commission's processes for the suspension and revocation of a license pursuant to the Regulatory Framework.

#### PART 7 – INTERFERENCE MANAGEMENT

42. Subject to the conditions of their licence, a licensee shall—
- (a) not operate any radio frequency transmitting device in a manner that causes harmful interference to any device operated under any other licence; and
  - (b) comply with any direction given by the Commission to the licensee requiring the licensee to prevent or suppress interference to another licensee's radiocommunications and
  - (c) comply with a direction that relates to the operation of a radio frequency transmitting device by the licensee that is reasonably necessary to deal with an emergency and is given to the licensee by the Commission or a law enforcement agency of Kiribati.

43. Where the Commission receives a complaint in writing that a person's conduct has caused or is likely to cause interference to another licensee's radiocommunications, the Commission shall:
- (a) attempt to resolve the matter by agreement between parties; or
  - (b) provide a notice to both parties under rule 42 to resolve the dispute.

## PART 8 - COMPLIANCE AND ENFORCEMENT

### *Appointment of Radio Inspectors*

44. The Commission may appoint persons to be Radio Inspectors for the purpose of inspecting and examining radio apparatus and documents relating to any such apparatus.

### *Powers of Radio Inspectors*

45. In addition to other powers and functions under the Act, a Radio Inspector may enter and inspect any station, vessel, aircraft, vehicle, premises or place in which any apparatus is installed or is being installed and may:
- (a) test the apparatus; and
  - (b) examine and take copies of extracts from any documents, messages or registers relating to the apparatus.
46. The owner, licensee or person in charge of the station, vessel, aircraft, vehicle, premises or place must afford a Radio Inspector all necessary facilities for a test examination under rule 45.
47. If in the opinion of a Radio Inspector, a breach of the Act or of these Rules has been committed in respect of the installation or operation of any apparatus, the Radio Inspector may:
- (a) order the owner, licensee, operator or person in charge of the apparatus to cease the operation of or to dismantle to the satisfaction of the Inspector, the apparatus; and
  - (b) take possession of the apparatus or make it incapable of operation.
48. A person aggrieved by an order of a Radio Inspector under rule 47 may appeal to the Commission.
49. A person who appeals under rule 48 may further appeal to a Court, whose decision will be final, if such person is not satisfied with the decision of the Commission.

## PART 9 - CERTIFICATES OF PROFICIENCY

### *Requirement for certificates*

50. The Commission may make licence conditions requiring a licensee or person who will operate a radio frequency transmitting device to hold a specified type of certificate of proficiency.

51. The types of certificates of proficiency are set out in Schedule 2.

*Application for a certificate*

52. A person may apply to the Commission to be issued a certificate of proficiency of a type set out in Schedule 2.

53. The Commission may grant a certificate of proficiency:

- (a) where an applicant has passed relevant examinations and provides proof thereof
- (b) where an applicant provides proof to the satisfaction of the Commission that it is the holder of a qualification granted in some other country that is, which in the Commission's opinion, at least of a standard equal to that of the certificate applied for or
- (c) at the discretion of the Commission, without examination.

54. The Commission may also conduct examinations from time to time for applicants for certificates of proficiency.

55. A person who fails to pass an examination for a particular type of certificate of proficiency is not entitled, as a result of the examination to the grant of a certificate of another type.

56. A certificate of proficiency, other than an Amateur Operator's Certificate of Proficiency, shall not be granted to a person who is under the age of 18 years.

57. An Amateur Operator's Certificate of Proficiency shall not be granted to a person who is under the age of 14 years.

58. Before a certificate of proficiency is issued, the person to whom it is to be issued shall make and subscribe, in the manner and form approved by the Commission, a declaration to observe any provisions of the Regulatory Framework relating to the secrecy of messages.

59. A successful applicant for a certificate of proficiency shall supply for inclusion in the certificate:

- (a) a signed photograph approximately 56mm x 56mm and
- (b) such personal particulars as are required by the Commission.

*Authorizing persons to act on behalf of the Commission*

60. The Commission may, by notice in writing to a person, appoint the person to act on the behalf of the Commission in relation to the issue of certificates of proficiency.

61. The appointment—

- (a) may be made on any terms and conditions that the Commission thinks fit; and

(b) may be revoked at will by notice in writing to the appointee.

62. No appointment in accordance with this regulation—

- (a) affects or prevents the performance of any function or the exercise of any power by the Commission
- (b) affects the responsibility of the Commission for the actions of any appointee acting under the appointment.

*Maintenance of qualifications and suspension of certificates*

63. The Commission may, at any time, require the holder of a certificate to demonstrate by examination or otherwise, that it has the necessary knowledge and skill for the certificate.

64. The Commission may suspend or revoke a certificate of proficiency:

- (a) where the holder fails to demonstrate as per rule 53 that it has the knowledge and skill for the certificate; or
- (b) where the Commission is of the opinion that it is desirable to do so on account of
  - i. incompetence of the holder; or
  - ii. the incapacity of the holder by reason of physical or mental disability or otherwise to perform the functions in respect of which the certificate was granted.

**Schedule 2**

**Certificates of Proficiency and Qualifications**

Type of certificate	Qualifications
General Certificate of Proficiency	<p>The applicant has:</p> <ul style="list-style-type: none"> <li>a) knowledge of the principles of electricity and the theory of radio sufficient to allow him to meet the requirements of paragraphs (b), (c) and (d);</li> <li>b) a theoretical knowledge of marine radio-telegraph and radiotelephone transmitters and receivers, marine aerial systems, automatic alarm devices, radio equipment for lifeboats and other survival craft, and direction-finding equipment, and of all auxiliary items including power supply (such as motors, alternators, generators, inverters, rectifiers and accumulators) with particular reference to maintaining the equipment and auxiliary items in service;</li> <li>c) a practical knowledge of the operation, adjustment and maintenance of the equipment and auxiliary items referred to in paragraph (b), including the taking of direction-finding bearings and knowledge of the principles of the calibration of radio-direction-finding apparatus;</li> <li>d) the practical knowledge necessary for the location and remedying (with the means available on board) of faults that may occur, during a voyage, in the equipment and items referred to in paragraph (b);</li> <li>e) the ability to send correctly by hand, and to receive correctly by ear, Morse code groups of mixed letters, figures and punctuation marks at a speed of 16 groups per minute and a message in plain language at a speed of 20 words per minutes;</li> <li>f) ability to send and receive correctly messages by radio telephone;</li> <li>g) acknowledgement of— <ul style="list-style-type: none"> <li>(i) such of the provisions of the Radio Regulations as relate to the exchange of radiocommunications; and</li> <li>(ii) the documents relating to charges for radiocommunications;</li> <li>(iii) the provisions of the Safety Convention that relate to radio;</li> </ul> </li> <li>h) a knowledge of the geography of the world, especially the principal shipping and telecommunication routes, sufficient for the efficient performance of his functions; and</li> <li>i) knowledge, both oral and written, of one of the working languages of the International Telecommunication Union specified by the Commission.</li> </ul>
Radiotelephone Operator's General Certificate of Proficiency	<p>The applicant has:</p> <ul style="list-style-type: none"> <li>a) knowledge of the elementary principles of radiotelephony;</li> <li>b) a detailed knowledge of the practical operation and adjustment of radiotelephone apparatus;</li> <li>c) the ability to send and to receive correctly messages by radiotele phone; and</li> <li>d) a detailed knowledge of the provisions of the Radio Regulations, and specifically of those provisions that relate to safety of life.</li> </ul>

Type of certificate	Qualifications
Restricted Radiotelephone Operator's Certificate of Proficiency	<p>The applicant has:</p> <ul style="list-style-type: none"> <li>a) a practical knowledge of the working and adjustment of such type or types of radiotelephone installation as is or are specified by the Commission;</li> <li>b) the ability to send and to receive correctly messages by radiotelephone;</li> <li>c) a knowledge of the provisions of the Radio Regulations relating to the exchange of radiotelephone communications, to interference and to the Distress, Urgency, Alarm and Safety Signals; and</li> <li>d) knowledge of the precautions necessary for the safety of the installation referred to in paragraph (a).</li> </ul>
Broadcast Station Operator's Certificate of Proficiency	<p>The applicant has:</p> <ul style="list-style-type: none"> <li>a) a knowledge of the general principles of electricity and of radio technology and of all the electrical and radiotelephony equipment used by broadcasting stations;</li> <li>b) a practical knowledge of the working and adjustment of all apparatus normally used by broadcasting stations; and</li> <li>c) the ability to adjust and carry out repairs to the apparatus referred to in paragraph (b).</li> </ul>
Amateur Operator's Certificate of Proficiency	<p>The applicant has:</p> <ul style="list-style-type: none"> <li>a) knowledge of radiotelegraphy and radiotelephony and electrical principles;</li> <li>b) a knowledge of the provisions of the Radio Regulations relating to the operation of amateur stations; and</li> <li>c) the ability to send correctly by hand, and to receive, in Morse code, a message in plain language at a speed of 10 words per minute.</li> </ul>
Amateur Operator's Novice Certificate of Proficiency	<p>The applicant has:</p> <ul style="list-style-type: none"> <li>a) a knowledge of radiotelephony and radiotelephony and electrical principles;</li> <li>b) a knowledge of the laws applying to radiocommunications relating to amateur stations; and</li> <li>c) the ability to send by hand, and to receive, in Morse code, a message in plain language at a speed of five words per minute.</li> </ul>