

L.N. 105 of 2018

Telecommunications (Determining Spectrum Utilization Fees by Auction) (Amendment) Regulation 2018

(Made by the Secretary for Commerce and Economic Development under section 32I of the Telecommunications Ordinance (Cap. 106))

1. Commencement

This Regulation comes into operation on 13 July 2018.

2. Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation amended

The Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap. 106 sub. leg. AC) is amended as set out in sections 3 to 6.

3. Section 3 amended (method for determining spectrum utilization fee)

(1) Section 3(1AAB)—

Repeal

“the Schedule”

Substitute

“Schedule 1”.

(2) After section 3(1AAC)—

Add

“(1AAD) Subject to section 3C, the spectrum utilization fee for the use of the spectrum that falls within the frequency bands set out in Schedule 2 for the period beginning on 12 January 2021 and ending on 11 January 2036 must be determined by an auction or a

series of auctions to be held in accordance with this Regulation and the specified terms.

- (1AAE) Subject to sections 3B and 3C, the spectrum utilization fee for the use of the spectrum that falls within the frequency bands set out in Schedule 3 for the period beginning on 30 September 2021 and ending on 29 September 2036 must be determined by an auction or a series of auctions to be held in accordance with this Regulation and the specified terms.
- (1AAF) Subject to section 3C, the spectrum utilization fee for the use of the remaining spectrum for the period beginning on 30 September 2021 and ending on 29 September 2036 must be determined by an auction or a series of auctions to be held in accordance with this Regulation and the specified terms.”.

- (3) Section 3—

Repeal subsection (3)

Substitute

“(3) In this section—

remaining spectrum (剩餘頻譜)—

- (a) for the purposes of subsection (1AAC), means any spectrum that—
- (i) falls within the frequency bands set out in the Schedule to the Telecommunications (Method for Determining Spectrum Utilization Fee) (Administratively Assigned Spectrum in the 1.9–2.2 GHz Band) Regulation (Cap. 106 sub. leg. AD); and

- (ii) is not assigned to any existing assignee as defined by section 2(3) of that Regulation because the Authority's offer to assign the spectrum as described in section 2 of that Regulation has not been accepted;
- (b) for the purposes of subsection (1AAF), means any spectrum that—
 - (i) falls within the frequency bands set out in the Schedule to the Telecommunications (Method for Determining Spectrum Utilization Fee) (Administratively Assigned Spectrum in the 1800 MHz Band) Regulation; and
 - (ii) is not assigned to any existing assignee as defined by section 2 of that Regulation because the Authority's offer to assign the spectrum as described in section 3(a) of that Regulation has not been accepted.”.

4. Sections 3B and 3C added

After section 3A—

Add

“3B. When spectrum utilization fee referred to in section 3(1AAE) is not payable

- (1) No spectrum utilization fee is payable for the use of the spectrum that falls within the frequency bands 1780.1–1784.9 MHz and 1875.1–1879.9 MHz if the user of the spectrum is authorized by the Authority to use the spectrum through a base station located in a designated area for the sole purpose of providing

mobile telecommunications services within the designated area.

- (2) The Authority may specify an area to be a designated area for the purposes of subsection (1).
- (3) The Authority must publish the details of the specification of the designated area in the Gazette.

3C. Payment of spectrum utilization fee determined under section 3(1AAD), (1AAE) or (1AAF)

- (1) The spectrum utilization fee determined under section 3(1AAD), (1AAE) or (1AAF) must be paid—
 - (a) in a lump sum; or
 - (b) annually in 15 instalments in accordance with subsection (2).
- (2) For subsection (1)(b), the spectrum utilization fee for each instalment is as follows—
 - (a) for the first instalment—an amount equal to the lump sum referred to in subsection (1)(a) divided by 15;
 - (b) for each subsequent instalment—an amount equal to the spectrum utilization fee payable in the immediately preceding instalment increased by 2.5%.
- (3) The spectrum utilization fee is payable at the time and in the way required by the Authority.”.

5. Schedule renumbered

The Schedule—

Renumber the Schedule as Schedule 1.

6. Schedules 2 and 3 added

After Schedule 1—

Add

“Schedule 2

[s. 3]

Frequency Bands

MHz	MHz
890–895	935–940
895–900	940–945
900–905	945–950
905–910	950–955
910–915	955–960

Schedule 3

[s. 3]

Frequency Bands

MHz	MHz
1710–1720	1805–1815
1730–1740	1825–1835
1770–1780	1865–1875
1780–1785	1875–1880”.

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B3511

Edward YAU
Secretary for Commerce and
Economic Development

14 May 2018

Explanatory Note

This Regulation amends the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap. 106 sub. leg. AC) (*principal Regulation*) mainly for the following purposes—

- (a) to provide for the determination by auction, and the payment, of spectrum utilization fees for using the following parts of the spectrum for their respective assignment periods—
 - (i) the spectrum that falls within the frequency bands set out in Schedules 2 and 3 to be added to the principal Regulation by this Regulation; and
 - (ii) any spectrum that falls within the frequency bands set out in the Schedule to the Telecommunications (Method for Determining Spectrum Utilization Fee) (Administratively Assigned Spectrum in the 1800 MHz Band) Regulation and that, when offered by the Communications Authority to an existing assignee (as defined by section 2 of that Regulation), has not been accepted; and
- (b) to exempt from payment of the spectrum utilization fee the use of the spectrum that falls within certain frequency bands in country parks and remote areas designated by the Authority.