



NATIONAL RADIO RULES

PART III

**BHUTAN INFORMATION, COMMUNICATIONS AND MEDIA AUTHORITY
(BICMA)**

**Royal Government of Bhutan
THIMPHU: October 2011**



BHUTAN INFOCOMM & MEDIA AUTHORITY

Royal Government of Bhutan



Chairperson

14th October 2011

FOREWORD

Radio spectrum is a scarce natural asset and resource which needs to be managed properly for efficient, effective and fair utilization. The demand for radio frequencies grows daily and radio frequencies are needed by all apparatus using the energy of electromagnetic waves. Airplanes, ships, satellites, radars, cell phones, sound and TV broadcasters, TV receivers, radio transceivers, microwave links, radio trunk links, cordless phones, handsets, wireless apparatus, home appliances, industrial and medical equipment, weather forecasters and many other applications are managed internationally and nationally to take advantage of spectrum.

The fair and efficient regulation of spectrum use amongst numerous radio applications and a variety of users requires the adoption and implementation of transparent executive rules and terms of reference. Fortunately, the Bhutan Information, Communications and Media Act – 2006 provides the Bhutan InfoComm and Media Authority (BICMA) with sufficient authority to regulate radiocommunications activities inside the Kingdom and to represent our national interests in international entities.

Issues such as planning, licensing, permitting, spectrum pricing, trading, certificating, accrediting and enforcement are the essential objectives of Part III of the National Radio Rules. These Rules clarify the rights and obligations of the various parties, outline the procedures for the use of radio spectrum by radio applications in an efficient manner and enable the Authority to carry out its duties and functions

on a daily basis. The definitions of the terms used are contained in Part **II** of these National Radio Rules. In addition, the schedules of values, methods and the tables which are subject to modification from time to time are contained in Schedule **IV**.



(Chairperson)

BHUTAN INFOCOMM & MEDIA AUTHORITY

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CHAPTER 1:

Radio Frequency Planning

1.1 Spectrum plan

- (a) Subsection **25(a)** of Act obliges the Authority to plan, supervise, regulate and manage the use of the radio frequency spectrum. Accordingly, the Authority shall prepare a spectrum plan.
- (b) A spectrum plan must:
 - (i) divide into such number of frequency bands as the Authority thinks appropriate such amount of the spectrum as the Authority thinks necessary for the purpose of regulating radiocommunications under these National Radio Regulations;
 - (ii) specify the general purpose or purposes for which each band may be used or reserved; and
 - (iii) be consistent with the existing utilization, international and regional spectrum plans as far as is achievable.
- (c) A spectrum plan prepared under this section must be consistent with the policy directives issued in accordance with Section **16** of the Act.
- (d) A spectrum plan shall be published in accordance with section **1.3** of this chapter.
- (e) The spectrum plan in force at the date of publication of these Radio Rules is contained in Schedule **1**, Part **IV** of the Radio Rules. This schedule may be modified by the Authority from time to time as it sees fit in accordance with section **1.3** of this chapter.

1.2 Frequency band plan

- (a) The Authority shall, by written instrument, prepare frequency band plans, each relating to one or more frequency bands after due consideration of international trends and national needs.
- (b) A frequency band plan must not be in consistent with the spectrum plan adopted pursuant to section **1.1**.
- (c) A frequency band plan:
 - (i) must make provision in relation to the purpose or purposes for which the band or bands may be used or reserved; and
 - (ii) without limiting paragraph (i), may provide for one or more purposes for which any part of a band (including any particular frequency or frequency channel) may be used or reserved; and
 - (iii) may be of general application or may be limited as provided in the plan; and
 - (iv) without limiting paragraph (iii), may apply with respect to a specified area (an allotment plan) and with respect to a specified period; and
 - (v) without limiting paragraph (iii), may apply with respect to a specified period
- (d) The frequency band plan prepared under this section must be consistent with the policy directives issued in accordance with the Section **16** of the Act.
- (e) A frequency band plan must be published in accordance with section **1.3** of this chapter.
- (f) A frequency band plan shall not confer an exclusive right or a monopoly or continued tenure to use frequencies on any particular ICT facility or service.

- (g) The frequency band plans in various frequency bands in force at the date of publication of these Radio Rules are contained in Schedule 2, Part IV of these Rules. Such Schedule may be modified from time to time as the Authority sees fit provided that any such modifications are made in accordance with this Section 1.2.

1.3 Publishing plans and hearing

- (a) The Authority shall by notice publish a spectrum plan or frequency band plan for public consultation and shall:
 - (i) invite interested parties to submit their written representations to the address and within such period as may be specified in such notice; and
 - (ii) after the period specified in the notice has elapsed, hold a public hearing in respect of the proposed plan; and
 - (iii) after the hearing and due consideration has been given to any representations received, the Authority shall adopt the plan in question, with or without amendment.
- (b) Any spectrum plan or frequency band plan adopted in accordance with paragraph (a)(iii) must be published as part of the Radio Rules.

1.4 Revocation and variation of plans

- (a) The Authority may, at any time, revoke or vary a spectrum plan or frequency band plan.
- (b) Section 1.3 of this chapter applies to any such a revocation or variation.

1.5 Conversion plan

- (a) On publishing a notice designating a specified part of the spectrum to be allocated by issuing spectrum licenses, the

Authority must, by written instrument, prepare a conversion plan that sets out the procedures and timetable for issuing spectrum licenses to replace existing apparatus licenses that authorise the operation of radiocommunications devices:

- (i) at frequencies within that part of the spectrum; and
 - (ii) within the area or areas specified in the notice.
- (b) The conversion plan need not require spectrum licenses issued in accordance with it to apply to the whole of the area or areas to which the plan applies.
- (c) The conversion plan may contain such other additional matters as the Authority thinks fit.
- (d) The conversion plan must not be inconsistent with:
- (i) the spectrum plan; or
 - (ii) a frequency band plan that relates, wholly or partly, to the part of the spectrum to which the conversion plan relates.
- (e) The Authority shall, by making the conversion plan available to the public, invite interested parties to make representations about the draft plan.

1.6 Re-allocation of spectrum

- (a) This section applies if a spectrum re-allocation declaration states that a part or parts of the spectrum should be re-allocated by issuing spectrum licenses.
- (b) The Authority must, by written instrument, prepare a marketing plan for issuing spectrum licenses that authorise the operation of radiocommunications apparatus:
- (i) at frequencies within that part, or those parts, of the spectrum; and

- (ii) within the area or areas specified in the declaration with respect to that part or those parts.
- (c) The marketing plan must be consistent with the spectrum plan or with a frequency band plan that relates, wholly or partly, to the part or parts of the spectrum to which the marketing plan relates.
- (d) The marketing plan is to apply to spectrum licenses with respect to that part or those parts that might be issued as provided for in section **1.6**.
- (e) In indicating the procedures to be followed for issuing spectrum licenses, the plan may, for example, indicate whether the licenses are to be allocated by auction, by tender, for a pre-determined price or for a negotiated price.

1.7 Varying and publishing conversion and marketing plans

- (a) The Authority may, at any time, vary a conversion plan or a marketing plan.
- (b) After preparing or varying a conversion plan or a marketing plan, the Authority must publish a notice informing members of the public where copies of the plan can be obtained either without charge or purchased at a reasonable price.

CHAPTER 2: Licensing of Radiocommunications

2.1 General

- (a) Outline of this Chapter:
 - (i) This chapter contains five divisions for three different categories of radiocommunications licensing.
 - (ii) Division one deals with unlicensed radiocommunications;
 - (iii) Division two contains the provisions relating to the spectrum licenses;
 - (iv) Division three contains the provisions relating to apparatus licenses;
 - (v) Division four contains the provisions relating to class licenses; and
 - (vi) Division five contains the provisions relating to amateur radio licenses.
- (b) Subject to subsection 2.1 (c), register containing information of the licenses issued pursuant to this chapter, shall be kept up to date and be open to public inspection during normal working hours.
- (c) If the Authority is satisfied in accordance with Section 70 (1) of the Act that it would not be in the commercial interest of any person or in accordance with Section 13 (1) of the Act that it would not be in the national interest for certain licenses or information contained in certain licenses to remain confidential then such licenses or information will not be included in the Register specified in section **2.1 (b)**
- (d) Any person may, on payment of such fee as may be prescribed by the Authority, request the Authority to supply

to him a copy of or extract from any part of the register under subsection **(b)**, certified by the Authority to be a true copy or extract.

Division One: Unlicensed Matters

2.2 Unlicensed operation or possession

- (a) Unless a person has been granted by the Authority a valid spectrum license, or, apparatus license, or, class license it shall be unlawful for any such person to:
 - (i) establish any radiocommunication station; or
 - (ii) operate any radiocommunication station; or
 - (iii) install any radiocommunication apparatus; or
 - (iv) operate any radiocommunication apparatus; or
 - (v) have an item of radiocommunications apparatus in his or her possession for the purpose of operating the same.

Any such person shall be guilty of an offence punishable in accordance with section **194** of the Act.

- (b) Subsection (a) shall not apply if the person has a reasonable excuse, and the defendant shall bear the burden of proof in relation to this matter.
- (c) A person does not contravene the provisions of the National Radio Rules by operating radiocommunications apparatus, or having radiocommunications apparatus in his or her possession, in the reasonable belief that the operation or possession was necessary for the purpose of:
 - (i) securing the safety of a vessel, aircraft or space object that was in danger; or
 - (ii) dealing with an emergency involving a serious threat to the environment.

- (d) In proceedings for an offence under subsection **(a)**, the defendant shall bear the burden of proof in respect of any of the matters relied upon in subsections **(b)** or **(c)**.

Division Two: Spectrum Licenses

Relevant Sections:

- 2.3 Designation of parts of the spectrum for spectrum licenses
- 2.4 Converting apparatus licenses into spectrum licenses
- 2.5 Issuing spectrum licenses
- 2.6 Content of spectrum licenses
- 2.7 Registrations of spectrum licenses
- 2.8 Variation of spectrum licenses
- 2.9 Suspending and cancelling spectrum licenses
- 2.10 Re-issuing spectrum licenses
- 2.11 Transferring spectrum licenses
- 2.12 Modification of spectrum licenses

2.3 Designation of parts of the spectrum for spectrum licenses

- (a) The Authority may designate a specified part of the spectrum to be allocated by issuing spectrum licenses.
- (b) Before designating a specified part of the spectrum under subsection (a), the Authority must give members of the public a reasonable opportunity to make representations to the Authority about the designation of a spectrum that it proposes to make.
- (d) Subsection (b) of this section shall not prevent the Authority from issuing a spectrum license to a licensee who is accepting the offer made under subsection 2.4 (e).

2.4 Converting apparatus licenses into spectrum licenses

- (a) As soon as practicable after preparing a conversion plan, the Authority must, in respect of each apparatus license which conflicts with a spectrum license as a result of the conversion plan, prepare a draft of a spectrum license to replace the apparatus license.
- (b) The draft spectrum license must, in so far as is practicable, authorise the operation of radiocommunications apparatus to the same extent as, or to a greater extent than, the apparatus is authorised under the apparatus license to be replaced.
- (c) The Authority must give a copy of draft spectrum license to the licensee and invite him to make representation before a specified date, but not earlier than one month after the day on which a copy of the draft spectrum license was given to the licensee.
- (d) Provided that the licensee has made representations, before the deadline referred to in subsection (c), the Authority must give due consideration to the representations and may alter the draft spectrum license correspondingly.
- (e) As soon as practicable after the expiry of the deadline given pursuant to subsection (c), the Authority must give the licensee a written offer to issue to the licensee a spectrum license to replace the licensee's apparatus license having specified following information:
 - (i) the amount of the spectrum access fee that the licensee must pay to the Authority; and
 - (ii) the day on which the offer will close, but not earlier than one month after the day on which the offer was delivered to the licensee.

Note – spectrum access fee determined in section 5.3.

- (f) The Authority must revoke the apparatus license and must issue the spectrum license to the licensee if the licensee has given a written notice specifying its acceptance of the license and its agreement to pay the spectrum access charge offered, on or before the date specified pursuant to subsection(e)(ii) above.
- (g) If the holder of an apparatus license notifies the Authority, before the date specified pursuant to subsection (e) (ii), that he does not accept the offer or fails to respond to the Authority on or prior to the date specified pursuant to subsection (e) (ii), the Authority may allocate the spectrum license by following the procedure set out in section 2.5. In such case:
 - (i) Immediately before the spectrum license comes into force, the apparatus license that it was intended to replace ceases to have any force; and
 - (ii) If the licensee had paid a spectrum access fee in accordance with its apparatus license, the Authority must refund to the licensee such amount as corresponds to the part of the period of the apparatus license that had, immediately before the license ceased to be in force, not elapsed; and
 - (iii) If requested by holder of apparatus license, the Authority may propose to grant a spectrum license for the same amount of the other frequency bands that the licensee previously had the right to use, to fulfil the spectrum need of revoked apparatus license; and
 - (iv) The holder of the revoked apparatus license may be compensated, if the Authority is requested by written notice.

2.5 Issuing spectrum licenses

- (a) The Authority must specify, in writing, the procedure to be applied to the allocation of spectrum licenses:
 - (i) by auction (having determined at least: auction type, entry fee for prospective bidders, method of payment for licenses and advertising); or
 - (ii) by tender (having determined at least: tender type, entry fee for prospective bidders, method of payment for licenses and advertising), or
 - (iii) by allocation for a pre-determined price or a negotiated price (having specified at least: the method of determining the prices and the method of payment for licenses and advertising).
- (b) In determining the procedure under subsection (a), the Authority may impose limits on the aggregate of the parts of the spectrum that, as a result of the allocation of spectrum licenses may be used. A limit may be expressed to apply in relation to a specified part of the spectrum, and/or, a specified area, and/or a specified population reach.
- (c) The spectrum licenses to be issued under this section must:
 - (i) be consistent with any policy directives promulgated in accordance with the subsections **16(7)** of the Act; and
 - (ii) comply with the relevant marketing plan to the extent practicable.
- (d) The Authority must issue the spectrum license to the person to whom it is allocated if:
 - (i) the person pays the spectrum access fee to the Authority; or
 - (ii) Reaches an agreement with the Authority for the payment of such fee

provided that the person satisfies the requirements of subsection **39(2)** of the Act.

Note – spectrum access fee determined in section **5.3**

- (e) The Authority may defer the issue of the spectrum license until the relevant frequencies become available as a result of the expiry, surrender or cancellation of one or more apparatus licenses that are affected by the spectrum re-allocation declaration concerned.
- (f) The issued spectrum license must be registered in the Register of the Authority in accordance with section **2.7**.

2.6 Content of spectrum licenses

- (a) The parts of the spectrum in which the operation of radiocommunications apparatus is authorised under the license;
- (b) The geographical area within which the operation of radiocommunications apparatus is authorised under the license. The area may be the whole of Bhutan;
- (c) The maximum permitted level of radio emissions that may be caused by the operation of radiocommunications apparatus under the license:
 - (i) In parts of the spectrum outside the spectrum that operation of radiocommunications apparatus is authorised; and
 - (ii) Outside that area wherein operation of radiocommunications apparatus is authorised.
- (d) The date of commencement and expiry of the license provided that the duration of the license is no longer than 15 years if no license is granted for a parent “ICT system” or in the event that a parent “ICT” system license is granted then

the spectrum license must be co-terminus with such “ICT system” license.

- (e) The person and any other person authorised by that person to operate radiocommunications apparatus in accordance with the license.
- (f) Conditions relating to the residency of the licensee(s) and special conditions in those cases where the licensee derives income, profits or gains from operating radiocommunications apparatus under the license or from authorising others to do so.
- (g) Operational conditions of radiocommunications apparatus by third parties and by the licensee(s).
- (h) The amount and the relevant payment dates of fees to be paid to the Authority pursuant to subsections **27(3)(j)**, **27(3)(k)** and **27(3)(l)** of the Act, including but not limited to the spectrum access fee;
- (i) Without limiting subsection (a), the Authority may employ a progressive and phased authorization of radiocommunications apparatus due to the unavailability of spectrum until the relevant frequencies become available as a result of the expiry, surrender or cancellation of one or more apparatus licenses that are affected by the spectrum re-allocation declaration concerned.
- (j) Conditions in those cases where the Authority exempts radiocommunications transmitters of particular kinds from registration in the Register of the Authority.
- (k) Conditions relating to the transfer, if any, of the spectrum license.

- (l) Conditions relating to the suspension or cancellation of the license under section 2.9.
- (m) Any other conditions that the Authority considers are necessary to meet the requirements of the Act.

2.7 Registrations of spectrum licenses

- (a) The Register established by the Authority is to contain the following information in respect of each spectrum license:
 - (i) the licensee's name and postal address and other contact details, such as telephone and fax numbers and email addresses;
 - (ii) the date of issue and date of expiry of the license;
 - (iii) such details as the Authority determines, in writing, about the conditions of spectrum licenses;
 - (iv) such details as the Authority determines, in writing, about authorisations by licensees for other persons to operate radiocommunications apparatus under the spectrum license;
 - (v) such details as the Authority determines, in writing, about radiocommunications apparatus that are operated under spectrum licenses; and
 - (vi) such other details about the spectrum license as the Authority considers are necessary or appropriate under the Act.
- (b) The Authority may refuse to register details of a radiocommunications transmitter that is proposed to be operated under a spectrum license if it is satisfied that the operation of such a transmitter could cause an unacceptable level of interference to the operation of other radiocommunications apparatus under that or any other spectrum license, or any other license. In this case, the

Authority shall inform the licensee, by written notice, together with reason of the refusal.

- (c) Before registration, the Authority may require that, there be presented to the Authority a certificate, stating that operation of the radiocommunications apparatus under the license satisfies any conditions that are required to be satisfied.
- (d) The Authority's Register must be updated by the inclusion of details of any act taken in relation to the administration of a spectrum license, including: any type of variation, suspension, cancellation, revocation or trading of the spectrum license.

2.8 Variation of spectrum licenses

- (a) The Authority may, with the written agreement of the holder of a spectrum license registered in accordance with Sections **2.6** and **2.7**, vary the license by including additional conditions, or varying, or revoking any existing conditions but may not vary or revoke the items in a spectrum license specified pursuant to subsections **2.6 (a)**, **2.6 (b)** and **2.6 (c)**.
- (b) In the event that the Minister has issued a recommendation pursuant to subsection **43 (2)** of the Act for reasons of the security of Bhutan the Authority shall, by written notice to the licensee, set out the proposed variations required to give effect to the Minister's recommendation while describing relevant reasons for the proposed variations. Notwithstanding that the agreement of the Licensee is not required in respect of variations proposed under this subsection (b) the Licensee shall be given thirty days from the date of the notice in which to make representations about the proposed variation.

- (c) The Authority may vary the spectrum license, if, after considering and having regard to all representations made under subsection (b) the Authority considers the license should be modified:
 - (i) in the manner set out in the notice or
 - (ii) some other manner consistent with the representations made by the licensee which the Authority is satisfied are applicable.
- (e) If the Licensee is aggrieved by a variation made pursuant to subsection (c) he may within thirty days of the receipt of the information under subsection (c) appeal against the decision of the Authority to the Appellate Tribunal in accordance with subsection 43(5) of the Act.

2.9 Suspension and cancellation of spectrum licenses

- (a) The Authority is empowered by Section 51 of the Act to suspend or revoke any license granted under the Act in the circumstances and the manner specified in Section 51, which applies to any license granted pursuant to these National Radio Rules.

2.10 Re-issuing spectrum licenses

- (a) The Authority may re-allocate and issue a spectrum license as determined under section 2.5 (Issuing spectrum licenses), except in case of subsection (d).
- (b) The Authority must frequently publish notices containing core information of those spectrum licenses that are due to expire within the two years following the date of publication of the notice and shall invite expressions of interest from those who wish to apply for a spectrum license in the related spectrum.

- (c) During the two years preceding the expiry a spectrum license, the Authority shall prepare draft new spectrum license(s) that may wholly or partially replace the license that is due to expire.
- (d) The Authority may, without following the license allocation procedure specified in subsection **2.5**, re-issue a spectrum license to the person to whom it was previously issued in the event that the licensee applied for renewal not earlier than nine months before license expiry and the Authority is satisfied that special circumstances exist as a result of which it is in the public interest for that person to continue to hold the license.
- (e) Notwithstanding a renewal application having been made pursuant to subsection (**d**) the Authority may refuse to renew the license if the licensee is or has engaged in conduct that materially contravenes or contravened this Act, any Regulations, any directives or any Rules made under this Act or any condition of his original license.
- (f) Where the Authority has reasonable grounds for not renewing a license under sub-section (**e**), it shall inform the licensee by written notice as soon as practicable of its intention not to renew the license.
- (g) A licensee to whom a notice is served as under subsection (**f**), the licensee may make written representations to the Authority, not later than thirty days after the date on which the refusal notice was sent by the Authority.
- (h) The Authority shall consider any written representation made under subsection (**g**) and shall inform the licensee within fifteen days of the receipt of the representations of its decision on the matter.
- (i) The licensee, if aggrieved by the decision under subsection (**g**), may appeal against such decision of the Authority to the

Appellate Tribunal within thirty days of the receipt of the information under subsection (h).

- (j) In those cases where the Authority re-issues a spectrum license under subsection (d) the Authority shall inform the licensee by written notice, as soon as practicable, of its probable intention to re-issue the spectrum license subject to the inclusion of new conditions or the modification of existing conditions and provide the licensee with details of such new or modified conditions.
- (k) Within fifteen day of receipt of notice under subsection (j), the licensee must inform the Authority whether or not it will accept the proposed conditions.. In the event of disagreement, the Authority will apply subsection (a).

2.11 Transferring spectrum licenses

- (a) A spectrum license may be transferred, totally or partially, if:
 - (i) The spectrum license contains a condition permitting such transfer; and
 - (ii) The licensee has made a written application to the Authority and the Authority has agreed to such transfer; and
 - (iii) Anything done or proposed to be done by the Authority pursuant to subsection (c) complies with the laws of Bhutan; and
 - (iv) Any changes made to the license in the course of the transfer are recorded in the Register specified in section 2.7.
- (b) Subject to subsection (c), the Authority may approve an application for the transfer of a license made under Sub-section (a) where:

- (i) The Authority is satisfied that the proposed transferee meets all the requirements of the Act, including those that are specified in subsection **39 (2)** of the Act; and
 - (ii) The Authority is satisfied that the proposed transferee will be able to undertake the other obligations and conditions contained in the license; and
 - (iii) A notice of the proposed transfer has been published by the Authority; and
 - (iv) A spectrum license transferring fee is paid to the Authority as required under subsection **5.5 (h) (i)**.
- (c) In dealing with an application made under subsection **(a)**, the Authority may do one or more of the following:
- (i) vary the relevant spectrum license by replacing the name of the licensee with the transferee's name;
 - (ii) vary the conditions of the relevant spectrum license by including one or more additional conditions, or revoking or varying any other conditions of the spectrum license;
 - (iii) issue one or more new spectrum licenses;
 - (iv) cancel one or more existing spectrum licenses.
- (d) Any purported transfer which does not comply with this section 2.11 is invalid and of no legal effect whatsoever. In the event of any such transfer taking place, whether *de jure* or *de facto*, the Authority shall have the power to apply section **2.9** (suspending and cancelling spectrum licenses).
- (e) Any person who is involved in effecting any purported transfer of a license other than in accordance with the terms of this section shall be guilty of the offence of forgery.

- (f) A spectrum license transferred in accordance with this section shall be deemed to be a spectrum license issued by the Authority under these Radio Rules.
- (g) A spectrum license exempted from payment of a spectrum utilization fee, under subsection **5.9(b)** is a non transferable license.

2.12 Modification of spectrum licenses

- (a) The Authority may modify a spectrum license, partially or completely, under an agreement entered into with the licensee. The agreement shall be transparent and it will take effect in accordance with the time table included in.
- (b) The Authority may modify a spectrum license, partially or completely as per section 43 (2) of the Act.
- (c) In case compulsory modification in subsection **(b)** the Authority shall, by written notice given to the licensee, set out the proposed changes while describing relevant reasons and shall invite licensee to represent its written disagreement during thirty days after the Authority notice delivery days if any.
- (d) The Authority may modify the spectrum license, after considering and having regard to all representations made under subsection **(c)**:
 - (i) in the manner set out in the notice submitted to the license under subsection **(c)**; or
 - (ii) other manner consistent with the representations made by licensee and the Authority is satisfied to be applicable.
- (e) For the modification under the subsection **(d)**, the Authority must publish a pre-acquisition declaration for the spectrum license, or the part of the spectrum license, that it wishes to

modify, containing enough description about the spectrum license and about the part of the license to be modified together with reasons.

- (f) Within fourteen days after publication of declaration under sub-section (e), the Authority must inform its intention by a written notice, and licensee must, within seven days after being so served, give a written notice of the proposed modification to:
 - (i) if the whole of the license is to be modified—each person (if any) authorised by the licensee to operate a radiocommunications apparatus under the license; or
 - (ii) if a part of the license is to be modified—each person (if any) so authorised whose interests would be affected by modification of that part of the license.
- (g) Failure to comply with the requirements of subsection (f) does not affect the validity of the pre-acquisition declaration made under subsection (e).
- (h) Variations of spectrum licenses under subsection (b) are reviewable by written request of licensee under subsection **43(5)** of the Act.
- (i) The Authority shall publish a modification notice and sent a copy of modification notice to the licensee:
 - (i) after the end of pre-acquisition declaration; or
 - (ii) after the end of review period under the subsection (g), if the modification concluded.
- (j) The modification takes effect if the modification notice specifies a day for the purpose and on that given day, or fourteen days after the day on which the modification notice was published.

- (k) Within fourteen days after the modification notice was published, under the subsection **80(4)** of the Act, the Authority must give to the licensee a written notice that:
 - (i) sets out particulars of the licensee's right to claim compensation for the modification; and
 - (ii) how a claim is to be made; and

Division Three: Apparatus Licenses

Relevant Sections:

- 2.13 Categories and Types: Transmitter licenses and receiver licenses
- 2.14 Authorization of third party
- 2.15 Issuing apparatus licenses
- 2.16 Price-based issuing of apparatus licenses
- 2.17 Duration of apparatus licenses
- 2.18 Compliance with plans
- 2.19 Conditions of apparatus licenses
- 2.20 Changes to the apparatus license conditions
- 2.21 Qualification of operators of apparatus
- 2.22 Suspension and cancellation of apparatus licenses
- 2.23 Renewal of apparatus licenses
- 2.24 Transfer of apparatus licenses
- 2.25 Registration of apparatus licenses

2.13 Categories and Types: Transmitter licenses and receiver licenses

- (a) The Authority may issue apparatus licenses in following categories:
 - (i) transmitter licenses; and
 - (ii) receiver licenses.
- (b) A transmitter license authorises:
 - (i) the person specified in the license as the licensee; and

- (ii) subject to sections **2.14**, any person authorised in writing by that licensee;
to operate specified radiocommunications transmitters, or radiocommunications transmitters of a specified kind.
- (c) A receiver license authorises:
 - (i) the person specified in the license as the licensee; and
 - (ii) subject to sections **2.14**, any person authorised in writing by that licensee;
to operate specified radiocommunications receivers, or radiocommunications receivers of a specified kind.
- (d) Operation of the authorised radiocommunications apparatus must comply with the conditions of the license.
- (e) Different types of transmitter licenses and receiver licenses are set out in schedule **3**, Part **IV**. This schedule is subject to change from time to time if the Authority sees fit.

2.14 Authorization of third party

- (a) The licensee must not authorise a person to operate radiocommunication apparatus if the Authority has issued a written instrument determining that:
 - (i) the licensee must not authorise other persons to operate radiocommunications apparatus; or
 - (ii) that person belongs to the classes of persons who may not be so authorised; or
 - (iii) the license contains a condition or other provisions stipulating that the apparatus may only be operated by a certified person and such a person is not certified ; or
 - (iv) the circumstances are such that those persons may not be so authorised; or

- (b) The licensee must not authorise a person if:
 - (i) the person has been issued an apparatus license that was or is of the same type as the licensee's license; and authorised operation of radiocommunications apparatus of the same kind as those to which the licensee's license relates; and
 - (ii) the person's license is suspended; or cancelled; or has been cancelled within the last two years.
- (c) Authorising other persons does not prevent the licensee from doing anything in accordance with the license in its hand.
- (d) A licensee of an apparatus license who authorises a person under this section must retain the copy of the authorization for at least one year after the authorisation ceases to be in force.
- (e) If the Authority is satisfied that a person authorised under this section has contravened a condition of the license to which the authorisation relates, the Authority may give the licensee a written notice, including reasons, directing the licensee to revoke the authorisation.
- (f) As soon as practicable and, in any event, within seven days after service of the notice under subsection (e), the licensee must revoke the authorisation.
- (g) The authorization of a person under this section, whose similar apparatus license has been suspended or cancelled, is deemed to have been revoked on the day on which the other license is suspended or cancelled.

2.15 Issuing apparatus licenses

- a) Subject to subsection (c), upon application being made, the Authority may issue to the applicant an apparatus license of

the type applied for under subsection **2.13(e)**. An application under this section shall be made in a form approved by the Authority.

- (b) The Authority may approve different forms for the different types of apparatus license.
- (c) The Authority must not process an application for an apparatus license under this section unless the applicant has paid the requisite application fee, upon application, in accordance with the section **5.5**;
- (d) An apparatus license authorising operation of a radiocommunications transmitter for transmitting a broadcasting service cannot be issued unless:
 - (i) The person is a qualified company; and
 - (ii) There is a broadcasting service license in force that authorises the provision of that service; and
 - (iii) The provided network plan is consistent with the national broadcasting plan.

Note – A network plan for broadcasting purpose must contain site survey and radio coverage plan.

- (e) In deciding whether to issue an apparatus license, the Authority must have regard to the following matters:
 - (i) whether the operation of a radiocommunications apparatus needs an ICT service license to be in force; and
 - (ii) whether the operator is a qualified person holding a valid certificate in respect of those license types whose conditions require that the apparatus be operated only by qualified persons; and
 - (iii) whether the requisite administrative and technical information has been delivered to the Authority; and

- iv) whether any specific technical coordination is required in advance; and
 - (v) whether the apparatus complies with the approved relevant standards; and
 - (vii) whether the applicant owes any amount of unpaid duty regarding any other apparatus licenses currently held or previously held by the applicant; and
 - (viii) whether a similar application has been previously made by the applicant and rejected.
 - (ix) whether the license held by the applicant in the two years prior to the application had been cancelled.
- (f) Subject to subsection (g), the Authority must not issue an apparatus license that authorises the operation of radiocommunications apparatus at frequencies that are within a part of the spectrum that is designated under section 2.3 to be allocated by means of issuing spectrum licenses.
- (g) The Authority may issue such an apparatus license:
- (i) to a body covered by any of paragraphs 2.17(ii) for the purpose of investigations or operations conducted by that body; or
 - (ii) if it is satisfied that the special circumstances of the particular case justify the issuing of the license.
- (h) For the purpose of paragraph (e)(v), the Authority may by written notice request the applicant to:
- (I) submit to the Authority the radiocommunications apparatus specified in the notice, at a time and place specified in the notice, for testing; or
 - (II) permit the Authority, or a recognised testing authority, to test the radiocommunications apparatus so specified.

- (i) A radiocommunications apparatus submitted under paragraph (h)(I) for testing must be returned to the applicant within a reasonable time.
- (j) If the Authority refuses to issue the license, it must give the applicant written notice of its refusal together with a statement of its reasons.
- (k) Nothing in this Rule prevents two or more apparatus licenses (whether transmitter licenses or receiver licenses or both) from being contained in the same instrument.

Note– Recognised testing authority is defined by section 3.13.

2.16 Price-based issuing of apparatus licenses

- (a) The Authority may determine in writing a price-based allocation system for allocating and/or issuing specified apparatus licenses and such system may specify one or more limitations of the following type:
 - (i) coverage areas; and
 - (ii) frequencies or frequency ranges; and
 - (iii) payment of particular fees; and
 - (iv) number of apparatus per person; and
 - (v) qualification and eligibility of each person in accordance with the Act or other laws of Bhutan; and
 - (vi) number of total apparatus that may be licensed in this way.
- (b) If an apparatus license is issued under a system determined in accordance with subsection (a), the successful applicant's name and the amount that each applicant has agreed to pay shall be published by the Authority.

2.17 Duration of apparatus licenses

- (a) An apparatus license comes into force on the day on which it is issued or on such later day as is specified in the license for that purpose.
- (b) Subject to subsection (d), an apparatus license remains in force for the period specified in the license.
- (c) The apparatus license may specify any period not exceeding five years.
- (d) An apparatus license issued under subsections **2.15(d)(ii)** and **2.15(e)(i)**:
 - (i) subject to subsection (c), continues in force while the related license referred to in that section remains in force; and
 - (ii) does not have effect while the related license referred to in that section is suspended.

2.18 Compliance with plans

- (a) Subject to subsections (b) and (c), the Authority may issue an apparatus license that is inconsistent with the spectrum plan or any relevant frequency band plan only if:
 - (i) the apparatus license is granted for purposes which relate to an event of international, national or regional significance; or
 - (ii) the apparatus license authorises a body covered by any of the Royal Bhutan Army, or Royal Bhutan Police, or Royal Bhutan Guard to operate specified radiocommunications apparatus, or radiocommunications apparatus of a specified kind, for the purpose of investigations or operations conducted by such body; or

- (iii) the apparatus license is granted to a body that performs functions related to the investigation, prevention or prosecution of serious crime, or of corruption (whether or not the body also performs other functions); and is covered by a written determination made by the Authority for the purposes of this paragraph;
- (b) An apparatus license of a kind mentioned in paragraph (a)(i) must not be issued for more than sixty days.
- (c) An apparatus license of the type mentioned in paragraph (a)(i) must not be renewed more than once.

2.19 Conditions of apparatus licenses

- (a) Compliance by licensee or by any person authorised by the licensee with the Act; and
- (b) Payment of various charges and fees; and
- (c) Compliance of radiocommunications apparatus with specified standards; and
- (d) Time-table for the progressive authorisation of the operation of the radiocommunications apparatus under the license, if a particular part or parts of the spectrum become available as a result of the expiry, surrender or cancellation of one or more other apparatus licenses; and
- (e) Compliance of the operation, or permitted operation of, the radiocommunications apparatus for a purpose that is consistent with a purpose of a kind specified in the appropriate frequency band plan (if any) under subsection **1.2(c)(i)**; and
- (f) Conditions relating to containment of interference, or of the likelihood of interference, to other radiocommunications apparatus; and

- (g) Conditions relating to the transmission of an identification signal (if applicable); and
- (h) Conditions that prohibit the operation of the radiocommunications apparatus except on a frequency or frequencies, or on a frequency channel, and at a constancy, specified in the license; and
- (i) Conditions prohibiting the operation, or permitting the operation of, the radiocommunications apparatus for the purpose of harassing a person; and
- (j) Conditions prohibiting the operation or permitting the operation of, the radiocommunications apparatus for broadcasting services unless there is in force a broadcasting service license authorising the provision of that service; and
- (k) Conditions prohibiting the operation of radiocommunications apparatus without obtaining the requisite certificate of qualification in those cases where those persons operating the apparatus are required under section 2.21 to be qualified operators in relation to the license; and
- (l) Compliance with the direction given by members of Royal Bhutan Army, or member of Royal Bhutan Police, or member of Royal Bhutan Guard or by an officer from the class of officers supported by regulation for disaster relief, for the purpose of:
 - (i) securing the safety of a vessel, aircraft or space object that is in danger; or
 - (ii) dealing with an emergency involving a serious threat to the environment; or
 - (iii) dealing with an emergency involving risk of death of, or injury to, persons; or

- (iv) dealing with an emergency involving risk of substantial loss of, or substantial damage to, property.
- (m) Any other operational or technical condition that the Authority is satisfied is necessary for a particular type of apparatus license.

2.20 Changes to the apparatus license conditions

- (a) The Authority may, by notice in writing given to the licensee of an apparatus license:
 - (i) impose one or more further conditions to which the license is subject; or
 - (ii) revoke or vary any condition imposed under paragraph (i); or
 - (iii) revoke or vary any condition specified under subsection **2.19(m)**; or
 - (iv) if the license is an apparatus license, other than broadcasting transmitter license—vary a condition of the kind referred to in subsections 2.18(e), (f) or (h).
- (b) The Authority shall specify, in the notice given under subsection (a), the reasons for the change.
- (c) A licensee must notify the effect of the notice given under subsection (a), to each person who is currently authorised under section **2.14** in relation to the license, as soon as practicable but not later than seven days after receiving the notice.
- (d) Giving such a notice to the licensee under subsection (a) does not render unlawful anything done by a person authorised by the licensee under section **2.14** before the person is notified under subsection (c).

2.21 Qualification of operators of apparatus

- (a) The Authority may determine, by written instrument, that persons operating apparatus under apparatus licenses included in a class of apparatus licenses specified in the instrument must be qualified operators.
- (b) A person who wishes to be a qualified operator in relation to one or more such classes of apparatus licenses may apply to the Authority for a certificate of proficiency, in a form approved by the Authority.
- (c) The Authority must not issue a certificate of proficiency unless:
 - (i) the Authority is satisfied that the applicant has reached the minimum age in relation to the class of certificates in which the certificate is included; and
 - (ii) the Authority is satisfied that the applicant has achieved satisfactory results in approved examinations or in examinations conducted under the regulations.
- (d) The approved examination is an examination conducted by an approved (delegated by a written instrument of the Authority) body or organization for the purposes of this section or conducted by the Authority. The final decision for certification rests with the Authority in any case.
- (e) If the Authority refuses to issue a certificate of proficiency, it must give the applicant a written notice of the refusal together with a statement of its reasons.
- (f) If the Authority, at any time, has reasonable grounds for believing that a qualified operator will probably be unable to achieve satisfactory results in an examination of the kind referred to in paragraph **2.21(c)(ii)**, the Authority may invite the operator for re-examination by determining the time and place and other details of the examination.

- (g) The Authority may, by written and reasoned notice given to a qualified operator cancel the operator's certificate of proficiency, in the event that:
 - (i) the Authority is satisfied, that the operator has failed to achieve satisfactory results in an examination or further examination referred to in subsection (g);
 - (ii) the operator has refused or failed, without reasonable excuse, to comply with a request under subsection (g);
 - (iii) the operator has been convicted of an offence under the regulations;
 - (iv) the operator fails to comply with or satisfy any other matters to which the Authority must have regard in deciding whether to issue a certificate of proficiency;
- (h) If the certification of proficiency of a person, who has been certified by the Authority is cancelled under this section, that person must not fail to return the certificate to the Authority, either by hand or by certified mail, within seven days after receiving notification of the cancellation.
- (i) An examination fee paid by the applicant to the Authority or to the body that conducts the examination is non-refundable, except in case of cancellation of the examination.

2.22 Suspension and cancellation of apparatus licenses

- (a) Except for apparatus licenses under the ICT facility license under subsection **2.15(e)(i)** and without limiting subsections **5.11(f)**, **5.11(g)** and **5.11(h)**; an apparatus license may be suspended or cancelled if the Authority is satisfied that the licensee, or a person authorised by the licensee to operate a radiocommunications apparatus under the license, has:

- (i) Contravened a condition of the license, or in any other way contravened the Radio Rules or the Act; or
 - (ii) Knowingly operated radiocommunications apparatus or permitted the operation of radiocommunications apparatus, in contravention of any other law of Bhutan.
- (b) In case of an apparatus license under subsection **2.15(e)(i)**, the contravention will be reported to the ICT service licensee for taking appropriate action.
- (c) The Authority shall give the licensee fourteen days written notice of its intention to suspend or revoke the license, specifying the date and the grounds on which it proposes to do so.
- (d) The period of suspension, which may not be less than thirty days, must be specified in the written notice to the licensee.
- (e) If the licensee fails to:
- (i) cease the contravention of a condition of the license; or
 - (ii) cease the contravention of the Act or any other law of Bhutan; or
 - (iii) cease the operation of the radiocommunications apparatus which is contravening such a law or national security, or
 - (iv) pay any unpaid fees; and
- within the fourteen days given by the notice under subsection (c) and the fourteen day period has not been extended by the Authority's written notice the apparatus license will be suspended or revoked forthwith.
- (f) The Authority must notify the licensee in writing of the suspension or revocation made in accordance with subsection (e) and the licensee must give written notice of such suspension or revocation to each person who is

currently authorised under section **2.14** in respect of that license.

- (g) In the event of a need to take urgent action pursuant to subsection **51(f)** of the Act, the Authority must suspend or revoke the apparatus license forthwith by written notice to the licensee, without following the procedures specified in subsections (c) and (e).
- (h) Within the suspension period specified pursuant to subsection (d), no proceedings for an offence against these Radio Rules or the Act or any other law of Bhutan against the licensee, or against a person authorised by the licensee to operate a radiocommunications apparatus under the license shall be initiated.
- (i) The suspension ceases at the end of the period specified pursuant to subsection (d), unless the apparatus license or suspension is revoked by the court or by the Authority.
- (j) The licensee may submit to the Authority, within thirty days of the receipt of the written notice issued pursuant to subsection (d) or such longer time, if specified by the Authority, a written statement of objections to the suspension or revocation of the license which the Authority shall take into account before reaching a decision.
- (k) Any person aggrieved by an order of suspension or revocation of a license under this section may opt to appeal within thirty days of the receipt of the order to the Appellate Tribunal.
- (l) The licensee must apply for the cancellation of an issued apparatus license, if the reason(s) for the operation of apparatus license has ceased.

2.23 Renewal of apparatus licenses

- (a) Subject to subsection **(b)**, a licensee of an apparatus license, may, at any time within six months before the expiry of the apparatus license and within seven days after it expires, apply in writing to the Authority for the license to be renewed.
- (b) In case of an apparatus license issued under subsection **2.15(e) (h)** (an apparatus license covered by ICT service license), the renewal of an apparatus license will be under the terms of the ICT service license.
- (c) An application made pursuant to subsection **(a)** must be in an appropriate form approved by the Authority for that type of apparatus license.
- (d) When an application is made, the Authority may renew the license by issuing to the applicant a new apparatus license and the conditions of the new apparatus license need not be the necessarily same as those of the license that it replaces.
- (e) The Authority must not renew the license if:
 - (i) the license is affected by a spectrum re-allocation declaration under section **1.6**; and
 - (ii) the license is due to expire after the end of the re-allocation period for the spectrum re-allocation declaration.
- (f) If the Authority renews the license by issuing a new apparatus license and the new license is affected by a spectrum re-allocation declaration under section **1.6**, then the period specified in the new license for the purposes of subsection **2.17(b)** must end before the end of the re-allocation period for the spectrum re-allocation declaration.
- (g) In deciding whether to renew the license, the Authority:

- (i) must have regard to the same matters to which it must have regard under subsections **2.15(e)** in deciding whether to issue such a license; and
- (ii) may have regard to the same matters to which it may have regard under subsection **2.15(e)** (ix) in deciding whether to issue such a license; and
- (h) The new license comes into force, or shall be deemed to have come into force, immediately after the expiry of the license that it replaces.
- (i) If the Authority refuses to renew the license, or renews the license but not on the same conditions the Authority must give the licensee a written notice stating the fact and relevant reasons.
- (j) A licensee referred to under subsection (i) may, within the thirty days after receiving the written notice, make written representations to the Authority in respect of the refusal of renewal.
- (k) The Authority shall consider any written representations made under subsection (j) and shall inform the licensee within fifteen days of the receipt of the submission, of its decision on the matter.
- (l) The licensee, if aggrieved by the decision under subsection (k), may appeal against such decision of the Authority to the Appellate Tribunal within thirty days of the receipt of the information under subsection (k).

2.24 Transfer of apparatus licenses

- (a) Subject to subsection (c), a licensee of an apparatus license may, at any time before the license is due to expire, apply in writing to the Authority for the license to be transferred to another person.

- (b) The application must be in a form approved by the Authority and must be signed by both the licensee and the proposed transferee. The Authority may approve different forms for transfer of different types of apparatus license.
- (c) An apparatus license is permitted to be transferred, totally or partially, if:
 - (i) the apparatus license contains a condition allowing such transfer; and
 - (ii) the licensee is given written approval by the Authority, if requested by licensee in written notice; and
 - (iii) any changes to the license made in the course of the license transfer are recorded in the Register; and
 - (iv) an apparatus license transferring fee has been paid to the Authority under paragraph **5.5(h)(ii)**.
- (d) The transferred license:
 - (i) subject to section **2.22**, continues in force until the end of the period for which the license was issued to the initial licensee; and
 - (ii) subject to section **2.20**, continues on the same conditions as those which applied immediately before the transfer.
- (e) Any purported transfer which does not comply with this section shall be invalid and of no legal effect whatsoever. In the event of any such transfer taking place, whether *de jure* or *de facto*, the Authority shall have the power to suspend or revoke the license in accordance with section **2.22**.
- (f) Any person who is involved in effecting any purported transfer of a license other than in accordance with the terms of this section shall be guilty of the offence of forgery.

- (g) An apparatus license transferred in accordance with this section shall be deemed to be an apparatus license issued by the Authority under these Radio Rules.
- (h) An apparatus license that is exempt from payment of a spectrum utilization fee, under subsection **5.9(b)** is a non transferable license.

2.25 Registration of apparatus licenses

- (a) The Register is to contain the following information for each apparatus license:
 - (i) the licensee's name and postal address and other relevant contact details;
 - (ii) the date of issue and date of expiry of the license;
 - (ii) such details as the Authority determines, in writing, about the conditions of apparatus licenses;
 - (iv) such details as the Authority determines, in writing, about authorisations by licensees for other persons to operate radiocommunications apparatus under apparatus licenses;
 - (v) such details as the Authority determines, in writing, about radiocommunications apparatus that are operated under apparatus licenses; and
 - (vi) if, under section **1.6**, the license is affected by a spectrum re-allocation declaration—a note to that effect.
- (b) The Authority may include in the Register such other details about apparatus licenses as it thinks necessary or convenient for the purposes of these Radio Rules.
- (c) The Authority must, as soon as practicable, make the changes to the information in the Register about an apparatus license that the Authority considers are necessary

or convenient in order to take into account sections **2.20**, **2.21**, **2.22**, **2.23** and **2.24**.

Division Four: Class License

Relevant Sections:

2.26 Issuing class licenses

2.27 Issuing class licenses based on requests

2.28 Conditions of class licenses

2.29 Varying and revocation of class licenses

2.30 Registration of class licenses

2.26 Issuing class licenses

- (a) The Authority may, by a published notice, issue a class license that authorises any person:
 - (i) to operate a radiocommunications apparatus or device of a specified kind; or
 - (ii) to operate a radiocommunications apparatus or device for a specified purpose; or
 - (iii) to operate a radiocommunications apparatus or device of a specified kind for a specified purpose.
- (b) Operation of a radiocommunications apparatus or device is not authorised by a class license if it is not in accordance with the conditions of the license.
- (c) The Authority must not issue a class license that is inconsistent with the any relevant spectrum plan or any relevant frequency band plan.
- (d) A class license comes into force:
 - (i) on the day specified for the purpose in the notice published under subsection (a); or

- (ii) if no such day is specified in the notice—on the day on which the notice is published.

2.27 Issuing class licenses based on requests

- (a) A person who operates, or is proposing to operate, a radiocommunications apparatus or device may give to the Authority a written request for advice on whether operation of the apparatus or device is authorized under the class license specified in the request.
- (b) The request may be limited to advice on operation of the apparatus or device in the circumstances specified in the request.
- (c) The circumstances so specified may include the way in which the apparatus or device is operated.
- (d) The Authority is obliged to give to a person who has made a request pursuant to subsection (a) written advice on whether the Authority considers that the operation of the radiocommunications apparatus or device, as specified in the request, is authorised under the class license in question.
- (e) The advice may state that operation of the apparatus or device is authorised under the class license provided that the apparatus or device is operated in the circumstances specified in the advice.
- (f) The circumstances so specified may include the way in which the apparatus or device is operated.
- (g) If the advice states that the operation of the apparatus or device is authorised under the class license and the apparatus or device is operated only in accordance with the advice; neither the Authority nor any other authority may take any action against the person to whom the advice was given, during the period of five years commencing on the

day the advice was given, on the basis that operation of the apparatus or the device is not so authorised.

- (h) The radiocommunications apparatus or device that gains authorization under subsection (g) may also be covered by a general class license under section 2.26 after such authorization.

2.28 Conditions of class licenses

- (a) The Authority may include in a class license such conditions as it sees fit.
- (b) The conditions may, for example, include all or any of the following:
 - (i) a condition specifying the frequencies at which operation of radiocommunications apparatus or devices is authorised under the license;
 - (iii) a condition specifying other technical requirements about operation of radiocommunications apparatus or devices under the license;
 - (iv) a condition specifying the area within which operation of radiocommunications apparatus or devices is authorised under the license;
 - (v) a condition specifying the periods during which operation of radiocommunications apparatus or devices is authorised under the license;
 - (vi) a condition that any radiocommunications apparatus or device operated under the license must comply with all the standards applicable to it;
 - (vii) a condition that specifies a registration fee and registration, if applicable.

2.29 Varying and revocation of class licenses

- (a) Subject to subsection (c), the Authority may, by publishing a notice, vary a class license by:
 - (i) including one or more further conditions; or
 - (ii) revoking or varying any conditions of the license.
- (b) Subject to subsection (c), the Authority may, by publishing a notice, revoke a class license.
- (c) Before varying a class license, the Authority may publish a notice that:
 - (i) states the subject matter of the proposed variation; and
 - (ii) specifies a place at which copies of the license and of the proposed variation can be provided; and
 - (iii) invites interested persons to send representations to a given address about the proposed variation by a specified date that is at least thirty days after the date of publication of the notice.
- (d) Before revoking a class license, the Authority must publish a notice that:
 - (i) states that it proposes to revoke the license; and
 - (ii) specifies a place at which copies of the license may be provided; and
 - (iii) invites interested persons to send representations to a given address about the proposed revocation by a specified date that is at least thirty days after the date of publication of the notice.
- (e) The Authority must, before varying or revoking the license, give due consideration to any representations so made.
- (f) Failure to comply strictly with subsection (c) or (d) does not affect the validity of the notice, or the validity of the

variation or revocation of the class license, if the requirements of that subsection are substantially complied with.

- (g) Subsections (c), (d) and (e) do not apply to variation or revocation of a class license if the Authority is satisfied that the variation or revocation is a matter of urgency.

2.30 Registration of class licenses

- (a) The Register is to contain, for each class license, such details as the Authority determines, in writing, about class licenses.
- (b) The Authority may include in the Register such other details about class licenses as it thinks necessary or convenient for the purposes of this section.
- (c) The Authority must, as soon as practicable, make the changes to the information in the Register about a class license that the Authority considers are necessary or convenient in order to take into account section **2.29**.

Division Five: Amateur Radio

Relevant Sections:

- 2.31 Kinds of amateur license
- 2.32 Issuing amateur licenses
- 2.33 Overseas amateur licenses
- 2.34 Communication by an amateur station
- 2.35 Restrictions
- 2.36 Content of an amateur station license

2.31 Types of amateur license

- (a) Subject to subsection **(b)**, the Authority may issue an apparatus license from amateur type, under Division three of this chapter, and following kinds:
 - (i) Restricted;
 - (ii) General;
 - (iii) Novice.
- (b) The Authority must not issue to a person a certificate of proficiency of ‘Restricted’ kind unless the applicant has reached the minimum age sixteen and the qualification of the applicant is proven under section **2.21**:
 - (i) on principles of electronics and radiocommunications; and
 - (ii) on regulations of radio, specifically on those parts of the regulations relating to the safety of life.
- (c) The Authority must not issue to a person a certificate of proficiency of ‘General’ kind unless the applicant has

reached the minimum age sixteen and the qualification of the applicant is proven under section **2.21**:

- (i) on principles of electronics and radiocommunications; and
 - (ii) on regulations of an amateur station, specifically on those parts of the regulations relating to the safety of life; and
 - (iii) on the ability to correctly send and receive by ear, in Morse code, a message in mixed plain language and figures at a speed of ten words per minute; and
 - (iv) holding a valid 'Restricted' certificate of proficiency for at least one year.
- (d) The Authority must not issue to a person a certificate of proficiency of 'Novice' kind unless the applicant has reached the minimum age sixteen and the qualification of the applicant is proven under section **2.21**:
- (i) on principles of electronics and radiocommunications; and
 - (ii) on regulations of a Novice amateur station, specifically on those parts of the regulations relating to the safety of life; and
 - (iii) on the ability to correctly send and receive by ear, in Morse code, a message in mixed plain language and figures at a speed of five words per minute; and
 - (iv) holding a valid 'Restricted' certificate or an equivalent certificate of proficiency for at least one year.
- (e) The Authority may relax minimum age conditions in subsections (b), (c) and (d) to the age fourteen if:
- (i) legal responsibility is accepted in writing by one of the parents or legal guardian; and

- (ii) the Authority is satisfied that the person has acceptable capability.

2.32 Issuing amateur licenses

- (a) A person must not operate a radiocommunications apparatus in amateur service or in amateur-satellite service otherwise than as authorised by an amateur license of one of types specified in section **2.31**.
- (b) The Authority or the approved body, not later than sixty days prior to the qualifying examination, must cause to be published a notice setting out details:
 - (i) who is eligible to apply for the exam; and
 - (ii) how an eligible person could obtain the application form and how he or she may apply; and
 - (iii) the closing date by which applications must be submitted; and
 - (iv) how much the application fee is and to whom must be paid; and
 - (v) when and where it is planned to hold the examination; and
 - (vi) which specific reference materials will be used for drafting of exam; and
 - (vii) where the materials of paragraph (v) could be obtained or purchased; and
 - (viii) any other details that the Authority is satisfied are necessary.

Note – The application fee shall be in accordance with section **5.5**

- (c) The theoretical examination of qualification under subsection (b) must be comprised of multiple-choice questions with the duration not longer than ninety minutes.

- (d) If the Authority is satisfied that the applicant is a qualified operator under section 2.31, the Authority must:
 - (i) issue an apparatus license (in type of amateur license) in one of the kinds specified in section 2.31 and under the section 2.15 (Issuing apparatus licenses); and
 - (ii) assign a call sign from the schedule 6, Part IV to any amateur station; and
 - (iii) register the particulars of the license in the Register of the Authority.

2.33 Overseas amateur licenses

- (a) The Authority, by publishing a written notice, may revoke the application of this section anytime if he is satisfied it is necessary for a given period of time.
- (b) Subject to this section and with a valid amateur license issued by the Authority, the amateur station may be operated by a person who is non-resident and is visiting Bhutan from another country; and who
 - (i) holds an amateur license and call sign, issued by the administration of another country, that has been recognised by the Authority; or
 - (ii) holds an amateur qualification and call sign, issued by the administration of another country, that has been recognised by the Authority for the purpose of operating the amateur station in Bhutan.
- (c) The Authority may provide a list of recognized amateur licenses issued by administration of other countries from time to time.
- (d) If a person claims to operate an amateur station under this section, the person must meet all the relevant conditions.

Otherwise, their operation of an amateur station is unauthorised and will be covered by the Act.

- (f) A person mentioned in subsection (b) must produce the evidence, if that person is operating, or has operated an amateur station and is asked by an authorized official to produce evidence of the following:
 - (i) that the person holds, or held at the relevant time, an amateur license or amateur qualification of a type mentioned in subsection (b).
- (g) If the person does not produce the evidence under subsection (f), the person is not authorised to operate an amateur station under this section.
- (h) The person under subsection (b) must comply with similar obligations imposed for an amateur who is resident of Bhutan.

2.34 Communication by an amateur station

- (a) The licensee must communicate by an amateur station for intercommunications and solely for the purpose of:
 - (i) self-training in radiocommunications; or
 - (ii) technical investigations into radiocommunications; or
 - (iii) transmitting news and information services related to the operation of amateur stations, as a means of facilitating intercommunication; and
- (b) In the course of any transmission from an amateur station, the licensee must transmit the call sign of any station being called, or communicated with, followed by the call sign of the licensee's amateur station:
 - (i) at the beginning and end of the transmission; and

- (ii) for a transmission that lasts more than ten minutes — at least once during each period of ten minutes in the transmission (the ten minutes limit is extendable to thirty minutes in case of participation in emergency services); and
 - (iii) by voice (using the English language), by visual image or by an internationally recognised code.
- (c) The licensee is permitted to retransmit a transmission originating from another amateur station, only subject to the consent of the other licensee and transmit the other licensee's call sign at the beginning and the end of each transmission.
- (d) A log of the conducted operations must be managed in the station containing:
- (i) full name, ID, call sign, license number and address of a person who wants to start an emission before attempt; and
 - (ii) date and time frame during which a person operates amateur station; and
 - (iii) transmitter power and class of emission that used by a person.

2.35 Restrictions

- (a) The licensee must not:
- (i) communicate by an amateur station for financial gain;
or
 - (ii) transmit a message that is, or includes, an advertisement; or
 - (iii) transmit any form of entertainment.

- (b) The licensee must not solicit a message that is to be transmitted on behalf of a third party unless the message relates to a disaster.
- (c) The licensee must not transmit a message on behalf of a third party:
 - (i) enabling any person to obtain a financial gain or other reward, directly or indirectly; or
 - (ii) relating to the commercial or financial affairs of any person.
- (d) The licensee must not transmit messages to an amateur station in a foreign country if the Authority has published a notice to the effect that the government of that country objects to the transmission and reception of messages between amateur stations in that country and amateur stations outside that country.
- (e) The licensee must not operate an amateur station if its operation causes harmful interference to radiocommunications services.
- (f) The licensee must not cause a carrier wave to be emitted from an amateur station unless:
 - (i) the radio wave is subjected to intelligible modulation; or
 - (ii) the radio wave is emitted during a brief test or an adjustment.
- (g) Except for the control of an unattended amateur station, the licensee must not operate an amateur station to transmit signals that are encoded for the purpose of obscuring the meaning of the signals.

- (h) The licensee must not, whether manually or automatically, connect the station to a public telecommunications network such as the internet , unless:
 - (i) the licensee is a General or Novice amateur; and
 - (ii) the licensee has implemented a reasonable procedure to ensure that only licensed persons access the station for operation. In this case the licensee shall advise the person being connected that his or her transmissions may be overheard by other persons and connection shall be disconnected if there is no intention to proceed with the connection.
- (i) The licensee of an amateur station must not authorize another person to operate the station if the other person is not a qualified operator or qualified person of the correct type.
- (j) The licensee must not operate a restricted amateur station using a transmitter that has not been manufactured commercially.

2.36 Content of an amateur station license

- (a) A condition obliging the licensee to comply with Radio Rules and the Act.
- (b) Apparatus license type and amateur license kind.
- (c) Full name, ID, contact information, assigned call sign and photo of licensee.
- (d) The date on which license is issued and the date on which the license validity terminates under section **2.17**.
- (e) Serial number of the relevant Certificate and name of issuing body.

- (f) Technical conditions, based on Schedule 5 Part IV, including:
 - (i) permitted frequency bands; and
 - (ii) permitted emissions; and
 - (iii) permitted power ranges.
- (g) A condition specifying the permitted locations of operation of the amateur station. If the licensee operates in a location not specified in such condition then the licensee may only operate an amateur station at such location for a continuous period of four months.
- (h) A condition specifying the permitted antenna height and antenna type in a fixed location.
- (i) A condition obliging the licensee to meet following limits for spurious emissions:
 - (i) for frequencies less than 30 MHz — the lesser of $43 + 10 \log(P)$ dB and 50dB in which P is the peak envelope power in watts supplied to the antenna transmission line; and
 - (ii) for frequencies above 30 MHz — the lesser of $43 + 10 \log(P)$ dB and 70dB in which the P is the mean power in watts supplied to the antenna transmission line.

CHAPTER 3:

Permitting Relating to Radiocommunications

3.1 General

- (a) Outline of this Chapter:
 - (i) This chapter is separated into two divisions for seven types of permits. However, there is no limitation on the number of permit types that may be established by amendments to these Rules.
 - (ii) Division one deals with the Permitting Procedure.
 - (iii) Division two deals with various types of Permits.
- (b) For purpose of this chapter, a person is taken, to have an apparatus in his or her possession for the purpose of operation if it is in his or her possession, otherwise than for the purpose of supplying to another person, and can be operated by merely doing one or more of the following:
 - (i) connecting the apparatus to an electric power supply by means of an electric plug or other electric connection;
 - (ii) connecting a microphone to the apparatus by inserting a microphone plug into the device;
 - (iii) switching on the apparatus;
 - (iv) switching on any other equipment relevant to the operation of the apparatus;

- (v) adjusting settings by manipulating the external switches, dials or other controls of the apparatus;
- (vi) connecting the apparatus to an antenna.

Division One: Permitting Procedure

Relevant Sections:

- 3.2 Issuing a permit
- 3.3 Conditions of permits
- 3.4 Duration of permits
- 3.5 Cancelling permits
- 3.6 Transferring permits

3.2 Issuing a permit

- (a) A person may apply to the Authority, in a form approved by the Authority, for a permit under this Chapter for the purpose of:
 - (i) Possessing radiocommunications apparatus for supply; or
 - (ii) Possessing radiocommunications apparatus for export or re-export; or
 - (iii) Possessing and installing radiocommunications apparatus as a station for operation by a person who holds a valid amateur license issued by the Authority; or
 - (iv) Manufacturing radiocommunications apparatus in Bhutan; or
 - (v) Testing radiocommunications apparatus; or
 - (vi) Conducting experiments using radio waves for education or research; or

- (vii) Demonstrating radiocommunications apparatus; or
 - (viii) Any other reason for which the Authority determines the need for a permit by written notice,.
- (b) In deciding whether to issue a permit, the Authority must have regard to the protection of the health or safety of persons who:
 - (i) operate devices; or
 - (ii) work on devices; or
 - (iii) use services supplied by means of devices; or
 - (iv) are otherwise reasonably likely to be affected by the operation of the devices.
 - (c) A person applying for a permit under subsection (a) must pay the permit fee in accordance with section 5.6 to the Authority before the grant of permit.
 - (d) A person must not abuse a permit issued by the Authority under paragraphs (a)(vi), (a)(vii) and (a)(viii) for the purpose of operating radiocommunications apparatus.
 - (e) If the Authority refuses to issue the permit, it must give the person a written notice of the refusal, together with a statement of its reasons.

3.3 Conditions of permits

- (a) A permit is subject to the following conditions:
 - (i) a condition that a person must comply with these Radio Rules and the Act; and
 - (ii) any other conditions specified in the permit.
- (b) The Authority may, by written notice given to the person to whom the permit has been issued:
 - (i) add one or more further conditions to the permit; or

- (ii) vary or revoke any conditions that have already been imposed pursuant to subsection (a).

3.4 Duration of permits

- (a) A permit comes into force on the day on which it is issued.
- (b) A permit that authorises radio emissions:
 - (i) must specify an expiry date; and
 - (ii) subject to section 3.5, a permit remains in force until the end of that day.
- (c) Subject to section 3.5, a permit that does not authorise radio emissions remains in force until the end of the expiry date if an expiry date is specified.
- (d) The Authority may, by written notice to the holder of a permit, declare an expiry date for a permit.
- (e) If the operation of subsection (d) would result in the acquisition of property from a person the holder may make an appeal to the Appellate Tribunal, but not later than fifteen days from the date of notice receipt under subsection (d).
- (f) The Authority is liable to pay compensation of a reasonable amount to the person in respect of the acquisition, if the Appellate Tribunal reaches such decision under subsection (e).
- (g) The day specified in a notice under subsection (d) must be later than the day on which the notice was given to the holder.
- (h) The Authority may extend the duration of a permit declared in subsection (d), if the Authority is satisfied that such an extension is reasonable having received and examined a written request of the permit holder.

3.5 Cancelling permits

- (a) The Authority may, by written notice given to the holder of a permit, cancel the permit.
- (b) The notice must give the reasons for cancelling the permit.
- (c) In deciding whether to cancel a permit, the Authority:
 - (i) must have regard to all matters that it considers relevant; and
 - (ii) must have received and reviewed the records of the permit holder; and
 - (iii) may have regard to whether or not the holder of the permit or an agent of the holder has been convicted of an offence because of contravention of a condition of the permit.
- (d) The records of the activities conducted and maintained by a permit holder must be submitted to the Authority before the permit is cancelled.
- (e) The cancellation of a permit for the reason of contravention of permit conditions is reviewable by the Appellate Tribunal under the subsection **85(5)(b)** of the Act.

3.6 Transferring permits

Permits are not transferable.

Division Two: Permits

Relevant sections:

- 3.7 Permit for the possession of radiocommunications apparatus
- 3.8 Possession of non-permitted radiocommunications apparatus
- 3.9 Permit for the supply of radiocommunications apparatus
- 3.10 The supply of non-standard radiocommunications apparatus
- 3.11 Permit for the manufacture of radiocommunications apparatus
- 3.12 Permit for an amateur radiocommunications provider
- 3.13 Permit for a testing authority and certification body
- 3.14 Permit for research and educational experiments
- 3.15 Export permit
- 3.16 Permit for the demonstration of radiocommunications apparatus

3.7 Permit for the possession of radiocommunications apparatus

- (a) A person shall possess radiocommunications apparatus if the apparatus is standard and that person:
 - (i) holds a valid license issued by the Authority under subsection **2.13 (a)** and the apparatus is kept for the purpose of operation; or
 - (ii) holds a valid permit issued by the Authority for a purpose under the subsection **3.2(a)**.

- (b) Subject to subsection (c), a person is not entitled for a possession permit for a non-standard apparatus if the apparatus is for the purpose of operation.
- (c) Subject to subsection (d), a person must not cause a radio emission to be made by a transmitter that the person knows is a non-standard transmitter.
- (d) Without limiting subsection (b), the Authority may, in writing, issue to the person conditions under which his or her agents:
 - (i) to possess specified non-standard apparatus; and
 - (ii) to possess such apparatuses that make radio emissions.
- (e) A person does not contravene subsection (b) or (c) by causing a radio transmission to be made by a non-standard transmitter, or having a non-standard apparatus in his or her possession, in the reasonable belief that the emission or possession was necessary for the purpose of:
 - (i) securing the safety of a vessel, aircraft or space object that was in danger; or
 - (ii) dealing with an emergency involving a serious threat to the environment; or
 - (iii) dealing with an emergency involving risk of death of, or injury to, persons; or
 - (iv) dealing with an emergency involving risk of substantial loss of, or damage to, property.
- (f) If there is a written statement to prove that apparatus is intended to be used or exported solely outside Bhutan, a person does not contravene subsection (b) by having a non-standard apparatus in his or her possession.
- (g) The Authority may issue a permit to a person for possession of radiocommunications apparatus for a short time, not

being longer than three months, only for testing under the section **3.13**.

3.8 Possession of non-permitted radiocommunications apparatus

- (a) Where any radiocommunications apparatus is found in the possession of any person in contravention of a condition of a permit or the Act, the Authority may:
 - (i) cancel the permit under the section **3.5**; or
 - (ii) seal or alter such apparatus or any part thereof in order to prevent the use of that radiocommunications apparatus for the purpose of transmission or reception and re-issue to that person a permit; or
 - (iii) seize such apparatus, whether or not it is sealed pursuant to paragraph **(a)(ii)**, for disposal in terms of subsection **(b)**.
- (b) Radiocommunications apparatus seized under paragraph **(a)(iii)** shall be held by the Authority until:
 - (i) its possession is authorised in terms of Subsection **3.7(a)** or paragraph **(a)(ii)**; or
 - (ii) it is dealt with by the Appellate Tribunal or a Court of competent jurisdiction.

3.9 Permit for the of supply of radiocommunications apparatus

- (a) The Authority may permit a person, who applied in a form approved by the Authority, to supply radiocommunications apparatus under this section.
- (b) A permit issued for supply under this section does not include an export permit (under section **3.15**).

- (c) A permit issued under this section to a supplier, does not relieve the supplier from the requirement to obtain other necessary permissions in accordance with other regulations.
- (d) A supplier who has been granted a permit by the Authority under this section must not supply radiocommunications apparatus, for the purpose of operation in Bhutan to a person having:
 - (i) none of the licenses mentioned in subsection **2.2(a)**; or
 - (ii) no written permission of the Authority for such possession.
- (e) A person must not supply any radiocommunications apparatus, unless:
 - (i) he has an established and registered corporation in Bhutan; and
 - (ii) the supply of radiocommunications apparatus has been included in its legally authorised activities; and
 - (iii) he has an acceptable eligibility and relevant knowledge; and
 - (iv) has been granted a valid permit by the Authority.
- (f) Subsections (d) and (e) do not oblige a person who holds a license under subsection **2.2(a)**, to obtain a radiocommunications apparatus, having an approved standard, directly:
 - (i) from an overseas suppliers; or
 - (ii) from a local manufacturer.
- (g) A supplier who has been granted a permit by the Authority under this section must:

- (i) supply a requesting licensee only with radiocommunications apparatus authorised by the granted license; and
 - (ii) keep a written record of all radiocommunications apparatus supplied to licensee to whom he has made a supply; and
 - (iii) keep confidential the records maintained pursuant to paragraph (g)(ii) save that these may be disclosed to the Authority.
- (h) A person, who has been granted a supply permit by the Authority, is also responsible for the provision of a maintenance and repair service to a reasonable extent.

3.10 The supply of non-standard radiocommunications apparatus

- (a) A supplier who is granted a permit under this section, must not knowingly supply non-standard radiocommunications apparatus:
- (i) to any person unless the Authority has provided that person with a written permission; or
 - (ii) to any person except an authorised representative of Royal Bhutan Army, or Royal Bhutan Police, or Royal Bhutan Guard;
 - (iii) unless the supply is in the course of, or in relation to, trade or commerce between Bhutan and places outside Bhutan under subsection (b), subject to section 3.15.
- (b) If there is a written statement to prove that the apparatus is intended to be used or exported solely outside Bhutan, a person does not contravene subsection (a) by supplying non-standard apparatus.

- (c) Subject to providing the Authority with a written declaration, a person does not contravene subsection (a) by supplying non-standard apparatus for the purposes of modifying or altering it so that it would comply with all standards applicable to it at the time of the alteration or modification.
- (d) A person does not contravene subsection (a) by supplying non-standard apparatus if the apparatus was imported for the purposes of re-export.
- (e) Section **88** and Section **90** of the Act are applicable to a person who contravenes this section.

3.11 Permit for the manufacture of radiocommunications apparatus

- (a) The Authority may permit a person, who applied in a form approved by the Authority, to manufacture radiocommunications apparatus under this section;
- (b) A permit issued under this section to a manufacturer, does not relieve that person from the requirement to obtain other necessary permissions in accordance with other regulations.
- (c) A manufacturing permit issued by the Authority includes and covers also:
 - (i) a supply permit under section **3.9**; and
 - (ii) an export permit under section **3.15**.
- (d) A person must not manufacture any radiocommunications apparatus, unless:
 - (i) he has an established and registered corporation in Bhutan; and
 - (ii) the manufacture of radio communication apparatus has been included in its legally authorised activities; and

- (iii) he has an acceptable eligibility; and
 - (iv) has been granted a valid permit by the Authority.
- (e) For radiocommunications apparatus that is going to be operated in Bhutan, a manufacturer authorised under this section, must obtain the approval of the Authority that the manufactured radiocommunications apparatus complies with relevant standards or the class license.
- (f) Without limiting subsection (e), the Authority may permit a manufacturer to manufacture non-standard radiocommunications apparatus in relation to the subsection **3.10(a)(ii)**.
- (g) A licensee under subsection **2.2(a)** may manufacture licensed radiocommunications apparatus subject to the conditions of subsection (e).
- (h) A permit holder under this section must not deliver manufactured radiocommunications apparatus:
- (i) to a supplier who does not have a valid supply permit;
or
 - (ii) to an exporter who does not have a valid export permit;
or
 - (iii) to a person who does not have a valid license under subsection **2.2(a)**.
- (i) Section **88** and Section **90** of the Act are applicable to a person who contravenes this section.

Note – Manufacturing for the purpose of this part includes assembling of separate electronic and radio components to produce radiocommunications apparatus.

3.12 Permits for amateur radiocommunications providers

- (a) The Authority may issue a permit to a person, if he or she applied in a form approved by the Authority, to establish a fixed amateur station to provide amateur

radiocommunications for a person who holds an amateur license under section **2.32**.

- (b) A person who obtains a permit under subsection (a) must not operate amateur radiocommunications station unless:
 - (i) he or she obtains an apparatus license under section **2.15**; or
 - (ii) it is being operated for operational tests if authorized in the permit issued under subsection (a).
- (c) A permit issued under subsection (a) must include following conditions:
 - (i) operational frequencies; and
 - (ii) authorized emissions in each frequency; and
 - (iii) range of permitted radiation power; and
 - (iv) antenna type and height; and
 - (v) geographical coordinates of antenna; and
 - (vi) working hours; and
 - (vii) tariff ranges; and
- (d) In addition to the conditions included pursuant to subsection (c), a person authorized under subsection (a), must be responsible:
 - (i) for the implementation of conditions of section **2.19** (Conditions of apparatus licenses); and
 - (ii) for monitoring the consistent observance of operational procedures and conditions given in sections **2.33**, **2.34** and **2.35**.
- (e) A log of the operations conducted in the station established under subsection (a) must be maintained containing:
 - (i) the full name, ID, call sign, license number and address of a person; and

- (ii) date and time frame that a person operates amateur station; and
 - (iii) transmitter power and class of emission used by a person.
- (f) A permit issued under subsection (a), together with its obligations, must be kept in the amateur station in such a way that it is visible for the authorized officials of the Authority as well as the operators.
- (g) Under the subsections **45 (2) ©** of the Act, an authorized official of the Authority may enter an amateur station to:
- (i) examine and test any apparatus found on the station; or
 - (ii) require a permit holder to demonstrate compliance with the conditions on which the permit was granted; or
 - (iii) require a licensed operator to display his amateur certificate; or
 - (iv) investigate consistency and sufficiency of the log of activities under subsection (e).
- (h) A person operating under an amateur radiocommunications provider permit must pay a spectrum utilization fee as specified in section **5.10** of Part **III**.
- (i) The permit of a person who obtains an apparatus license under paragraph **3.12(b)(i)** must be cancelled by the Authority upon delivery of the apparatus license.

3.13 Permit for a testing authority and a certification body

- (a) The Authority may issue a permit to a person or association in Bhutan, if applied in a form approved by the Authority:

- (i) as a testing authority to test a radiocommunications apparatus or any other device that radiates radio waves for compliance with a given standard;
 - (ii) as a certification body for the certifying that radiocommunications apparatus or any other device that radiates radio waves complies with a given standard.
- (b) The Authority shall publish permits issued under the subsection(a).
- (c) A permit holder authorised under the subsection (a) must submit the table of testing rates together with enough details for the approval by the Authority, before conducting any test. The Authority must issue a written notice of approval or rejection within a reasonable time after receipt of the permit holder's submission..
- (d) After conducting any test:
 - (i) a written testing report, describing the status of apparatus compliance, must be created, signed and stamped and handed to the client; and
 - (ii) a copy of the report in (i) must be retained by the testing authority; and
 - (iii) unless otherwise required by the Authority, the radiocommunications apparatus must be returned to the client.
- (e) A permit holder authorised under the subsection (a) must take all practical measures to avoid causing harmful interference with the radiocommunications carried out under these Radio Rules during the conduct of an emission test (for example using of anechoic chamber or power attenuator).

3.14 Permit for research and educational experiments

- (a) The Authority may issue a permit to a person or association in Bhutan, if the application is made in a form approved by the Authority, for research and educational experiments on radiocommunications apparatus solely within the boundaries of the relevant educational establishment or research laboratory.
- (b) This section does not apply to anything done or omitted to be done by a member of the Royal Bhutan Army, or Royal Bhutan Police, or Royal Bhutan Guard, in the performance of his or her functions or duties the purpose of which relates to:
 - (i) research for purposes connected with defence; or
 - (ii) intelligence.
- (c) Under the subsection **3.2(c)** and section **3.3**, the Authority may impose some conditions for the purpose of achievement of an acceptable level of electromagnetic compatibility with the existing spectrum utilization and environmental or human safety.
- (d) A permit holder under the subsection (a) must take all practical measures to avoid causing harmful interference with the radiocommunications carried out under these Radio Rules during the conduct of an emission test (for example using of anechoic chamber or power attenuator).

3.15 Export permit

- (a) The Authority may issue a permit to a person or association in Bhutan, if applied for in a form approved by the Authority, for export of radiocommunications apparatus.
- (b) Without limiting section **3.3**, the Authority may set a condition in an export permit issued under this section that:

- (i) the permit holder must comply with a given standard; and
 - (ii) the permit holder must not export a class of radiocommunications apparatus for a specified overseas market.
- (c) The permit holder must keep a list of exported radiocommunications apparatus and the details of the recipient (name and address) for the purpose of probable enquiry by the Authority.

3.16 Permit for the demonstration of radiocommunications apparatus

- (a) The Authority may issue a permit to a person or association in Bhutan, if applied for in a form approved by the Authority, for demonstrating radiocommunications apparatus in an exhibition centre.
- (b) A permit holder under this section shall not cause the radiocommunications apparatus to make an emission during the demonstration, except under a relevant operational license issued under these Radio Rules.
- (c) The validity of a permit issued under this section must be revoked at the end of the demonstration.
- (d) For the duration of the demonstration, a permit issued under this section covers a supply permit under section 3.9 and same requirements and conditions must be met for such supply.

CHAPTER 4: Standards, Enforcement and Penalties

4.1 Outline of this Chapter

(a) Outline of this Chapter:

- (i) This chapter contains three divisions and deals with implementation of rules, observing conditions and monitoring of compliance of activities of licensees authorised by these Radio Rules.
- (ii) Division one deals with standards.
- (iii) Division two deals with enforcement.
- (iv) Division three deals with penalties

Division One: Standards

Relevant sections:

- 4.2 Standardization of radiocommunications apparatus
- 4.3 Non-standard radiocommunications apparatus
- 4.4 Use of labels
- 4.5 Sale of devices without labels and label abuse
- 4.6 Prohibited devices

4.2 Standardization of radiocommunications apparatus

- (a) Under the section **68** of the Act, the Authority may, by written instrument:
 - (i) make or adopt standards for the performance of specified radiocommunications apparatus; or
 - (ii) make or adopt standards for the maximum permitted level of radio emissions from devices other than radiocommunications from radiocommunications apparatus within specified parts of the spectrum; or
 - (iii) specify types of apparatus using radio waves the use of which shall not require a standard; or
 - (iv) specify circumstances in which the use of radiocommunications apparatus shall require such a standard.
- (b) Standards are to consist only of such requirements as are necessary or suitable for:
 - (i) containing interference to radiocommunications; or
 - (ii) containing interference to any uses or functions of devices; or

- (iii) establishing for the operation of radiocommunications apparatus, an adequate level of immunity from electromagnetic disturbance caused by the use of devices (including other radiocommunications apparatus); or
 - (iv) establishing for the uses or functions of devices, an adequate level of immunity from electromagnetic disturbances caused by the operation of radiocommunications transmitters; or
 - (v) establishing for the uses or functions of devices, an adequate level of immunity from electromagnetic disturbances caused by the use of other devices; or
 - (vi) protecting the health or safety of persons who operate, or work on radiocommunications apparatus; or
 - (vii) protecting the health or safety of persons who use services supplied by means of radiocommunications apparatus or are reasonably likely to be affected by the operation of radiocommunications apparatus.
- (c) The Authority shall publish sufficient particulars of a standard made under this section in such a manner as to be identifiable using:
- (i) mere reference to a number; or
 - (ii) its technical text; or
 - (iii) any other unique identifier.
- (d) Before making or adopting a standard, the Authority may, if it is satisfied that it is necessary, publish details of the proposed standard so that all interested parties, including associations, may submit their comments on the proposed standard
- (e) A standard takes effect:

- (i) if the instrument making the standard specifies a day for the purpose, on that day; or
- (ii) otherwise—on the day on which a copy of the instrument was published.

Note- A device for the purpose of this section includes ISM equipments.

4.3 Non-standard radiocommunications apparatus

- (a) Possession of non-standard radiocommunications apparatus is permitted only under the subsections **3.7(d)**, **3.7(e)**, **3.7(f)** and **3.13(a)**.
- (b) Emergency operation of non-standard transmitters is permitted only for the purposes specified under subsection **3.7(e)**.

4.4 Affixing of labels

- (a) The Authority may, by publishing a written notice, require any person who manufactures or imports a device included in a specified class of devices to affix to each such device a label that indicates whether the device meets the requirements of the standards or class license specified in the notice.
- (b) The notice in subsection (a) may require a manufacturer or importer of a device included in a class specified in the notice to conduct quality assurance programs, or to guarantee compliance with such a quality assurance. Having considered the results of the quality assurance, the Authority may require the affixing of a label to the relevant device.
- (c) The label must be in the form specified by the Authority in the notice in subsection (a) and the method of affixing the label must be as specified in the instrument.

- (d) The Authority may state in the notice under subsection (a) that the requirement does not apply to an imported device if there is affixed to that device a label of a specified kind that indicates that the device complies with requirements of:
 - (i) a specified law of a foreign country; or
 - (ii) a specified instrument in force under a law of a foreign country; or
 - (iii) a specified convention, treaty or international agreement; or
 - (iv) a specified instrument in force under a specified convention, treaty or international agreement.
- (e) The notice in subsection (a) may determine conditions that must be met before a label can be affixed including (but not limited to):
 - (i) a condition that, before a manufacturer or importer affixes the label, the manufacturer or importer must have obtained a written statement from a certification body certifying that the device complies with the standard or class license; and
 - (ii) a requirement that, before a manufacturer or importer affixes the label, the device must have been tested by a recognised testing authority for compliance with the standard or class license; and
 - (iii) a requirement that, before a manufacturer or importer affixes the label, the manufacturer or importer must make a written declaration in relation to the device, being a declaration in a form specified in the notice.

Note 1— Recognised testing authority and certification body are defined by section 3.13.

- (f) The notice in subsection (a) may also specify requirements that must be met after a label has been affixed to a device,

including a requirement that a manufacturer or importer retain for inspection, for the period specified in the notice:

- (i) records of the conducted quality assurance programs and obtained results; and
 - (ii) a declaration, or a copy of the declaration, made as mentioned in paragraph (e)(iii).
- (g) For the purposes of this Rule, a label is taken to be affixed to a thing if:
- (i) the label is affixed to the thing; or
 - (ii) the label is woven in, impressed on, worked into or annexed to the thing; or
 - (iii) the label is affixed to a container, covering, package, case, box or other thing in or with which the first-mentioned thing is supplied; or
 - (iv) the label is affixed to, or incorporated in, an instruction or other document that accompanies the first-mentioned thing.

Note 2 – A device for the purpose of this section includes radiocommunications apparatus and ISM equipments.

4.5 Sale of devices without a label and label abuse

- (a) If a person has manufactured or imported a device and knows that a label in a particular form must be affixed, the person must not supply the device to the national market unless a label in that form has been affixed to the device.
- (b) If a person knows that he or she must satisfy requirements that have been specified under subsection 4.4(e) before affixing a particular label to a device, the person must not affix the label or a label that purports to be such a label before he or she satisfies those requirements.

- (c) Subsections **(a)** and **(b)** do not apply if the person has a reasonable excuse.
- (d) A person must not use in relation to a business, trade, profession or occupation, or affix as a trade mark or otherwise, to goods imported, manufactured, produced, sold, offered for sale or let on hire, or use in relation to:
 - (i) goods or services; or
 - (ii) the promotion, by any means, of supply or use of goods or services;
 - (iii) a protected symbol, or
 - (iv) a symbol so closely resembling a protected symbol as to be likely to be mistaken for it.
- (e) A reference in the subsection **(d)** to a protected symbol is a reference to a symbol the design of which is set out in a written determination made by the Authority for the purpose to indicate compliance by a device with:
 - (i) any applicable standards; and
 - (ii) any applicable class licenses.

Note – A device for the purpose of this section includes radiocommunications apparatus and ISM equipments.

4.6 Prohibited devices

- (a) Subject to subsection **(b)**, the Authority may, by publishing a notice, declare that operation or supply, or possession for the purpose of operation or supply, of a specified device is prohibited for the reasons set out in the notice.
- (b) Before making the declaration under subsection **(a)**, the Authority may, by publishing a notice specify the reasons of prohibition of a device and invite interested persons to make written representations to a given address about the

proposed declaration within such period, as is specified in the notice.

- (c) The Authority must give due consideration to any representations made under subsection (b).
- (d) The prohibited device must be a device that is designed to have an adverse effect on radiocommunications or would be likely substantially to:
 - (i) interfere with radiocommunications; or
 - (ii) disrupt or disturb radiocommunications in any other way; or
- (e) without limiting subsection (d), the prohibited device must be a device that is a radiocommunications transmitter, or a radiocommunications receiver, that would be reasonably likely to have an adverse effect on the health or safety of persons who:
 - (i) operate the device; or
 - (ii) work on the device; or
 - (iii) use services supplied by means of the device; or
 - (iv) are reasonably likely to be affected by the operation of the device.

Note – A device for the purpose of this section includes radiocommunications apparatus and ISM equipments.

Division Two: Enforcement

Relevant sections:

4.7 Intentional interference

4.8 Transmission of false information

4.9 Inspectors

4.10 Identity cards

4.11 Inspection

4.7 Intentional interference

- (a) Subject to subsection (d), a person is guilty of an offence if he or she operates a transmitter or uses any other apparatus employing radio waves in a way likely to interfere with any radiocommunications. Depending on the gravity of the offence, a Court may impose an additional fine of up to two thousand days of the daily minimum national wage rate.
- (b) Subject to subsection (d), a person is guilty of an offence if he or she, without the Authority's written permission, operates a transmitter in a way that the person knows is likely to interfere substantially with radiocommunications carried on by or on behalf of an organisation specified in the regulations that is:
 - (i) a fire fighting, civil defence or rescue organisation; or
 - (ii) an organisation providing ambulance services; or
 - (iii) any other organisation the sole or principal purpose of which is to secure the safety of persons during an emergency; or

- (iv) the police force.
- (c) Subject to subsection (d), a person must not do any act or thing that the person knows is likely to interfere or disrupt substantially with radiocommunications if the interference, disruption or disturbance is likely to endanger the safety of another person or to cause another person to suffer or incur substantial loss or damage.
- (d) A person does not contravene subsection (a), (b) and (c) by doing anything that the person reasonably believes was necessary for the purpose of:
 - (i) securing the safety of a vessel, aircraft or space object that was in danger; or
 - (ii) dealing with an emergency involving a serious threat to the environment; or
 - (iii) dealing with an emergency involving risk of death of, or injury to, persons; or
 - (iv) dealing with an emergency involving risk of substantial loss of, or substantial damage to, property.

4.8 Transmission of false information

- (a) Under the section **189(1)** of the Act, a person must not, in a transmission made by a transmitter operated by the person, make a statement, or convey information, with intention of inducing a false belief that:
 - (i) the person or any other person is dying, has died, is being injured or has been injured, is in distress; or
 - (ii) property is being, or has been, destroyed or damaged; or
 - (iii) there is a risk of the occurrence of an event referred to in paragraph (i) or (ii).

4.9 Inspectors

- (a) Subject to subsection (b), a person is an inspector for the purposes of this Rule if the person is:
 - (i) a officer appointed by the Authority, by written instrument, to be an inspector; or
 - (ii) an officer included in a class of officers appointed by the Authority, by written instrument that is published, to be inspectors for the purposes of this Rule; or
 - (iii) a member (other than a special member) of the Police force of a Territory.
- (b) An instrument under paragraph (a)(i) or (a)(ii) may specify provisions of this Rule in relation to which appointments made by the instrument are to apply, and any such limitation has effect accordingly.

4.10 Identity cards

- (a) The Authority may cause an identity card to be issued to an inspector, other than a member of a police force, in a form approved by the Authority by written instrument.
- (b) A person who ceases to be an inspector must, as soon as is practicable, return his or her identity card to the Authority.
- (c) Failure to comply with subsection (b) is an offence of strict liability.

4.11 Inspection

- (a) If the Authority is of the opinion that any apparatus does not comply with the requirements applicable to it under a license granted in accordance with subsection 2.2(a), and the operation of the apparatus is:
 - (i) likely to cause; or

(ii) causing

harmful interference with any radiocommunications used for any purpose, including for safety of life service or for any purpose on which the safety of any person or of any vessel, aircraft, vehicle or spacecraft may depend; the Authority may serve a notice, not less than twentyfour hours in advance, demanding access for the inspection of the premises, vehicle, vessel or aircraft, in order to form such an opinion.

- (b) Under the subsection (a), the Authority may serve the person with a written notice requiring that, after a date fixed by the notice, the apparatus shall not be used, whether by the person to whom the notice is given or otherwise, or, if the Authority thinks fit so to frame the notice, shall only be used in such manner, at such times and in such circumstances as may be specified in the notice.
- (c) If there is, after service of a notice demanding inspection under subsection (a), a refusal to give access for inspection, the Authority at its discretion may take action under section **4.16** of this Chapter.
- (d) A notice under subsection (a) may be revoked or modified by a subsequent notice in writing by the Authority served on the person in whose possession the apparatus then is.
- (e) Where a notice under subsection (d) has the effect of imposing any additional restrictions on the use of the apparatus, the provisions of subsection (a) relating to the coming into force of notices shall apply in relation to the notice under subsection (d).
- (f) Any person who, knowing that a notice of the Authority under this section is in force with respect to any apparatus, uses that apparatus, or causes or permits it to be used, in contravention of the notice, shall be guilty of an offence,

which shall be a petty misdemeanour. Depending on the gravity of the offence, a Court may impose an additional fine of up to one thousand days of the daily minimum national wage rate.

- (g) An inspector may:
- (i) require a person whom he or she has reasonable grounds to suspect has done an act in violation of section **2.14**, to produce for inspection the license, authority, certificate or permit or evidence of its existence and contents; and
 - (ii) require the holder of a license whom he or she has reasonable grounds to suspect has given an authority under section **2.14**, to produce a copy of that authority for inspection; and
 - (iii) require a person whom he or she has reasonable grounds to suspect has recorded particulars relating to the supply or delivery of a receiver or transmitter in a document under subsection **3.9(d)**, **3.10(a)** and **3.11(h)** to produce that document for inspection; and
 - (vi) require a person who has been required to retain records by a notice under subsection **4.4(a)** for a specified period to produce such records at any time during that period.
- (h) Subject to subsection (i), if an inspector has reasonable grounds to believe that a transmitter has been, is being or may be operated so as to cause interference to radiocommunications, the inspector may, for the purpose of investigating the interference or risk of interference, direct a person to operate the transmitter.
- (i) An inspector must not direct that a transmitter be operated if that operation is likely to endanger the safety of a person or cause damage to property.

- (j) The operation of a transmitter in accordance with a direction does not give rise to an offence under this Act.

Note – The term ‘use’ for the purpose of this section means possession and operation of radiocommunications apparatus and ISM equipments.

Division Three: Penalties

4.12 General penalties

- (a) For the avoidance of doubt, where any provision of these Rules or of any order made hereunder specifies the class of crime for an offence, the person shall be liable to punishment for that class of crime in accordance with the Penal Code, as well as any additional penalty which may be imposed by a Court in accordance with the Act.
- (b) Any person who contravenes any provision of the Act or of the Regulations or of these Rules or of any order made hereunder for which no penalty is specifically provided shall be guilty of an offence, which shall be a petty misdemeanour.
- (c) Notwithstanding any provisions of these Rules, the civil liability of a licensee shall not exceed two-thirds of the amount of his average gross annual income for the last five years prior to the year in which the offence for which he is convicted was committed.
- (d) As provided by subsection **80(6)** of the Act, any person who contravenes any provision of these Radio Rules or causes or permits any radio communication station or radio communication apparatus to be used in contravention of these Radio Rules, shall be guilty of an offence, which shall be a misdemeanour. Depending on the gravity of crime, a Court may impose an additional fine of up to one thousand days of the daily minimum national wage rate.

4.13 Penalties and legal proceedings

- (a) Any person committing any offence under these Rules shall, if the offence is a contravention of section **2.2(a)**, and consists of either:
- (i) the installation or operation, otherwise than in accordance with a license, of any apparatus not designed or adapted for emission (as opposed to reception); or
 - (ii) a contravention, in relation to any such apparatus, of any provisions of Chapter 2 of this Rule;
- be guilty and liable for penalty as per section 80 (6) of the Act;
- (b) Any person committing an offence under these Rules shall, if the offence is under Chapter **3**, Divisions **one** and **two** of Chapter **4** and consists in the use, or in the causing or permitting of the use, or in the selling, offering or advertising for letting on hire, of apparatus in contravention of a notice of the Authority be guilty and liable for penalty as per section 80 (6) of the Act.
- (c) Where a person is convicted of:
- (i) an offence under these Rules and the Act consisting in any contravention of any of the provisions in **2.2(a)** in relation to any radio communication station or any radio communication apparatus or in the use of any apparatus for the purpose of interfering with any radio communication; or
 - (ii) any offence under Chapter **3**, Divisions **one** and **two** of Chapter **4**;
- the Court may, in addition to any other penalty, order all or any (of the apparatus of the station, as the case may be) of the apparatus in connection with which the offence was

committed, to be forfeited by the Authority. The power conferred by virtue of paragraph (a) above does not apply to radio communication apparatus not designed or adapted for emission (as opposed to reception).

- (d) Apparatus may be ordered to be forfeited under this section notwithstanding that it is not the property of the person by whom the offence giving rise to the forfeiture was committed, and any apparatus ordered to be forfeited under this section may be disposed of, as per Court order, by the Authority in such manner as it thinks fit.
- (e) The Court by which any apparatus is ordered to be forfeited under this Section may also order the person not to dispose of that apparatus except by delivering it up to the Authority within forty-eight hours of the forfeiture order.
- (f) Subject to subsection (g), any person who in the course of business:
 - (i) sells or offers for sale otherwise than for export any radiocommunications apparatus which does not comply with the technical requirements applicable to it under these Rules; or
 - (ii) lets on hire or offers to let on hire any such radiocommunications apparatus; or
 - (iii) indicates (whether by display of the radiocommunications apparatus or by any form of advertisement) his willingness to do anything in relation to any such apparatus that falls within paragraph (i) or (ii) above;

shall be guilty of an offence, which shall be a petty misdemeanour. Depending on the gravity of the offence, a Court may impose an additional fine of up to one thousand days of the daily minimum national wage rate.

- (g) Any person who tampers with or breaks an official Authority seal affixed to any radio apparatus, where such a seal is affixed in accordance with these Rules, is guilty of an offence and may be liable to pay a fine of up to 25 price units only or to face imprisonment for a term of six months or both.

Note – Price unit defined in subsection **5.2(f)**

CHAPTER 5: Pricing

5.1 Outline of this Chapter

- (a) Outline of this Chapter:
 - (i) General
 - (ii) Spectrum access fee
 - (iii) Registration fee
 - (iv) Application fee
 - (v) Permit fee
 - (vi) Interference resolution fee
 - (vii) International coordination fee
 - (viii) Exemption from fees
 - (ix) Spectrum utilization fee
 - (x) Spectrum utilization fee collection procedure

5.2 General

- (a) The following fees are payable to the Authority under these Radio Rules:
 - (i) Spectrum access fee;
 - (ii) Application fee;
 - (iii) Spectrum utilization fee;
 - (iv) Permit fee;
 - (v) Certification fee;
 - (vi) Examination fee;

- (vii) Registration fee;
 - (viii) Interference resolution fee;
 - (ix) International coordination fee;
 - (x) Penalties;
- (b) The Authority shall be permitted to utilize the collected fees under the Radio Rules, to such amount as determined by the Authority from time to time but not less than ten percent;
 - (c) The Authority may exempt an international treaty organisation from the fees payable under these Rule, based on a bilateral agreement, for example on condition of similar exemption in the signatory country(s);
 - (d) A person is obliged to provide the Authority with the written information which is required for the calculation of fees payable under these Rules. In the event that the person fails to do so the Authority is permitted to use such other information to calculate the fees.
 - (e) The Authority may review and revise the contents of the tables and fees under these Rules on an annual basis.
 - (f) A price unit is equal to the 45 ngultrum (BTN);
 - (g) All charges relating to a unit price and rate will affect only new applications and renewal of expired licenses, or reinstatement of revoked licenses.

5.3 Spectrum access fee

- (a) The Authority may allocate parts of radio frequency spectrum under the sections **2.4** and **2.5**.
- (b) The Authority may, by written instrument, make determinations:
 - (i) fixing spectrum access fees payable by licensees for issuing spectrum licenses; and

- (ii) specifying the times when spectrum access fees are payable.

5.4 Registration fee

- (a) A licensee is obliged to pay all the expenses of international coordination and registration of an assigned frequency by the international bodies, for example by the ITU, based on international tariffs through a written instrument describing the payable fees, if the Authority is satisfied such registration is mandatory for international coordination and recognition.
- (b) The Authority may require a person to pay a registration fee for use of radiocommunications apparatus under a class license under paragraph **2.28(b)(vii)** of the amount published in the notice under the paragraph **2.26(a)**.
- (c) A person has to pay the registration fee equal to the amount published in the notice under the paragraph **2.26(a)**, for the renewal of registration of a class license made under the paragraph **2.28(b)(vii)** if the valid duration of the class license is limited under the paragraph **2.28(b)(v)**.
- (d) A fee paid under this section is not refundable.

5.5 Application fee

- (a) An application fee must be paid to the Authority prior to the application for:
 - (i) a spectrum license;
 - (ii) an apparatus license;
 - (iii) the renewal of a valid spectrum or apparatus license;
 - (iv) the modification of a valid spectrum or apparatus license, except its duration;

- (v) a permit;
 - (vi) a qualification;
 - (vii) duplication of a permit or an apparatus license or certificate;
 - (ix) the transfer of a license
- (b) A person who applies for:
- (i) a new spectrum license;
 - (ii) the renewal of a valid spectrum license; or
 - (iii) the modification of a valid spectrum license
- must pay the Authority prior to the application, an application fee equal to the amount payable for obtaining a new apparatus license for one station utilizing all radiofrequency channels from the allocated spectrum having the minimum channel spacing.
- (c) A person who applies for:
- (i) the renewal; or
 - (ii) the modification; or
 - (iii) the transfer
- of a valid apparatus license must pay the Authority prior to the application, an application fee equal to the amount payable for obtaining a new apparatus license for one station utilizing all radiofrequency channels from the allocated spectrum having the minimum channel spacing.
- (d) The application fee for obtaining an apparatus license to utilize a transmitting or receiving radio frequency channel in a station is given in Table **4.2.1**, Schedule **4**, Part **IV**.
- (e) The application fee for obtaining a permit is given in Table **4.2.2**, Schedule **4**, Part **IV**.

- (f) If a permit, an apparatus license or certificate issued to a person under these Radio Rules has been lost or destroyed, the holder of the original document may apply to the Authority for a duplicate. An amount of two price units for each page shall be paid by the applicant.
- (g) The application fee for the qualification of an operator must be determined by the Authority or by the body approved under subsection **2.21(d)** by the Authority.
- (h) The fee for:
 - (i) the transfer of a spectrum license under subsection **2.11(b)(iv)**; or
 - (ii) an apparatus license transfer under subsection **2.24(c)(iv)**

is equal to the amount payable for a new apparatus license for one station utilizing all licensed radiofrequency channels having the minimum channel spacing, or, 15 price units, whichever is higher.

- (i) A fee paid under this section is not refundable.

Note – Price unit defined in subsection **5.2(f)**

5.6 Permit fee

- (a) The Authority may specify a permit fee to be paid to the Authority before the delivery of permit under the subsection **3.2(d)**.
- (b) The permit fee is given in Table **4.6**, Schedule **4**, Part **IV**.
- (c) A fee paid under this section is not refundable.

5.7 Interference resolution fee

- (a) A licensee under this Rule may submit a written interference complaint report, in a format specified by the

Authority, to request the Authority to resolve a harmful interference.

- (b) The Authority may require a licensee to compensate the expenses incurred by the Authority for processing a false interference complaint report submitted by the licensee which has not been proven by technical investigation in the field.
- (c) The expenses mentioned in subsection (b) include the transportation, salary of staff on mission and spectrum monitoring equipment use for the duration of mission.
- (d) Based on the information within the submitted interference complaint report by a licensee and prior to conducting a mission for a technical investigation of the alleged interference in the field, the Authority must consider the registered information to identify the interference source remotely.
- (e) A fee paid under this section is not refundable.

Note – A technical investigation in this section means measurement of technical specifications and finding direction or finding position of interfering emission or any other technical investigation using professional equipments.

5.8 International coordination fee

- (a) An applicant for a spectrum license or an apparatus license which requires the implementation of an international coordination procedure by means of:
 - (i) face to face meetings and discussions in an overseas country; or
 - (ii) the filing of satellite networks by the ITU, based on a cost recovery method; or
 - (iii) coordination calculations made by an expert consultant company

has to pay all expenses of the Authority, based on receipts of the amounts paid to the third parties, including travel and accommodation pursuant to paragraph (i).

- (b) Before undertaking any activity under this section, the Authority must satisfy itself that it is adopting the most cost-effective approach.
- (c) A fee paid under this section is not refundable.

5.9 Exemption from payment of fees

- (a) A person using the following equipment or frequencies is exempt from the payment of a spectrum utilization fee:
 - (i) any ISM equipment;
 - (ii) any radiocommunications apparatus covered by a class license issued by the Authority under these Rules;
 - (iii) any radio frequency channel specified in Table 4.5, Schedule 4, Part IV.
- (b) Without limiting subsection (a), the Authority may confer exemption from subsection 5.10(a), pursuant to Section 80(4)(b) of the Act, to organizations using radio frequency channels:
 - (i) for the purpose of providing emergency services to the public in case of disaster and emergency; and
 - (ii) that have no inter-organizational usage for the conduct of normal activities of exempted organization; and
 - (iii) are not used for the sale of radiocommunications.
- (c) The Authority must publish any decision made under subsection (b), specifying reasons.
- (d) A person authorised by a permit granted under section 3.11 (Permits for the manufacture of radiocommunications apparatus) is exempt from the payment of a spectrum

utilization fee under section **5.10** for the testing of any item new radiocommunications apparatus for a period of up to 90 days.

- (e) A person authorised by a permit granted under section **3.13** (Permits for a testing authority and a certification body) is exempt from the payment of a spectrum utilization fee under section **5.10** for the testing of any radiocommunications apparatus provided that he complies with subsection **3.13(e)**.
- (f) A person authorised by a permit granted under section **3.14** (Permit for research and educational experiments) is exempt from the payment of a spectrum utilization fee under section **5.10** for testing of any radiocommunications apparatus provided that he complies with subsection **3.14(d)**.

5.10 Spectrum utilization fee

- (a) Any person holding:
 - (i) a valid spectrum license, or
 - (ii) a valid apparatus license, or
 - (iii) a valid amateur radiocommunications provider permitunder these Rules is obliged to pay the Authority annually a spectrum utilization fee in accordance with the methodology of this section.
- (b) The spectrum utilization fee for the first year must be paid to the Authority prior to the delivery of a spectrum license or an apparatus license.
- (c) The elements of the spectrum utilization fee calculation model are:
 - (i) Multiplicand of assigned radio frequency (RF) channel M_f , as defined in subsection (d); and

- (ii) Area multiplicand M_{ARA} , as specified in column 3 of Table 4.3, Schedule 4, Part IV; and
 - (iii) ICT multiplicand M_{ICT} as specified in column 4 of Table 4.3, Schedule 4, Part IV; and
 - (iv) Application multiplicand under any frequency band tabulated in column 4 of Table 4.4.1, Schedule 4, Part IV.
- (d) The multiplicand of paragraph (c)(i) M_f is equal to the biggest of:
- (i) Ratio of occupied bandwidth of the assigned radio frequency channel $B_{Assigned\ channel}$ (in kHz) to the given minimum channel spacing X_f in relevant frequency raster (in kHz) in column 3 of Table 4.4.1, Schedule 4, Part IV rose to the power of 0.25 (i.e. $M_f = (B_{Assigned\ channel} / X_f)^{0.25}$); or
 - (ii) one (i.e. $M_f = 1$).
- (e) The reference for the selection of the multiplicands (c)(ii) and (c)(iii) for calculation of spectrum utilization fee is the location of installation or usage of relevant station.
- (f) The annual spectrum utilization fee, in price units, for the radio service-applications governed by column 1 of Table 4.4.1, Schedule 4, Part IV is equal to multiplication of all 'Y' – marked multiplicands of column 5 of Table 4.4.1, Schedule 4, Part IV.

5.11 Spectrum utilization fee collection procedure

- (a) Subject to subsection (b), the Authority must calculate the spectrum utilization fee and send an invoice to the address of the holder of an apparatus license for the year one month prior to the expiration of the license.

- (b) The licensee must pay a spectrum utilization fee not later than one month after the expiration of the license.
- (c) Failing to comply with subsection (b), the licensee shall pay the penalty of Nu.50/day.
- (d) The licensee must give the Authority written notice of any change in the postal address used for subsection (a).
- (e) The:
 - (i) failure of a licensee to comply with subsection (c) or subsection **2.22(I)**; or
 - (ii) any disagreement about the invoice submitted under subsection (a)does not remove or affect the payment deadline under subsection (b).
- (f) In the event that the licensee fails to make a payment under subsection (b) and (c), the Authority must:
 - (i) order the licensee to cease forthwith the utilization of the relevant spectrum by licensed radiocommunications apparatus; and
 - (ii) the license will be cancelled on expiry of the penalty period.
- (g) The procedure for collecting payment of a spectrum utilization fee for a spectrum license shall be:
 - (i) as specified in the license issued under the subsection **2.6(h)**; or
 - (ii) in accordance with subsections (a) to (f) of this section, if not provided for in the spectrum license.

END of Part **III**