



GUIDANCE ON THE LICENSING REGIME UNDER THE COMMUNICATIONS ACT, 2009

2017 REVISION

ECS 19/2017

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1 INTRODUCTION TO THE LICENSING GUIDELINES

1.1 Introduction

The Utilities Regulation and Competition Authority (URCA) hereby revises its Licensing Guidelines ECS 15/2009 document published September 1, 2009 and issues this Revised Licensing Guidelines consequential to URCA's internal review of the operation of the licensing regime since it was established in September, 2009.

The Revised Licensing Guidelines ECS 19/2017 should be read in conjunction with the Communications Act, 2009, licence terms and conditions, and any related regulatory or other measure that URCA may issue from time to time.

The Revised Licensing Guidelines ECS 19/2017 now replaces the existing Licensing Guidelines ECS 15/2009.

1.2 Commencement Date of the Revised Licensing Guidelines

The commencement date for the implementation of the Revised Licensing Guidelines is 18 December 2017.

URCA believes that the period from the publication of the Revised Licensing Guidelines to its commencement will allow the electronic communications sector (ECS) adequate time to become aware of the requirements under the Revised Guidelines leading up to full commencement. URCA considers that advanced notification of the commencement of the Revised Guidelines is necessary to give stakeholders the opportunity to prepare for the changes established under the Revised Guidelines.

All matters related to licensing in the ECS provided for under the existing Licensing Guidelines will automatically transition (grandfathered) and be treated with by URCA under the Revised Licensing Guidelines from the above stated commencement date.

1.3 Key changes to the Guidelines The substantive changes to the Revised Licensing Guidelines are in relation to class licences and the payment of regulatory fees by licensees. The other notable change to the Revised Licensing Guidelines endeavours to align the language of the guidelines with the current licensing regime.

The Revised Licensing Guidelines now clarifies that a person who submits an application to URCA to establish a network or provide an electronic communications service under a class operating licence will be registered by URCA and issued the applicable Certificate of Registration. A person

who submits an application to URCA to use spectrum under a class spectrum licence will be registered by URCA and issued the applicable Certificate of Registration. The terms and conditions for both types of class licences remain unchanged and are available on the URCA website.

The Revised Licensing Guidelines also clarifies that the payment of all applicable regulatory fees for the first year of the licence, are to be made upon the issuance of a licence or Certificate of Registration by URCA to the licensee.

Finally, amendments to the language of the Revised Licensing Guidelines have been made where necessary to ensure its text is aligned with the current licensing regime. For example, term references to “Registrable Class Licence” or “Non-Registrable Class Licence” have been deleted and substituted with “Class Licence Requiring Registration” or “Class Licence Not Requiring Registration”, respectively.

1.4 What is the purpose of the Guidelines?

Any person that provides an electronic communications service or establishes, maintains or operates an electronic communications network (including any such network that requires spectrum, such as a radio station) is regulated under the Communications Act, 2009 (Comms Act).

These guidelines are intended to inform interested persons about the licensing regime under the Comms Act, the different types of licences, how to apply for a licence, the payment of fees and how licences may be amended or revoked.

These guidelines outline the key features of the licensing regime that are likely to be of interest to any person desirous of carrying out a regulated activity. These guidelines seek to provide transparency, fairness and non-discrimination in respect of the licensing process, but are not intended to be comprehensive restatements of the legal provisions of the Comms Act or any other legislation. They do not limit the rights and obligations of persons under the Comms Act or any other legislation. These guidelines demonstrate URCA’s general thinking regarding the licensing regime established and implemented by URCA under the Comms Act.

URCA will continue to review the operation of the licensing regime and may publish updated guidelines from time to time. If you have any comments on these guidelines, please let us know. All comments should be addressed to URCA at info@urcabahamas.bs. ***Interested persons are reminded that should refer directly to the legislation and the conditions of their licence(s) and if necessary, seek legal advice in respect of the legal effect of any regulatory provision or requirement under the Comms Act.***

1.5 The structure of the Guidelines

These guidelines set out the process to be followed by interested persons with regard to applying for a licence, renewing a licence, payment of fees and how licences may be varied, suspended or revoked.

Any person that is applying for a licence or has been issued a licence under the Comms Act should be familiar with these guidelines

1.6 Who to contact for additional information?

For further information on any matter referred to in these guidelines, please visit URCA's website at www.urcabahamas.bs, or contact URCA directly via telephone at 396-5200; email at info@urcabahamas.bs, fax to (242) 393-0153 or in person at URCA's offices at Frederick House, Frederick Street, P. O. Box N-4860, Nassau, Bahamas.

2 OVERVIEW OF THE LICENSING FRAMEWORK

This section provides an overview of the licensing framework, including: how networks and services (including spectrum) are licensed; what licences are available; and the key features of the licences.

The provisions of the Comms Act provide for the creation and issuance by URCA of **operating licences** and **spectrum licences**. Operating licences are required for the establishment, maintenance and operation of an electronic communications network and provision of carriage services (with or without the use of spectrum), while spectrum licences authorize the use of specified radio frequency spectrum bands.

Although operating licences and spectrum licences are different, there are a number of common principles followed by URCA in relation to spectrum licences and operating licences (in many cases, licensees will have both spectrum and operating licences). ***Therefore, throughout this document the term “licence” refers to both “operating licences” and “spectrum licences” unless expressly specified otherwise.***

2.1 What are the objectives of the licensing framework?

The overarching purpose of the Comms Act is the achievement of the electronic communications policy objectives. These guidelines, being made pursuant to the Comms Act, are also designed to further those objectives, which are set out in full in section 4 of the Comms Act, and include:

- enhancing the efficiency of the electronic communications sector and the productivity of the economy. Local businesses and the national economy have a growing dependence on electronic communications. The regulatory regime should promote an efficient sector that would deliver consequential benefits to the economy;
- promoting investment and innovation in electronic communications networks and services;
- encouraging, promoting and enforcing sustainable competition;
- promoting the optimal use of state assets, including radio spectrum. State assets, such as spectrum, are finite and must be managed effectively;
- promoting affordable access to high quality networks and carriage services in all regions of The Bahamas;
- maintaining public safety and security;
- contributing to the protection of personal privacy;
- limiting public nuisance through electronic communications;
- limiting any adverse impact of networks and carriage services on the environment; and
- promoting availability of a wide range of content services which are of a high quality.

2.2 What is licensed?

URCA licenses activities carried out in the electronic communications sector (ECS), or deem them exempt from the licensing provisions, based on the provisions of the Comms Act. In addition, URCA may, subject to its powers granted by the Comms Act, regulate non-licensable activities which are undertaken within the ECS through regulations and codes of practice, or through the implementation of standards, such as technical standards.

Which activities are licensable?

URCA will either licence or exempt from licensing the establishment, maintenance and operation of a network, or provision of a carriage service, including by use of any radio spectrum [see section 16(1) Comms Act].

A **network** is, in summary, a transmission system for the conveyance of signals, including associated apparatus, equipment, facilities, software and stored data [see section 2 Comms Act for a full definition].

A **carriage service** is any service consisting in whole or in part of the conveyance of signals by means of a network, except in so far as it is a content service, including the provision of ancillary services to the conveyance of signals and conditional access or other related services to enable a customer to access a content service [see section 2 Comms Act].

The use of **radio spectrum**, which is managed by URCA in accordance with the Comms Act [see Part V Comms Act].

Any person that undertakes a licensable activity in The Bahamas will require a licence unless either that person or the relevant activity is exempt. See section 2.5.3 below for further information on exemptions.

2.3 What is not licensed?

The definition of a carriage service excludes “*content services*” (although it includes the provision of ancillary services that enable a customer to access a content service). Developing and/or providing the content (such as television programmes or music) transmitted via a cable channel or radio station is not an electronic communications service under the Comms Act and therefore is not a licensable activity by URCA. However, the transmission of television programmes through cable constitutes the establishment, maintenance and operation of a network, and the delivery

of those programmes over that network constitutes the provision of a carriage service, and therefore requires a licence.

A person who does not operate a cable television network but wishes to distribute television programmes over a cable channel may enter a commercial agreement with a licensed cable television network operator/service provider. However, any person who provides an audiovisual media service in The Bahamas, whether that service is required to be licensed or not, is subject to any applicable Codes of Practice issued by URCA under Part IX of the Comms Act.

It should also be noted that the operation of a radio or television station broadcast over the air, is not considered to constitute the establishment, maintenance or operation of a network and therefore does not require an operating licence. However, as such stations utilize spectrum the operator will require a spectrum licence for the relevant spectrum bands.

Other non-licensable activities covered by the Comms Act include, amongst other things, type approval of low power communications devices [see section 83 Comms Act] and the distribution of unsolicited messages [see section 47 Comms Act]. Although these activities are not licensed, URCA may issue codes of practice or regulations and take enforcement action for non-compliance. Non-licensable activities are not considered further within this guidance note.

2.4 What is the current licence structure?

Broadly, there are two types of licensable activity under the Comms Act. URCA may issue **operating licences** relating to the operating and electronic communications networks and providing services. URCA may also issue **spectrum licences** authorizing the use of radio spectrum.

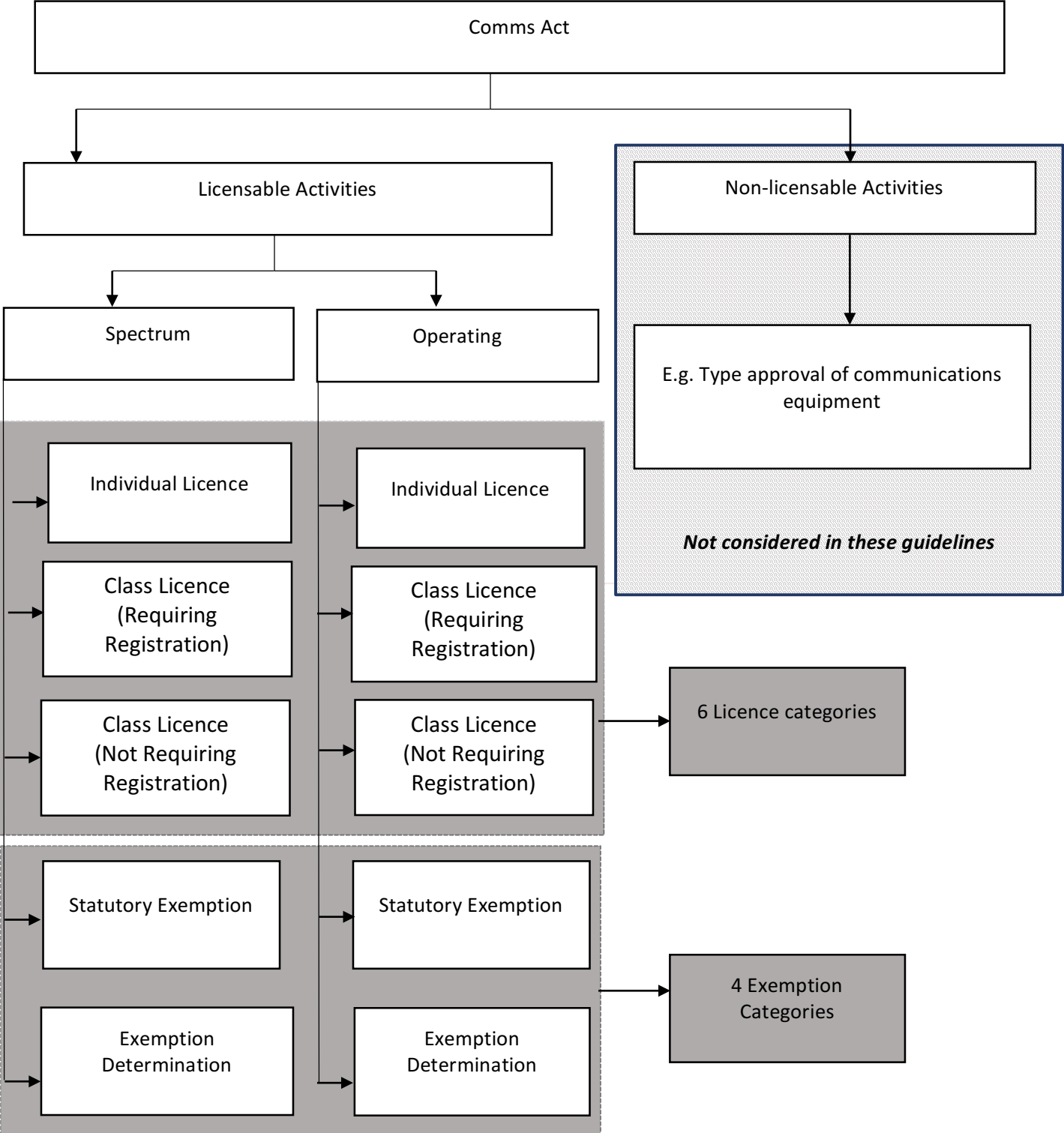
An **operating licence** will authorise the licensee to offer those services or operate the network that is specified in the licence but will not give the licensee any authority to use radio spectrum.

A **spectrum licence** only gives the licensee permission to use specified frequencies in a particular band in the radio spectrum. It does not give the licensee the right to provide electronic communications services or operate an electronic communications network.

Therefore, some licensees will require both a spectrum licence and an operating licence. For example, an operator that provides cellular mobile services will require (at least) an individual spectrum licence to ensure that it has exclusive use of the necessary frequency allotment, and an individual operating licence in respect of its cellular mobile network and the services delivered by means of that network.

URCA has three methods by which it authorises licensable activities (whether operating or spectrum): individual licences, class licences (which may or may not require registration), and exemptions.

Figure 1:



As illustrated in Figure 1, URCA's licensing framework comprises six licence categories and four exemption categories. Persons carrying out activities in the ECS will usually need to have either or both types of licence, or exemption.

2.5 Methods of Authorisation

The features of each authorization method mentioned above are set out below. These descriptions apply to both types of licensable activities (spectrum and operating). Section 3.1 explains how URCA will determine which type of licence is appropriate for a particular electronic communications network or service.

2.5.1 Individual licences

URCA has the power to issue individual licences under sections 19 and 35 of the Comms Act. Under section 20(4) of the Comms Act, licence conditions may not unfairly discriminate between licensees and therefore individual licences for a specific type of network or service will be in a standard form to the greatest extent possible.

It may be necessary, however, to have specific conditions in a licence where a licensee has special rights or obligations. This will be the case if a licensee offering a service or network has been determined to have SMP under section 39 of the Comms Act (or presumed to have SMP under section 116 Comms Act), designated as a universal service provider under section 42 (or Schedule 5) of the Comms Act, or where the licensee has exclusive use of specific assignments of scarce valuable radio spectrum which attract specific obligations.

URCA issues individual licences for those activities that require a greater degree of regulatory intervention or monitoring, such as the provision of a public electronic communications network, or where exclusive rights are granted (e.g. for the exclusive use of spectrum in a specified territory for a radio station).

2.5.2 Class licences

URCA may issue class licences, rather than individual licences, where it is necessary to impose conditions relating to the operation of electronic communications networks or services but all licensees offering that network or service will be subject to the same conditions and there are no special reasons requiring that an individual licence be issued. The licence conditions for the class licences that have been issued by URCA are published on URCA's website.

URCA will also maintain a copy of all class licences currently in force at its office for inspection by the public in accordance with section 10 of the URCA Act. Licensees will not be provided with a copy of the class licence conditions except on request and subject to the payment of the applicable administrative charge is paid. A class licence authorizes any

person to operate an electronic communications network or provide electronic communications services, or to use the spectrum subject to the licence, provided that person complies with all conditions of the class licence.

Class licences may or may not require registration. If a class licence **requires registration**, no person may provide the relevant services, operate the relevant network or use the class licensed spectrum, until they have been effectively registered by URCA in accordance with section 23 of the Comms Act. The registration procedure is set out at section 3 of these guidelines.

If a class licence **does not require registration**, any person may provide the electronic communications services or operate a network under that licence without applying to URCA for registration. Such persons are permitted to provide the services, operate the network, or utilize the class licensed spectrum, provided that they comply with the conditions set out in the class licence, which are published on URCA’s website and available for inspection at URCA’s office.

It is important to note that a person that operates under a class licence, whether or not registration is required, is a “licensee” for the purposes of the Comms Act.

2.5.3 Exemptions

Under the Comms Act, certain activities or persons may be exempt from the requirement to be licenced by URCA. Exemptions may either be **statutory exemptions** as specified in section 17(1) of the Comms Act, or **non-statutory exemptions**, established by a determination issued by URCA under section 17(4) or 35(a) of the Comms Act.

A person may operate under an exemption provided that such person does not breach the limitations specified in the exemption.

Table 1 below provides a comparative overview of the various forms of licences and exemptions.

Table 1 - Comparison of Licence Types

Licence	Application criteria	Licence conditions	Liability to pay annual fees
Exemption	Not applicable	None	No
Class licence not requiring registration	No need to apply for the licence	Published on URCA’s website	No

Licence	Application criteria	Licence conditions	Liability to pay annual fees
Class licence requiring registration	<p>Prospective licensees must submit a registration form to URCA along with the required documents as specified in the form;</p> <p>Licensees must meet the registration criteria, which includes compliance with other legal obligations (e.g. maintenance and up to date payments in respect of a business licence, if appropriate); and</p> <p>There is deemed approval of an application for registration unless URCA objects within 45 days.</p>	Published on URCA's website	Yes
Individual licence	<p>Prospective licensees must submit an application form to URCA along with the required documents as specified in the application form;</p> <p>Licensees must:</p> <ul style="list-style-type: none"> - be legal entities incorporated in The Bahamas - ensure that their administration and management is conducted in The Bahamas - be fit and proper to provide the service or network - have sufficient intention, financial strength, and resources to meet their obligations under the Comms Act [s.26(3) Comms Act] <p>URCA may impose other requirements in the application form</p> <p>In the case of operating licence, the licence may apply to any notified companies in the licensee's group of companies (not just the named licensee) [s.21 Comms Act]</p>	Specified in individual licences and published on URCA's website	Yes

2.6 Who can hold a licence (e.g. natural persons, corporations)?

Any person may hold a **class licence** in The Bahamas, regardless of where they are based. A “person” includes any natural person, public body or body of persons, whether incorporated or unincorporated. There are no restrictions under the Comms Act that would prohibit any person from holding a class licence.

Only persons duly incorporated in The Bahamas may hold an **Individual Operating Licence**. Therefore, a natural person cannot hold an individual operating licence directly. Such natural person will have to incorporate a company or other legal entity in The Bahamas in order to be issued an individual operating licence by URCA through that legal entity.

Further guidance on the qualification criteria for licensees is included in section 3.4 below, which sets out the licence application process.

2.7 Individual operating licences issued to companies within a group

Individual operating licences will specify the name of the person to which the licence has been issued (the “named licensee”). Unless URCA is satisfied that there are specific and compelling reasons to do so, URCA will not grant separate individual operating licences to subsidiary undertakings of a named licensee. However, such subsidiary undertakings once notified to URCA in accordance with section 21 of the Comms Act, will become licensees under the individual operating licence issued to the named licensee, and will be authorized to offer networks or provide services under that licence.

The term “subsidiary undertaking” refers to any subsidiary company of a licensee and, where that subsidiary company is itself a parent company, any subsidiary undertakings of that company. “Parent company” and “subsidiary company” have the meanings defined in the Companies Act¹. A parent company is a company that owns at least 50% of the outstanding voting shares of each class or series of shares in another company. A subsidiary company is a company of which at least 50% of its outstanding voting shares of each class or series of shares is owned by another company.

Companies operating under a single individual operating licence are all licensees under that licence, and are jointly and severally liable for the payment of fees and compliance with all licence conditions.

Accordingly, where multiple companies in a group of companies will carry out licensable activities under the Comms Act, the parent of the group (or at least the company highest in the company chain that will be undertaking licensable activities) should apply for the individual operating

¹ Companies Act, Chapter 308, Statute Laws of The Bahamas.

licence, and identify in its application those subsidiary undertakings that will need to be covered by the licence.

If the named licensee wishes to extend the scope of the individual operating licence to other subsidiary undertakings, it must notify URCA accordingly under section 21 of the Comms Act. The notification will become effective fourteen days after it is received by URCA unless URCA issues an order stating that the subsidiary undertaking cannot be included in the individual licence.

For emphasis, the parent company of the group of companies should apply for a single individual operating licence rather than a different individual operating licence for each company that would provide electronic communications networks or services. Under section 21(3) of the Comms Act, URCA may refuse to grant an individual operating licence if another company higher in the chain of companies has an individual operating licence.

In unusual circumstances, URCA may issue an individual operating licence to a subsidiary undertaking in a group of companies where another company in that group already has a licence. This may be justified if there are compelling reasons for keeping the businesses distinct or it can be demonstrated that a subsidiary undertaking is not under the control of its parent company.

2.8 Is there a limit to the number of licences available?

Under section 23(6) of the Comms Act, URCA may not limit the number of persons that may register under a **class licence** that URCA has issued.

There is no general limit on the number of **individual licences** that can be issued by URCA. Nevertheless, in certain circumstances, URCA may restrict the number of individual licences that may be granted for any particular type of network, service or spectrum band. There are two circumstances in particular that may lead to a limitation on the number of licences:

- The number of licences to be issued may be restricted by the limited availability of scarce resources. Spectrum, in particular, is a scarce resource and therefore there may be limitations on the number of **individual spectrum licences** issued in particular bands, or within specific geographic areas.
- Second, there may be ongoing exclusive rights that were granted prior to the Comms Act coming into force. URCA will not grant licences to other licensees before the exclusivity periods have expired. The Electronic Communications Sector Policy, as published by the Government, provides further information on exclusivity rights and periods granted to any operator in the electronic communications sector.

2.9 What is the duration of a licence?

The duration of a licence is the period from when the licence is issued until it expires. Licences may terminate earlier than their expiry date if they are revoked by URCA or surrendered by the

licensee in accordance with the terms and conditions of the licence or the Comms Act (see sections 9 and 10 below for further details). The duration of a licence will be specified in the licence, and will generally be consistent with the following.

2.9.1 Individual operating licence

Pursuant to section 26(7) of the Comms Act, the duration of an individual operating licence must be no less than five years. URCA's standard individual operating licence has a duration of fifteen (15) years. A licensee may apply to URCA for its licence to be renewed by submitting a renewal notice to URCA no later than one year before the licence is due to expire. The renewal process is set out in more detail in section 6 below.

2.9.2 Individual spectrum licence

Under section 26(7) of the Comms Act, the duration of an individual spectrum licence must also be no less than five years, unless the licence is intended for temporary use or for testing new technology. The duration of individual spectrum licences granted by URCA will generally vary between one month and fifteen (15) years, depending upon, a variety of factors including but not limited to:

- The intended use of the spectrum;
- The scarcity of the spectrum;
- The expected level of investment and the duration URCA considers appropriate having regard to the need for the licensee to recover its investment; and,
- Any specific requests made by the licensee.

2.9.3 Class operating licence requiring registration

A **class operating licence requiring registration** itself will generally be of indefinite duration, and will continue in force unless and until revoked by URCA in accordance with the Comms Act.

Once a person is registered as a licensee under a class operating licence requiring registration, URCA does not generally require such licensees to re-apply for or to renew their registration periodically.

Therefore, for most class operating licences requiring registration, unless specifically stated otherwise in the terms of the licence, a licensee's registration under a class operating licence requiring registration shall continue in force unless and until the licensee is de-registered by URCA, or the licence itself is revoked by URCA in accordance with the Comms Act.

URCA may de-register a licensee under a class operating licence requiring registration at the licensee's request, or where the licensee breaches the Comms Act or the conditions of its licence. Such breaches may include, but are not limited to, failure to submit its annual declaration of no material change (see section 5.3 below) or other information required under the Comms Act, failure to pay fees, or failure to operate its network or provide services in accordance with the conditions of the class licence.

2.9.4 Class operating licence not requiring registration

In the case of a **class operating licence not requiring registration**, URCA cannot revoke the licence in respect of specific licensees, but may revoke the licence itself, thereby effectively revoking it in respect of all licensees that benefit from that class licence. Further information on revocation of class licences and licensees' annual obligations is set out in section 5.2 below.

2.9.5 Class spectrum licence requiring registration

A **class spectrum licence requiring registration** itself will generally be of indefinite duration, and will continue in force unless and until revoked by URCA in accordance with the Comms Act.

Save for certain specific class licences (e.g. licences for Amateur Radio Services), URCA does not generally require persons registered as licensees under a class spectrum licence requiring registration to re-apply for or to renew their registration periodically. Where registration for a class spectrum licence requiring registration is not indefinite, the period of validity of the registration will be indicated on the Certificate of Registration, and the registration will end upon the expiry of that period unless duly renewed. In such cases, URCA will generally afford the licensee the option to register for a period of either one (1) year, three (3) years or five (5) years.

For registration without a specified period, a licensee's registration under a class spectrum licence requiring registration shall continue in force unless and until the licensee is de-registered by URCA, or the licence itself is revoked by URCA, in accordance with the Comms Act.

URCA may de-register a licensee under a class spectrum licence requiring registration at the licensee's request, or where the licensee breaches the Comms Act or the conditions of its licence. Such breaches may include, but are not limited to, failure to submit its annual declaration of no material change (see section 5.3 below) or other information required under the Comms Act, failure to pay fees, or failure to utilize the licensed spectrum in accordance with the conditions of the class licence.

2.10 What is the geographical scope of a licence?

A licence may contain restrictions relating to the geographic scope of the licence. This means that there may be territorial restrictions on where the licensee may exercise his or her rights under the licence.

2.10.1 Operating licences

Operating licences and **exemptions** from operating licences will not usually have territorial restrictions. Licensees will typically have the right to provide electronic communications services nationally, throughout the Commonwealth of The Bahamas.

2.10.2 Spectrum licences

Individual spectrum licences may either be national in scope, meaning that the licensee may use the licensed spectrum anywhere within the Commonwealth of The Bahamas and need not apply to URCA each time it wishes to use spectrum in a different location, or may specify the geographical territory (e.g. island(s) or areas) within which the spectrum may be used.

If included in a licence, geographic restrictions may relate to the location of base stations, along with other conditions to ensure that the signals are contained within the licensed territory. Such limitations to the geographic scope would follow the natural boundaries of each island in the Commonwealth of The Bahamas. Therefore, each island would be considered as a defined territory or service area and the spectrum licence would contain conditions that restrict spectrum emissions to the named island or islands. For example, a licensee issued an individual spectrum licence to use spectrum for FM radio broadcast in New Providence is not permitted to broadcast any geographic location outside New Providence, and must take steps to ensure that his broadcast does not extend outside the permitted territory. Should the licensee wish to broadcast outside its defined territory, the licensee must apply to URCA for a licence to use the spectrum in another geographical territory.

These geographic restrictions and limitations are intended to ensure that the spectrum is used effectively and efficiently throughout the Commonwealth of The Bahamas, without causing harmful interference to other lawful transmissions.

Certain individual spectrum licences may include roll-out obligations in relation to the geographic scope of the licence. These obligations require the licensee to deploy its services through the use of the licensed spectrum throughout the territory specified in the licence over specified time periods. URCA may include roll-out obligations when granting licences for scarce valuable spectrum to ensure that the spectrum is used in accordance with the policy objectives of the Comms Act and for the benefit of the people

of The Bahamas.

URCA may require a spectrum licensee to vacate licensed spectrum with or without compensation in furtherance of the electronic communications policy objectives, and in accordance with sections 35 and 36 of the Comms Act.

Class Spectrum licences requiring registration will in most cases include conditions to avoid harmful interference to services provided by other operators or used by other persons. Depending on the spectrum granted under the class, there may be restrictions limiting the geographic scope of the operations and the provision of associated services. The extent of those limitations will be determined by URCA, on a case-by-case basis.

Class Spectrum licences not requiring registration and spectrum exemptions will have restrictions limiting use of the spectrum (or the provision of services using that spectrum) to a specific geographic location.

3 LICENCE APPLICATION PROCEDURE

3.1 Introduction

Any person who provides an electronic communications service or operate an electronic communications network or utilize spectrum must have an individual or class operating and/or a spectrum licence (requiring registration or not requiring registration), unless that person or the activities being undertaking fall within a valid exemption. The types of licences and exemptions that can be issued by URCA are set out in section 2.5 above.

This section 3.1 sets out the core legal principles and policies used by URCA when assessing whether an individual licence, a class (requiring registration or not requiring registration) licence or an exemption would be appropriate for a licensable activity.

Section 3.2 below guides potential licensees on what type of *operating* licence they would require.

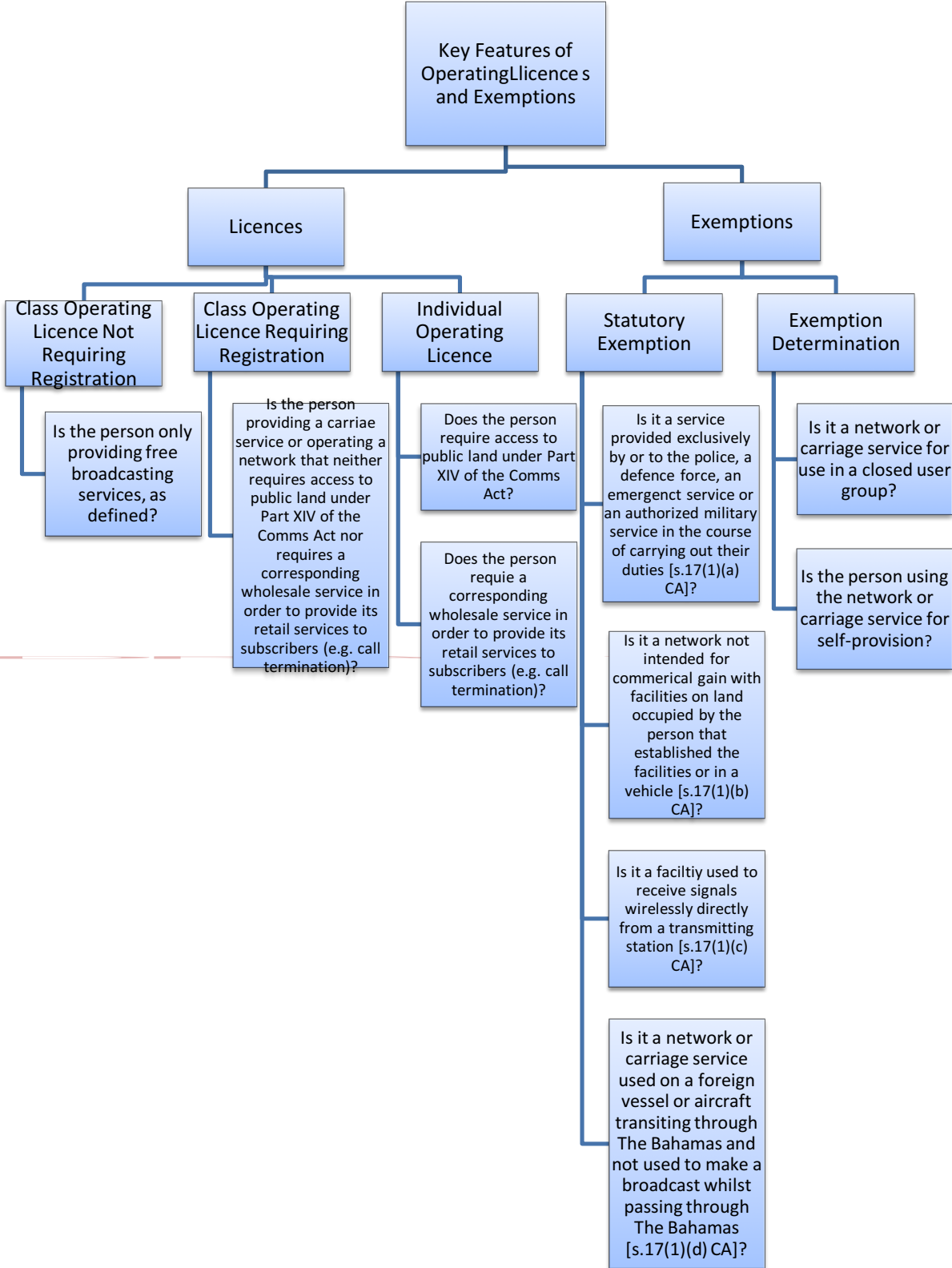
Section 3.3 below guides potential licensees on what type of *spectrum* licence they would require.

3.2 Types of operating licences and exemptions

Persons that wish to provide an electronic communications service must have one of the following licences or fall under one of the following exemptions (as well as having any necessary spectrum licence or fall under a spectrum exemption):

- an individual operating licence;
- class operating licence requiring registration ;
- class operating licence not requiring registration;
- a statutory operating exemption under section 17(1) of the Comms Act;
- an operating exemption determined under section 17(1)(d) of the Comms Act

The key features of each type of operating licence and exemption are summarized below:



3.2.1 Individual operating licence

A licensee requires an individual operating licence if it needs to exercise the power to access public land under Part XIV of the Comms Act or if the licensee provides a retail service to subscribers that requires a corresponding wholesale service in order to provide that retail service.

By way of example, any operator that wishes to roll out network infrastructure across public land (including the Bahamas' sea-bed) or who provides call termination will require an individual operating licence.

3.2.2 Class operating licence

To date, URCA has issued **class operating licences not requiring registration** for the following networks/services:

- Broadcasting services, provided free of charge to viewers, listeners and/or subscribers [*Final Determination On: Class Licences, Exemptions and Types of Fees – ECS 24/2009*]. Persons providing services falling entirely within any of the above descriptions do not need to apply for an individual licence, nor would they need to register with URCA. It should be noted that licensees must comply with the specific terms and conditions of the licence, which for radio and television broadcasters include the requirement to comply with the Content Code² and where the services is provided over the air using spectrum, the appropriate individual spectrum licence.

To date, URCA has issued **class operating licences requiring registration** for which a person will have the right to provide any carriage service, and the right to establish, maintain and operate one or more networks within, into, from and through The Bahamas but within certain restrictions (e.g. public internet services) [*Final Determination On: Class Licences, Exemptions and Types of Fees – ECS 24/2009*].

Generally, a person who provides services in the ECS who does not fall under an exemption or the class licence not requiring registration, and who do not require an individual operating licence for any of the reasons stated above, will require a class operating licence requiring registration. For example, many internet service providers not offering call termination require registration under a class licence requiring registration.

A person wishing to operate a network or provide services under a class operating licence requiring registration must register with URCA by completing and submitting the relevant form to URCA, including all required information and paying the registration fee, in accordance with the process set out in section 3.4 below.

²Code Of Practice For Content Regulation – ECS 06/2012 (as amended from time to time).

3.2.3 Exemptions

Persons will be exempt from the requirement to obtain an operating licence if they fall within one of the statutory exemptions, or an exemption determination. Statutory exemptions are those set out in section 17(1) of the Comms Act (as qualified by subsection 17(2) and (3)).

Without prejudice to the overriding provisions of section 17 of the Comms Act, the statutory exemptions are further described as follows:

- First, operators that provide services on their own land that are not for commercial gain will be exempt. This is a statutory exemption which may include, for example, hotels that provide internet access to guests. Although they may charge a nominal fee for access to the internet, internet access is generally ancillary to their primary profit-making activities and therefore URCA considers that in most cases they should be exempt. This is a fact-based test and therefore it may be that over time a licensee moves out of the exempt category. For example, if the hotel charged users for internet access on a wider scale to the general public, in addition to offering it to guests, then hotels may be considered to be offering internet services for commercial gain and, therefore, require a class licence requiring registration.
- Second, under the terms of an **exemption determination**, operators that **self-provide** should be exempt from the requirement for an operating licence. Self-provision means that the operator uses a network or service that it sets up. The network cannot be used to connect to a public network or for commercial gain. In most cases, the self-providing operator will not be an electronic communications service provider or network operator. Self-provision includes a wide range of companies that require remote signals to be sent to themselves (e.g. security companies that conduct remote monitoring/surveillance of premises).
- Third, also under the terms of an **exemption determination**, operators within a **closed user group** should be exempt from the requirement for an operating licence. Closed user groups comprise people with a common interest that set up a network just for themselves. Those people do not allow people outside the group to use the network. Similar to self-provision, the closed user group cannot be used to access a public network and should not be provided by an electronic communications service provider or network operator. Closed user groups could include, for example, persons that want to share information with each other, such as a bank that links its branches to provide internal information to its branches (without permitting them to connect to the internet or make calls outside of the user group).

As the closed user group exemption only covers *users*, a third party provider of a closed user group service would not be exempt. They would be considered an electronic communications service provider and therefore require a licence.

URCA has, to date, established the following additional exemptions, by **determination**:

Persons that **self- provide** should be exempt from the requirement for an operating licence. Self- provision means that the person operating the network or service uses it only for its own purposes. The network cannot be used to connect to a public network or for commercial gain. In most cases, the self-providing operator will not be an electronic communications service provider or network operator. Self-provision includes a wide range of companies that require remote signals to be sent to themselves. For example, security companies that remotely monitor whether a house is secure. For details of the terms of this exemption determination (see *Final Determination On: Class Licences, Exemptions and Types of Fees – ECS 24/2009*).

Persons who have established a network or provide services that are used and available only within a **closed user group** may be exempt from the requirement for an operating licence. Closed user groups comprise people with a common interest that set up a network just for their own shared use. Those people do not allow people outside the group to use the network. Similar to self-provision, the closed user group cannot be used to access a public network and should not be provided by an electronic communications service provider or network operator. Closed user groups could include, for example, persons that want to share information with each other, such as a bank that links its branches to provide internal information to its local branches (without permitting them to connect to the internet or make calls outside of the user group). As the closed user group exemption only covers *users*, a third party provider of a closed user group service would not be exempt. They would be considered an electronic communications service provider and therefore require a licence. For details of the terms of this exemption determination, please see *Final Determination On: Class Licences, Exemptions and Types of Fees – ECS 24/2009*.

3.3 Types of spectrum licence

Persons that wish to use radio spectrum must have one of the following licences or fall under one of the following exemptions (as well as having any necessary operating licence or falling under an operating exemption):

- an individual spectrum licence;
- class spectrum licence requiring registration;
- class spectrum licence not requiring registration;
- a statutory spectrum exemption under section 17(1) of the Comms Act;
- a spectrum exemption determined under section 17(1)(d) of the Comms Act.

3.3.1 Individual Spectrum Licence

Operators that require exclusive use of spectrum to operate a network or provide an electronic communications service for commercial gain and/or require spectrum designated by URCA as premium spectrum in accordance with the Comms Act will be issued an Individual Spectrum Licence. The quantity of Individual Spectrum Licences to be awarded will only be limited by the amount of spectrum available.

3.3.2 Class Spectrum Licence Requiring Registration

URCA may from time to time issue Class Spectrum Licences Requiring Registration, which will permit any person meeting the requirements for registration to use the specific spectrum bands, by registering with URCA, paying the required Spectrum Fee, and complying with the terms set out in the licence. A Class Spectrum Licence Requiring Registration is generally issued by URCA in cases where spectrum is shared by spectrum users in the electronic communications sector, and for use of specific low priority spectrum bands for grant of spectrum to persons who do not use the spectrum to provide electronic communications services for commercial gain.

The eligibility requirements and terms and conditions for Class Spectrum Licences Requiring Registration that have been issued by URCA, and in force as at the date of this document have been published in URCA's *Final Determination On: Class Licences, Exemptions and Types of Fees – ECS 24/2009*.

Interested persons should check URCA's website to confirm the specific licences currently in force.

3.3.3 Class Spectrum Licence Not Requiring Registration

URCA may from time to time issue one or more Class Spectrum Licence Not Requiring Registration, which will permit any person meeting the requirements set out in the licence to use the specific spectrum bands, provided that they comply with the terms and conditions set out in the licence. Class Spectrum Licences Not Requiring Registration are generally issued by URCA in cases where spectrum is shared by spectrum users in the electronic communications sector, and where URCA does not have any significant regulatory concerns with the ordinary use of such spectrum.

The eligibility requirements and terms and conditions for Class Spectrum Licences Not Requiring Registration that have been issued by URCA, and in force as at the date of this document have been published in URCA's *Final Determination On: Class Licences, Exemptions and Types of Fees – ECS 24/2009*.

Interested persons should check URCA's website to confirm the specific licences currently in force.

3.3.4 Spectrum Exemptions

The following exemptions from spectrum licensing are currently in effect:

- Pursuant to an exemption determination issued by URCA in its *Final Determination On: Class Licences, Exemptions and Types of Fees – ECS 24/2009* document, persons are **exempt** from the requirement to obtain a spectrum licence if they are using low power devices which utilize spectrum (see text box below).

Generally, low power devices have the following characteristics are transmitters (e.g. remote control devices, Bluetooth devices, domestic wi-fi devices) which emit low radiated power and are suitable only for short-range operations of typically less than 100 feet. In some instances, the range may be extended slightly, provided that the equipment is still low power and complies with the requirements set out below.

Lower power devices are typically not used for commercial gain and their primary purpose is not for business. These devices may not permit or enable the establishment and operation of a broadcast radio or television station. Spectrum used by low power devices is shared spectrum, used on a secondary basis. This means that the device user has no right to cleared spectrum and should not interfere with other spectrum users' operations. Low power devices approved for use in the United States will carry a compliance label stating that they meet the requirements of the Federal Communications Commission's (the FCC's) rules.

As The Bahamas is within the International Telecommunications Union (ITU) Region 2, URCA adopts the low power exemption list published by the FCC in Part 15 of Title 47 of the Code of Federal Regulations. The regulations are available at <http://www.fcc.gov/oet/info/rules/>.

3.4 Application Requirements – Individual Licences

Section 26(3) of the Comms Act lists the following requirements for applicants for individual licence. Persons wishing to apply for an individual licence must:

- (a) be legal entities duly incorporated in The Bahamas;*
- (b) conduct the administration and management of the business from premises in The Bahamas;*
- (c) be a fit and proper person to establish, maintain and operate a network or carriage service or use radio spectrum;*
- (d) demonstrate to the satisfaction of URCA that they have sufficient intention, financial*

strength and resources to meet their obligations under this Act and to provide networks or carriage services in an effective manner and consistent with the electronic communications policy objectives; and

- (e) *meet any other requirements (including but not limited to the provision of information and data) that URCA may require.*

3.4.1 Presence in The Bahamas

The first two conditions in section 26(3) of the Comms Act relate to the establishment of the licensee. The requirement for an individual operating licensee to be a legal entity incorporated in The Bahamas is explained in section 2.6 above.

The requirement for the licensee to conduct the administration and management of the business from premises in The Bahamas is intended to ensure that the licensee is committed to providing services in The Bahamas. This provides security for residents and businesses that wish to acquire electronic communications services from it.

3.4.2 Fit and proper person test

Under section 26(3) of the Comms Act, URCA will not issue an individual operating licence to someone who is not considered to be a “fit and proper” person. As the term “fit and proper” is not defined in the Comms Act, it is a matter for URCA to determine whether it regards a person to be fit and proper, so as to be issued an individual operating licence.

If a licence application is rejected because the applicant is not considered by URCA to be fit and proper, that person would have an opportunity to reapply for a licence, making representations as to why URCA should reassess the applicant under the fit and proper person test.

URCA will conduct appropriate investigations and will consider the factors below when determining whether a licensee is a fit and proper person to have an individual operating licence. In all cases, evidence of a factor having occurred will be relevant, whether this occurred in The Bahamas or elsewhere.

- whether the person has been convicted of any criminal offence; particular consideration will be given to offences of dishonesty, fraud, financial crime or an offence or offences under legislation relating to electronic communications networks, carriage services or content services;
- whether the person has been the subject of any adverse finding or any settlement in civil proceedings, particularly in connection with investment or other financial business, misconduct, fraud or the formation or management of a body corporate;

- whether the person has been the subject of, or interviewed in the course of, any existing or previous investigation or disciplinary proceedings, by URCA, other regulatory authorities (including a legacy regulator in The Bahamas), professional bodies, or government bodies or agencies;
- whether the person is or has been the subject of any proceedings of a disciplinary or criminal nature, or has been notified of any potential proceedings or of any investigation which might lead to those proceedings;
- whether the person has contravened any of the requirements and standards of the communications regulatory system or the equivalent standards or requirements of other regulatory authorities (including a legacy regulator in The Bahamas), professional bodies, or government bodies or agencies. This includes a history of non-payment of fees by the person;
- whether the person has been the subject of any upheld complaint relating to electronic communications sector activities;
- whether the person has been involved with a company, partnership or other organisation that has been refused registration, authorisation, membership or a licence to carry out a trade, business or profession, or has had that registration, authorisation, membership or licence revoked, suspended, withdrawn or terminated, or has been expelled by a regulatory or government body;
- whether, as a result of the removal of the relevant licence, registration or other authority, the person has been refused the right to carry on a trade, business or profession requiring a licence, registration or other authority;
- whether the person has been a director, partner, or concerned in the management, of a business that has gone into insolvency, liquidation or administration while the person has been connected with that organisation or within one year of that connection;
- whether the person, or any business with which the person has been involved, has been investigated, disciplined, censured or suspended or criticised by a regulatory or professional body, a court or tribunal, whether publicly or privately;
- whether the person has been dismissed, or asked to resign and resigned, from employment or from a position of trust, fiduciary appointment or similar;
- whether the person has ever been disqualified from acting as a director or disqualified from acting in any managerial capacity; and

- whether, in the past, the person has not been candid and truthful in all his dealings with any regulatory body and whether the person demonstrates a readiness and willingness to comply with the requirements and standards of the electronic communications regulatory system and with other legal, regulatory and professional requirements and standards.

Each case will be decided on its own merit. If URCA does not approve an application for an individual operating licence, it shall provide its reasons for rejecting the application (section 26(4)(b) of the Comms Act).

3.4.3 Capability of the licensee

The requirement for an individual licensee to have sufficient intention, financial strength and resources to meet their obligations under the licence and the Comms Act is intended to ensure that individual licences are not issued to persons that have insufficient intention or ability to operate the relevant networks or provide services. This is of concern to URCA, due to the risk to subscribers that may acquire services from a licensee that is then unable to meet its technical obligations (e.g. by having a poor quality of service) or unable to provide services over a longer period of time (e.g. because it does not or cannot maintain its out-payments).

The applicant will therefore be required to provide comprehensive information regarding their financial and technical strength and resources, and URCA will analyse that information against the applicant's network and service plans to ensure that the adequacy of the said resources. URCA may also require references about the applicant or its proposed leadership and management, to demonstrate financial strength and technical expertise.

3.5 Processing time for individual licence applications

Under the Comms Act, URCA is required to review all applications for **individual licences** within thirty (30) calendar days of receipt of the application [section 26(4)]. Within those thirty days, URCA must do one of the following:

- approve the application and grant the licence; or
- reject the application, specifying the reasons for the rejection; or
- request any further information that is necessary or desirable to evaluate the application. When URCA request further information from the applicant, then it will have a further thirty (30) calendar days from the date of the receipt of that information to evaluate the licence application.

3.6 Registration Process - Class Licences Requiring Registration

3.6.1 Application for Registration

Persons who wish to register under a **Class Licences Requiring Registration** (either operating or spectrum) must submit with URCA the appropriate registration form [ECS 20/2017], completed in its entirety and including all required information and supporting documents as outlined in the registration form. The applicant must also pay any applicable registration/processing fee as prescribed in URCA's Fee Schedule.

URCA will review the registration form for completeness and ensure that the applicant and the network, service or spectrum use applied for is eligible for registration under the specific terms and conditions of the licence.

Persons seeking registration will also be required to provide documentation showing that they hold any necessary licences from relevant authorities in The Bahamas (e.g. Business Licence, etc.) or that they have applied for such licences and their applications are pending.

3.6.2 Issuance of Certificate of Registration

Providing that all information is provided and the applicant and the network/service or spectrum use qualifies for the class licence, URCA will register the licensee and issue a Certificate of Registration upon payment of the first year's licence fees, and will update the public register to reflect the registration.

3.6.3 Non-effective Registration

URCA must provide the applicant with written notice of non-effective registration if:

- the person fails to qualify with any criteria applicable to, and so is ineligible for, the relevant class licence; or
- the application or registration form is incomplete or incorrect; or
- the fees set by URCA have not been paid.

3.6.4 Registration by Default

In the event that URCA has neither issued a Certificate of Registration or a Notice of Non-effective Registration within forty-five calendar days after the applicant filed the completed registration form and paid the applicable registration and processing fees, Registration will take effect on the next calendar day, provided that the applicant pays to URCA the first year's licence fees.

3.6.5 Effect of Registration

The applicant will be able to provide services or operate a network under the registered class licences once Registration takes effect (whether through issuance of a Certificate of Registration or by default as set out in 3.6.4 above).

3.7 Using a Class Licence Not Requiring Registration

A licensee may benefit from a **Class Licence Not Requiring Registration** by simply beginning to operate under the licence. The licensee will need to ensure that the network, services or spectrum use complies with the requirements of the class licence as posted on URCA's website. Failure to do so will mean that the licensee is in breach of the licence and the licensee can be fined for the breach. It is important to note that a licensee operating under the terms of a class licence not requiring registration may require a spectrum licence in order to operate effectively.

3.8 Where can an applicant obtain a licence application form or registration form?

An application form or registration form can be downloaded from URCA's website at www.urcabahamas.bs. Forms downloaded from the website can be printed out for completion and then submitted to URCA along with the relevant documentation for processing by sending the application to URCA's mailing or physical address. At the date of these guidelines, the forms cannot be submitted electronically by accessing the URCA website.

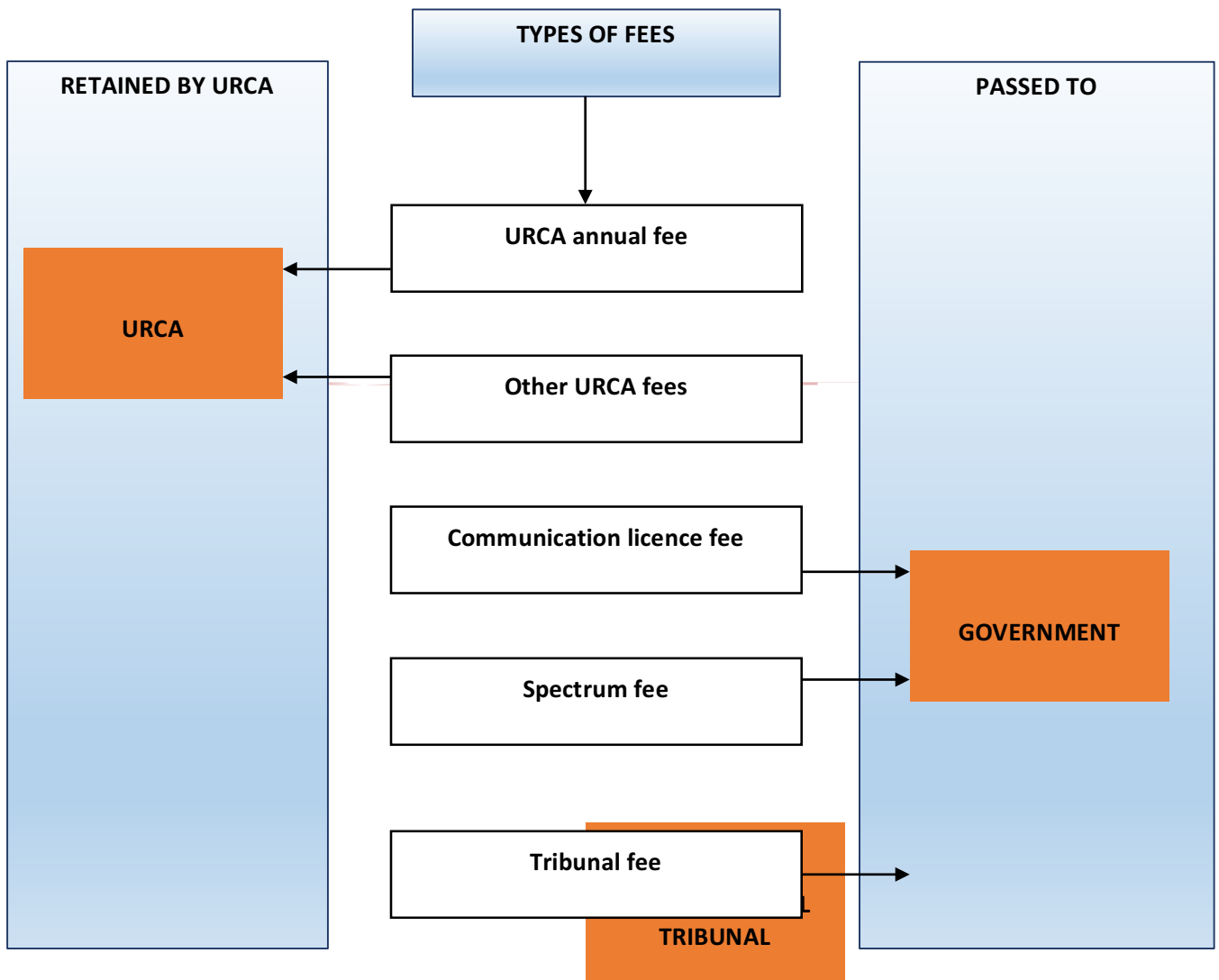
Alternatively, forms for URCA licences can be obtained from URCA's office.

4 FEES

4.1 Description of the fees

Without prejudice to other charges and fees that may be payable either under the terms of the Comms Act or under the terms of any other laws, URCA has the power and duty to collect certain fees from licensees for itself and on behalf of other bodies under Part XVI of the Comms Act. URCA will collect the following fees shown in Figure 3.

Figure 3:



Each of these fees is outlined below, however, applicants, licensees and other interested persons are advised to consult URCA's Fee Schedule, which contains details of all fees payable to URCA, and which is available on URCA's website at www.urbahamas.bs.

Upon the initial grant of any licence, the licensee will be required to pay all applicable fees for the initial year of the licence prorated from the date of grant of the licence, or date of registration, until 31 December of the year in which the licence is granted (“the initial fee payment”). This initial licence fee payment must be paid in full to URCA at the time of issuance of the licence or registration.

Once URCA approves a licence or registration it will notify the licensee of such approval and invoice the licensee for the initial fee payment. The initial fee payment must be made to URCA and the licence or Certificate of Registration collected within thirty (30) calendar days of the invoice date. Failure to make the initial fee payment as invoiced by URCA shall result in the cancellation of URCA’s approval without further notice to the licensee.

4.1.1 URCA fees

Under section 92 of the Comms Act, URCA may determine and assess one or more of the following charges or fees on all licence holders:

- annual charges for licences to be calculated based on the licensee’s relevant turnover;
- charges for specific services rendered by URCA in the performance of its functions or the exercise of its powers;
- fees to be payable for any application required or for the supply or making copies of documents; and
- other fees and charges for the administration and allocation of state assets (spectrum, numbering and domain names).

URCA Fee

The URCA Fee funds URCA’s operations. It is charged annually in respect of the forthcoming financial year and is payable by all licensees holding an Individual Operating Licence or a Class Operating Licence Requiring Registration. The URCA Fee is calculated either based on a licensee’s relevant turnover [section 92(1)(c) Comms Act], or as a flat fee for services rendered by URCA in the performance of its functions [section 92(1)(a) Comms Act].

Licensees that do not have a relevant turnover (i.e. they do not generate any revenue, directly or indirectly, from their licensed activity) or have a relevant turnover below a minimum threshold published by URCA in the Fee Schedule, will only have to pay the flat URCA Fee charged for the performance of URCA’s functions under section 92(1)(c) of the Comms Act.

URCA’s financial year runs from 1 January to 31 December. URCA will publish a draft Annual Plan for public consultation before the end of each financial year. That Annual Plan will set out URCA’s targets for the forthcoming year and include its budget based on

those target activities. Following receipt of comments, URCA will publish its final Annual Plan by 30 April of each year.

Before the start of a financial year, URCA will calculate the URCA Fee that is required to satisfy the budget included in URCA's draft Annual Plan. Licensees that are liable to pay URCA annual fees (i.e. individual and registered class licensees) will **receive an invoice for the URCA annual fee**. All URCA fees are due to be paid within thirty (30) calendar days of invoice date.

URCA may revoke any licence held by a licensee if that licensee does not pay to URCA the URCA Fee in full.

If URCA does not use all of the URCA annual fees in its financial year as billed and collected from licensees, the surplus shall at the end of each financial year be paid into the Consolidated Fund at the discretion of the Minister of Finance in accordance with Sections 2 and 3 of the Utilities Regulation and Competition Authority (Amendment) Act, 2013.

Other URCA fees

URCA may charge other fees listed in section 92 of the Comms Act. These fees may be used to cover URCA's *ad hoc* costs and include administrative charges and allocation charges for spectrum. These charges will be invoiced at the time or around the time of the activity for which they relate. For example, an application fee may be charged at the time that an application is made to URCA.

4.1.2 Spectrum fees

URCA has published a National Spectrum Plan in accordance with section 31 of the Comms Act. The National Spectrum Plan specifies those frequencies that are in the premium spectrum band and those which are not. If spectrum is in the premium spectrum band, the Minister for Finance (or such other Minister that is responsible for the electronic communications sector from time to time) will determine how the spectrum fees should be calculated in accordance with section 93(1) of the Comms Act. If spectrum is not in the premium spectrum band, URCA will determine the spectrum fees to be paid in accordance with section 93(2) of the Comms Act.

Licensees should refer to the National Spectrum Plan and URCA's Fee Schedule available on URCA's website. Spectrum fees must be paid to URCA on behalf of the Treasurer **before** the licensee commences activities under its licence and at the start of each subsequent year. For ease of administration for URCA and for licensees, URCA will invoice licensees for the spectrum fee on an annual basis.

4.1.3 Communications Licence Fee

Under section 91 of the Comms Act, URCA acts on behalf of the Government to administer the billing and collection of the Communications Licence Fee. Any licensee that is liable to pay URCA an annual charge under section 92(1)(c) of the Comms Act must pay the Communications Licence Fee.

Under the Comms Act the Communications Licence Fee must be paid to URCA before the licensee commences operation of a network or provision of a carriage service authorized by its licence and on or before 30th April of each subsequent year.

The Communications Licence Fee is set by Parliament under the Comms Act, and the amount of the Communications Licence Fee, currently 3% of relevant turnover, is subject to change by Parliament.

4.1.4 Tribunal fee

Under Schedule 3 of the Utilities Appeals Tribunal (UAT) Act, the expenses of the Tribunal and the salaries and allowances of the President, Registrar and members of the Tribunal (the “relevant expenditure”) will be billed and collected by URCA and passed on to the Tribunal.

For each twelve month period ending on 31 December (“relevant period”), the Registrar will publish an estimate of the anticipated relevant expenditure of the Tribunal for the relevant period based on:

- actual relevant expenditure properly incurred by the Tribunal in the exercise of its functions and powers during the previous twelve months; and
- an estimate of any additional or extraordinary relevant expenditure reasonably anticipated by the Registrar during the relevant period.

As soon as reasonably practicable and in any event within three months after publication of the Registrar’s estimate URCA will demand and collect the Tribunal Fee from all licensees or regulated persons in the regulated sectors.

4.1.5 Relevant Turnover for the purposes of calculating fees

The term “relevant turnover” is defined under section 2 of the Comms Act and includes the gross receipts in money or money’s worth of the licensee or any person in respect of whom an exemption determination has been made.

The licensee's relevant turnover is calculated on its gross receipts in money or money's worth attributable to the provision of a network or carriage service or use of any radio spectrum under any licence or exemption determination.

Where a licensee provides a content service, the relevant turnover also includes the licensee's gross receipts in money or money's worth attributable to that content service, advertising revenue arising out of the network, carriage service, use of radio spectrum, or provision of the content service, and other ancillary revenue (but after the deduction of sales rebates in The Bahamas during the financial year).

4.2 When will fees be invoiced?

The **URCA Fee** will be invoiced annually, as soon as practicable after the start of URCA's financial year.

Communications Licence Fees and **Spectrum Fees** for the period from grant until the end of the calendar year in which the licence is granted will be invoiced at the time of issuance of the licence or Certificate of Registration, and **must be paid upon collection of the licence or Certificate**. In subsequent years, URCA will invoice licensees annually for the spectrum fees and Communications Licence Fee as soon as practicable after the start of URCA's financial year.

Tribunal fees will be billed and collected by URCA on behalf of the Tribunal. Licensees will be invoiced for the Tribunal fee as soon as reasonably practicable after the Registrar of the Tribunal has published an estimate of the Tribunal's anticipated expenditure.

4.3 How can the fees be paid?

Licensees can pay their fees using any of the following methods:

- debit or credit card payment;
- company cheque;
- direct deposit;
- money order;
- bank transfer; or
- bank draft /manager's cheque.

Bank transfer may only be used for the payment to URCA of sums in excess of One Thousand Bahamian Dollars (\$1,000). Where a licensee elects to pay its fees or any other amount due by bank transfer it must ensure that URCA receives in its bank account, net of all charges, the full amount invoiced, failing which URCA will issue a further invoice for any shortfall in the amount actually received by URCA.

If a licensee wishes to pay any fees using direct deposit, they should deposit the payment into URCA's bank account. The licensee should retain a copy of the bank deposit slip and submit it to

URCA as evidence of payment. URCA will issue receipts for all payments received.

Information required for the making of bank transfers and direct deposits to URCA may be obtained from URCA’s offices upon request.

4.4 Schedule for the Proration of Licence Fees

All fees collected by URCA are expressed and generally invoices and collected on an annual basis. However, a licensee may require a licence to establish and operate a network or to use spectrum or to provide an electronic communications service on an *ad hoc* basis for a period that is less than a calendar year. Where a licence is required for less than a year, URCA shall charge the relevant licence fee on a pro-rated basis in accordance with the following schedule.

Duration of Licence	Applicable Pro-Rated Fee
One (1) month or less.	1 Month of Annual Fee
Exceeding One (1) month, but less than three (3) months	3 Months of Annual Fee
Exceeding three(3) months up to One (1) year	Total Annual Fee

NOTE: The applicable application fee as per URCA’s fee schedule will be charged for all licences, regardless of duration.

Figure 1 - Proration of Licence Fees

4.5 Non-payment of Fees

If a licensee does not pay its Communications Licence Fee or URCA Fee by the due date, interest accrues daily at a rate of four percent per annum over the prime lending rate published by the Central Bank of The Bahamas. If the prime lending rate increases so that the daily interest rate is greater than that specified in the Rate of Interest Act, then the interest rate will be limited to the amount specified in the Rate of Interest Act. Interest will not automatically accrue on overdue spectrum fees.

Overdue fees (including spectrum fees) and interest are a debt which can be recovered by URCA in court. Additionally, URCA may take other action against licensees that fail to pay their fees promptly, including commencing the process for revoking or suspending the licence.

5 PROVISION AND UPDATE OF INFORMATION

This section relates to two categories of information that licensees are required to provide to URCA: (i) information relating to a change of control of the licensee; and (ii) information relating to the licensee’s operations.

5.1 When is approval required before licence ownership can change?

All licensees must notify URCA prior to a change of control of that licensee. This obligation stems from two sources: (i) the Comms Act; and (ii) licence conditions. Table 3 below summarises the key aspects of the statutory and the licence requirements, which are then considered in greater detail below.

	Comms Act requirement	Licence condition requirement
Applies to licensees with individual licences?	✓	✓
Applies to licensees with registered class licences?	✓	✓
Applies to licensees with non-registered class licences?	✓	×
Reason why URCA may withhold consent	Substantial lessening of competition or contrary to the media public interest	Acquirer unsuitable as a licensee (e.g. not a fit and proper person)
Timeframe for URCA to review notice of proposed change of control	30 days (simple review) or up to 120 days (adding 90 days in-depth review)	No fixed time but URCA should not unreasonably withhold its consent. There may be deemed consent in the case of class licences

Table 4: Change of control notifications

5.1.1 Review of Merger Control (under section 70 of the Comms Act)

The obligation to notify URCA of a change of control stems from section 70 of the Comms Act, which applies to all licensees.

Information on when parties should submit notifications and the procedure for a merger has been set out in URCA's Merger Control Guidelines and published on URCA's website [see **COMPETITION GUIDANCE: MERGER CONTROL - PROCEDURE ECS COMP. 1**, 18 SEPTEMBER 2009]. If the parties do not notify URCA of their merger and merge without notification, URCA may order that the parties de-merge, and/or fine either or both parties in accordance with the Comms Act.

5.1.2 Review under licence conditions

Individual and registered class licences include conditions preventing a change in control without URCA's prior consent. There is no such requirement in non-registered class licences and therefore this provision does not apply to licensees that do not have an individual licence or a registered class licence (but note that the obligation in section 70 of the Comms Act applies to all licensees).

There is no test for a change of control in the licence conditions. As it is a question of fact whether there has been a change of control, URCA will use the same test as set out in section 71 of the Comms Act.

URCA will not unreasonably object to a change of control notified pursuant to a licence condition. The purpose of this condition in the licence is so that URCA can ensure that a person that would not be suitable as a licensee does not gain control over a licensee. For individual licences, URCA will approve a change of control under the licence conditions if the acquirer satisfies the application process in section 26 of the Comms Act (and described in section 3.4 above). For class licences, URCA will approve the change of control under the licence conditions if the acquirer would otherwise satisfy the registration process in section 23 of the Comms Act (and described in section 3.6 above).

There is no statutory timetable for URCA to review a change of control under the individual and class licences. This contrasts with the review of a change of control under section 70 of the Comms Act. However, URCA will not unreasonably withhold or delay its approval of a change of control pursuant to a notification under a licence condition. In particular, for class licensees, there is deemed approval of a change of control under the licence if URCA does not object to the change of control or request further information within forty-five (45) calendar days of receiving the notice of the change of control.

5.2 Is the licensee obliged to inform URCA of changes to the licensee's details?

All holders of individual licences or persons registered under a class licence have an ongoing obligation in their licence to ensure that the information held by URCA is up to date. This includes changes:

- that may affect the suitability of the licensee (e.g. failure to comply with other legal obligations such as the maintenance of a valid business licence);
- to the licensable activities carried out by the licensee (e.g. for spectrum, there may be a change to the output of power of the location of transmission);
- to the contact details of the licensee (e.g. change of name or address).

URCA must be notified in writing of any changes to the licence details as soon as the changes take effect. URCA's address is provided in section 1.3 of these guidelines.

5.3 Annual declaration of no material change

Licensees in possession of an individual licence or a class licence requiring registration will be required to submit to URCA a signed annual declaration stating that there has either been no material change in the information previously provided to URCA, or that all such changes have been notified to URCA as outlined in section 5.2 above.

The form of declaration will accompany the invoice for payment that is sent by URCA annually. Failure to submit the declaration or the making of an untrue declaration may result in URCA taking the appropriate regulatory action.

6 RENEWAL OF LICENCES

6.1 Are licensees notified of the need to renew a licence?

URCA will **not** notify licence holders that their licence is due for renewal. It is the responsibility of the licence holder to be aware of the expiry date of the licence.

6.2 What is the procedure for renewing a licence?

The renewal process relates only to licensees wishing to renew an individual licence to provide a network or carriage service and/or an individual licence for the right to use radio spectrum for a network or carriage service as these licences expire.

Class licences requiring registration are not assigned a date of expiry therefore they do not need to be renewed. However, as explained in section 5.3 of these Guidelines, the licensee must annually declare that there has been no change in the material information provided on the application. In the event that a person registered as a class licensee wishes to cease operations under that licence, they must surrender the licence in writing to URCA (see section 10), failing which URCA will continue to issue invoices which will be payable up to the date that a signed notice of surrender is received by URCA.

Licensees wishing to renew an individual licence must complete and submit the URCA Licence Application Form which can be found on the URCA website or can be collected at the URCA office. The application procedure will be the same as the process outlined in section 3 of these Guidelines.

6.3 On what grounds may a licensee be refused renewal of a licence?

When considering applications for licence renewals, URCA will apply the same criteria as when considering applications for new licences. URCA will also consider information not included in the application for licence renewal, such as the licensee's history of complying with regulatory requirements and its ability to provide the services or network effectively.

Should a licensee wish to **not** have its license renewed, a signed letter should be submitted to URCA notifying of the same and setting out a clear statement in this regard and the particulars. URCA will revoke the licence with immediate effect upon such notification and will notify the licensee in writing of such revocation.

7 VARIATION OF LICENCES

7.1 When can URCA vary a licence?

Any change to a licence condition constitutes a variation, or amendment of that licence. The terms “variation” and “amendment” are used interchangeably in the Comms Act and in this guidance note.

An addendum to a licence would not constitute an amendment if it is made pursuant to an express licence condition or provision of the Comms Act, provided that no terms in the body of the licence are changed. For example, if a licensee is determined by URCA to have SMP in a market, the licensee would be obliged to comply with the conditions in Part G of the individual operating licence (or such other SMP conditions in any other licence that it may hold) and those conditions specified in an URCA determination. However, this would not constitute an amendment to the licence. The process for applying SMP conditions is expressly set out in the Comms Act and the individual operating licence. An SMP determination adds conditions that are envisaged in the original licence and therefore does not constitute an amendment. Similarly, the requirement for licensees to comply with consumer protection obligations set out in a determination would not constitute an amendment of the licence. This is clearly set out, for example, in condition 16.2.7 of the individual operating licence.

URCA may amend licences under section 27 of the Comms Act, (condition 7 of the individual operating licence and condition 4.2 of the class licence). Section 27 of the Comms Act sets out six circumstances that would justify URCA revoking or amending a licence:

- in order to comply with international treaties, commitments or standards, or laws of The Bahamas;
- it is necessary to amend the licence to further the electronic communications policy objectives and there is justification for causing any hardship that may result to the licensee;
- the licensee has repeatedly contravened or failed to cure a material contravention of any regulatory measure;
- the licensee made a material misrepresentation (including omissions) in the application or registration process;
- the licensee enters into receivership or liquidation;
- the licensee does not have the intention or financial strength and resources to provide such services or networks authorised under the licence;

The first two situations are more likely to result in an amendment to the licence (rather than

revocation), whereas the next four situations are more likely to result in revocation of a licence (rather than an amendment). Section 27 of the Comms Act also sets out two processes for revocation: pursuant to an order under section 95 of the Comms Act or pursuant to any other process specified in the terms of the licence.

7.2 What is the procedure for varying a licence?

A licence may be varied either by **determination** of URCA or on **written application** of the Licensee.

Under section 27(1) of the Comms Act, URCA may, on its own initiative, vary a licence by determination. By virtue of section 18 of the Comms Act, URCA has discretion to issue determinations when it considers this appropriate. Prior to issuing a determination to vary a licence, URCA must consider the electronic communications policy objectives and the guidelines for regulation set out in sections 4 and 5 of the Comms Act.

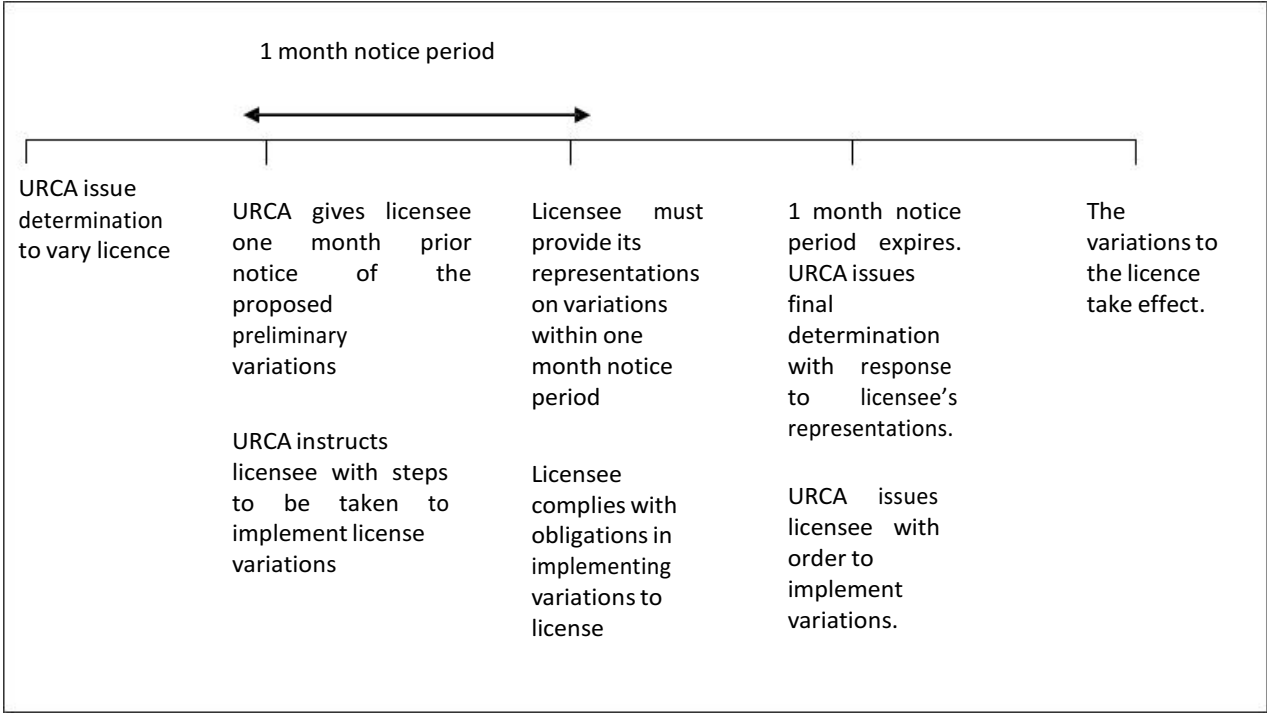
Additionally, URCA must ensure that its regulatory measures should be efficient and proportionate to their purpose and any variation to a licence should be introduced in a manner that is transparent, fair and non-discriminatory. This is in keeping with URCA's specific obligation to ensure that terms of individual licences that relate to the same or similar networks do not unfairly discriminate between licensees [section 20(4) Comms Act].

URCA must clarify whether the variations apply to a specific licensee under an individual operating licence or to all licensees under a class licence. In any case, all licensees affected by the variations must be notified of the proposed change and be allowed to provide comments in accordance with section 100(2) of the Comms Act. In the event that URCA proposes varying a class licence, it will engage in a public consultation on the variation.

The notice must include a preliminary determination specifying the proposed amendments to the licence [section 100(2)(a) Comms Act] and the period within which a licensee can provide comments on the preliminary determination [section 100(2)(c) Comms Act]. This consultation period will be at least one (1) month, starting on the day after which the preliminary determination was given [section 100(3) Comms Act]. This consultation period may be shorter where a variation is proposed pursuant to a breach of the Comms Act by the licensee and a shorter consultation period is appropriate. For example, if a licensee has breached its licence conditions and it is necessary to effect changes to the licence in less than one month in order to limit significant damage to other licensees or customers.

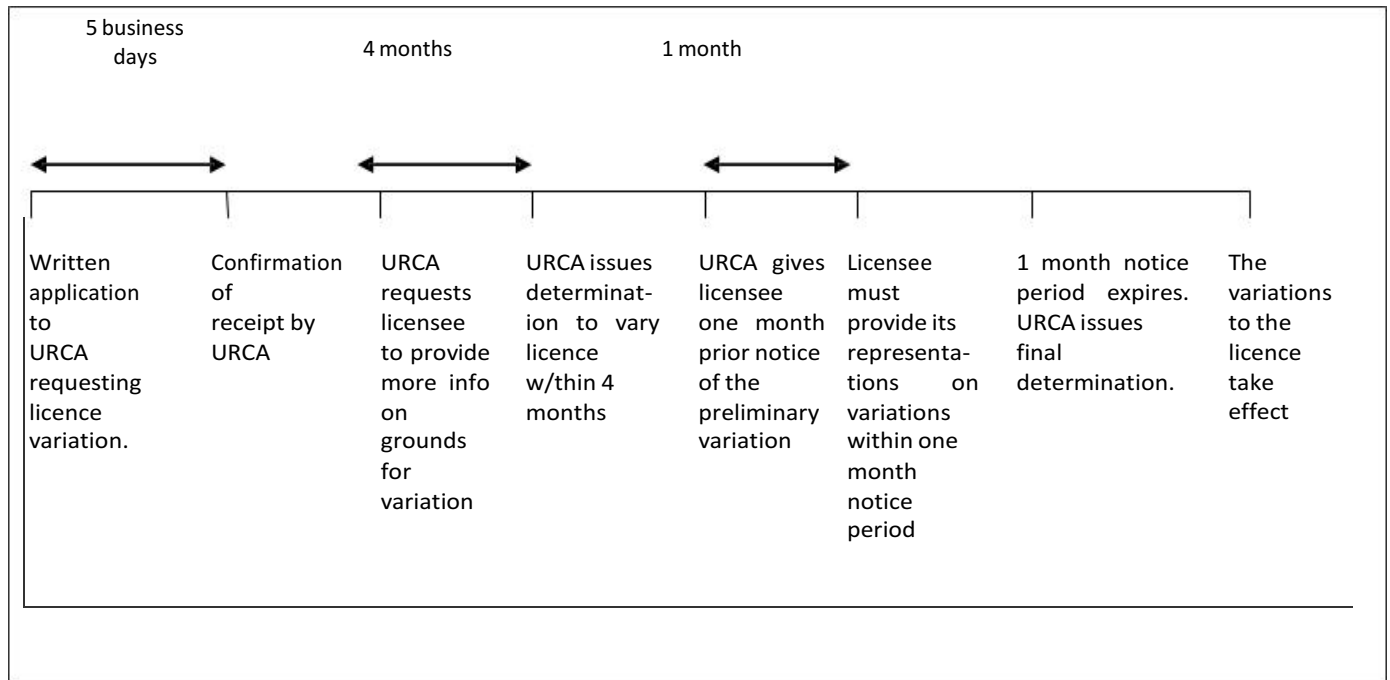
Following the expiry of the consultation period, URCA will issue a final determination, which will include URCA's response to the licensee's opinions and representations and any amendments that are to be made to the licence.

Figure 4: Typical URCA Determination Timeline



In unusual circumstances, a licence may be varied on the written application of the licensee. Where that is the case, URCA will notify the licensee of its receipt of the application within five (5) business days and will request the licensee to supply it with any necessary additional information. URCA will endeavour to make a determination within four (4) months of the application being made. Where URCA decides to make a determination, it would follow the procedures set out above.

Figure 5: Typical licence variation timetable (requested by licensee)



7.3 Is a licensee entitled to compensation if its licence is varied?

Generally licensees that have their licence varied will not be entitled to compensation. However, licensees that have spectrum licences may be entitled to compensation if they are ordered to vacate spectrum under section 37 of the Comms Act and that spectrum is then awarded to a different licensee. There will be no compensation for spectrum vacated under section 36 of the Comms Act.

Following receipt of a notice of vacation of spectrum from URCA under section 37 of the Comms Act, the licensee may apply to the Tribunal to assess the amount of compensation that should be awarded.

8 SUSPENSION OF LICENCES

8.1 Can URCA suspend a licence?

URCA may suspend a licence by issuing an order for suspension under section 95 of the Comms Act [section 109(2)(c) Comms Act]. If a licence is suspended, the rights and obligations under the licence are suspended. If a licence is suspended, the licensee would not be permitted to provide the services or operate the network that it would ordinarily be able to do under the conditions of the relevant licence.

Similarly, obligations under the licence would be suspended although a licensee would still have to comply with its statutory obligations. Therefore, for example, suspension of a licence does not relieve the licensee of any duty to pay spectrum fees under section 93 of the Comms Act. In fact, the obligation to pay a Communications Licence fee, URCA fee, Tribunal fee or any other fee may continue; but the amount of the fee may not increase during the period of the suspension so long as the “relevant turnover” of the licensee is nil.

A suspension may either be for a specified duration or be contingent on some other factor. For example, URCA may issue an order requiring, for example, the payment of overdue fees or amendments to a licensee’s subscriber agreement. The order may also suspend the licence until the licensee complies with the other terms of the order. In other situations, it may be equitable for URCA to suspend the licence for a fixed period (e.g. one (1) month).

Prior to suspending a licence, URCA must have due consideration of the cost and implications of suspension on affected parties. Therefore, URCA should consider the effect of the suspension on the licensee whose licence will be suspended as well as users of that licensee’s services and other relevant persons.

Suspension of a licence may either be on URCA’s initiative or at the request of the licensee. A licensee may request suspension of a licence where its business which the licence is intended to facilitate has been interrupted. It should be noted that URCA would not ordinarily suspend an Individual Spectrum Licence at the request of the licensee, as to do so may deny scarce spectrum to other potential licensees.

8.2 What is the procedure for suspending a licence?

URCA may suspend a licence by issuing an order under section 95 Comms Act. The process for suspending a licence is similar to the process for varying a licence, set out in section 8.1 above.

9 REVOCATION OF LICENCES

9.1 Can URCA revoke a licence?

URCA has the power to revoke a licence by determination under section 27 of the Comms Act. The licensee must cease providing electronic communications services and operating electronic communications networks under that licence from the date that a licence is revoked.

Following revocation, the relevant person would no longer be a licensee. Therefore, URCA would not be able to impose new sanctions on that licensee for breach of its revoked licence. This would not preclude URCA from issuing orders against the licensee under those sections of the Comms Act that apply to non-licensees, such as for breach of the content code [section 52 Comms Act] or for causing deliberate interference [section 33 Comms Act].

Similarly, revocation would not preclude URCA from initiating proceedings under section 7 of the URCA Act in respect of breaches of the Comms Act. Therefore, URCA would be able to prosecute former licensees that have outstanding fees or unpaid fines. Similarly, section 7 of the URCA Act gives URCA the power to commence proceedings against former licensees that breach section 16 of the Comms Act by offering licensable services without a licence.

9.2 Why would URCA revoke a licence?

URCA may revoke a licence under section 27 of the Comms Act. Section 27(1) of the Comms Act sets out those circumstances under which URCA may revoke or amend a licence. These circumstances are outlined and grouped in Table 5 below.

Policy objectives	To comply with international treaties, commitments, standards or national laws.
	To further the electronic communications policy objectives and there is justification for causing any hardship.
Sanction	The licensee has repeatedly contravened or failed to cure a material contravention of the electronic communications regime or any regulatory or other measure, including any condition of its licence.
	The licensee fails to comply with an order or part of an order within the time specified in the order [section 27(1)(g) Comms Act; section 95(4) Comms Act].

	The licensee made a material misrepresentation (including omissions) in the application or registration process.
Insolvency	The licensee enters into receivership or liquidation
Non-usage of licence	The licensee does not have the intention or financial strength to provide services or networks authorised under the licence.

Table 5: Reasons for varying or revoking a licence

9.2.1 Policy objectives

URCA may need to revoke a licence in order to meet policy objectives. These objectives may be specified in law, international treaties or in the sector policy published under section 6 of the Comms Act.

The ability for URCA to revoke a licence under section 27(1) and (2) of the Comms Act and the factors that it must consider are similar to the factors for revocation and amendment.

9.2.2 Sanctions

A range of sanctions can be imposed on licensees that breach the conditions of their licence. These sanctions include (amongst other things) imposing fines, ordering specific performance, ordering that a licensee abstain from a particular activity, suspending a licence and revoking a licence. This gives URCA the flexibility to impose sanctions that are effective and proportionate. Revocation is typically considered to be one of the most stringent sanctions that may be imposed as it prohibits the licensee from continuing to offer licensed services on a long-term basis (whereas the other sanctions would not).

URCA has a general duty to act in a manner that is fair, proportionate and non-discriminatory. Within these parameters, URCA has wide discretion when determining the appropriate sanction for breach of a licence condition. Generally, however, URCA will only revoke a licence as a sanction where the licensee has repeatedly breached conditions of its licence or has failed to remedy a breach. Therefore, a licence may be revoked if a licensee fails to pay its fees after receiving a URCA's final determination and order to pay such fees or repeatedly fails to pay its fees. This does not restrict URCA's ability to revoke a licence for a one-off material breach of a licence.

9.2.3 Insolvency

Consumers should be confident that their service operator has the financial capability to ensure continuity of service provision or network operation, particularly when selecting a new service provider or network operator. Under section 27(1)(e) of the Comms Act, URCA may revoke a licence if the operator goes into receivership or liquidation, takes any action for its voluntary winding-up or dissolution, or is the subject of any order by a court or tribunal for its compulsory winding-up or dissolution.

9.2.4 Non-usage of licence

One of URCA's objectives under section 4 of the Comms Act is to promote the optimal use of spectrum. Therefore, URCA has a duty to ensure that spectrum granted to licensees is used effectively and efficiently by those licensees.

For highly valuable or scarce spectrum, URCA may include "roll out" conditions. These conditions may specify the minimum steps that the licensee must take to ensure that the benefits of the spectrum licence are passed on to consumers. If the licensee fails to meet certain roll out obligations under its licence or fails to offer the required services or networks to potential customers, URCA may revoke the licence so that another person can apply for the spectrum.

Even where a spectrum licence does not include roll out obligations, URCA may consult with licensees and consequently revoke their licences for non-usage as part of a spectrum rationalisation programme. This is particularly likely to be the case to avoid "spectrum squatting" where the licensee does not use the spectrum effectively over a reasonable period of time.

9.3 What is the procedure for revoking a licence?

URCA may revoke a licence by issuing an order under section 95 of the Comms Act. The process for revoking a licence is similar to the process for varying a licence, set out in section 8 above.

9.4 Can a Licensee receive a refund of their fees if their licence is revoked?

As seen above, URCA is responsible for collecting a number of fees from licensees. These fees include URCA fees, spectrum fees, the Communications Licence fee and the Tribunal fee. All of these fees, other than the URCA fee, are passed on to other bodies. URCA does not have the power to refund money that has been passed on or that is held on behalf of another body. Therefore, this section only considers whether URCA fees (excluding application and administration fees) may be refunded to persons that have their licences revoked.

URCA may consider refunding all or part of a licensee's URCA fees if the licence is revoked as the result of a change in a policy objective under the table in section 9.2 above. Any refunds are likely

to be up to an amount equal to the prepaid URCA fee that can be apportioned to a term of the licence that was not due to expire. For example, if a licensee pays its annual URCA fee for a period from January to the end of December and its licence is revoked at the end of March due to a change in a policy objective, then if considered equitable, URCA may grant a refund up to 75% of the licensee's prepaid annual URCA fee. It is irrelevant whether the licence was due to expire after one year or fifteen years, URCA will generally only return fees in respect of the unexpired prepaid term.

If a licence is revoked as the result of a sanction, insolvency or non-usage, then generally the licensee will not be entitled to a refund. These are matters that are considered to be within the control of the licensee and, as such, the licensee will not be entitled to compensation or repayment of prepaid fees if their licence is revoked.

Licensees that consider that they may be entitled to a refund should apply to URCA for the refund.

9.5 Can a Licensee receive compensation if their licence is revoked?

Licensees are not entitled to compensation if their licence is revoked.

10 SURRENDER OF LICENCES

10.1 What is the surrender process?

There is no general process for a licensee to surrender its licence under the licence conditions or the Comms Act. However, if a licensee no longer wishes to offer services or provide networks under an individual licence, it may apply to URCA to surrender its licence. A class licensee who does not wish to continue to operate under the terms of a class licence would not usually wish to undertake a process to surrender a class licence, but will be de-registered by URCA.

URCA will then consider whether to accept the request to surrender the licence. In considering whether to accept the surrender of the licence, URCA will consider the licensee's current and contingent liabilities arising out of its licensed activities. In considering these liabilities, URCA may seek further information from the licensee and may publish a notice that the licence is to be surrendered.

If URCA accepts a request to surrender a licence, URCA may require a guarantee from directors of or investors in the licensee, or any other reasonable measure to protect subscribers and other persons who may have entered into business arrangements with the licensee prior to effecting the surrender.

10.2 What is the effect of the surrender?

Following surrender of a licence, the former licensee must immediately cease all activities that are licensed under the Comms Act unless that person has another relevant licence which permits those activities.

Following surrender of a licence, the person that was licensed will continue to be liable for any obligations that arose during the term of the licence or arose out of an event that occurred (or should have occurred) during the term of the licence. If any person has provided a guarantee in respect of the former licensee's obligations, that person will also continue to be liable for those obligations.

10.3 Can an applicant receive a refund if they surrender their licence?

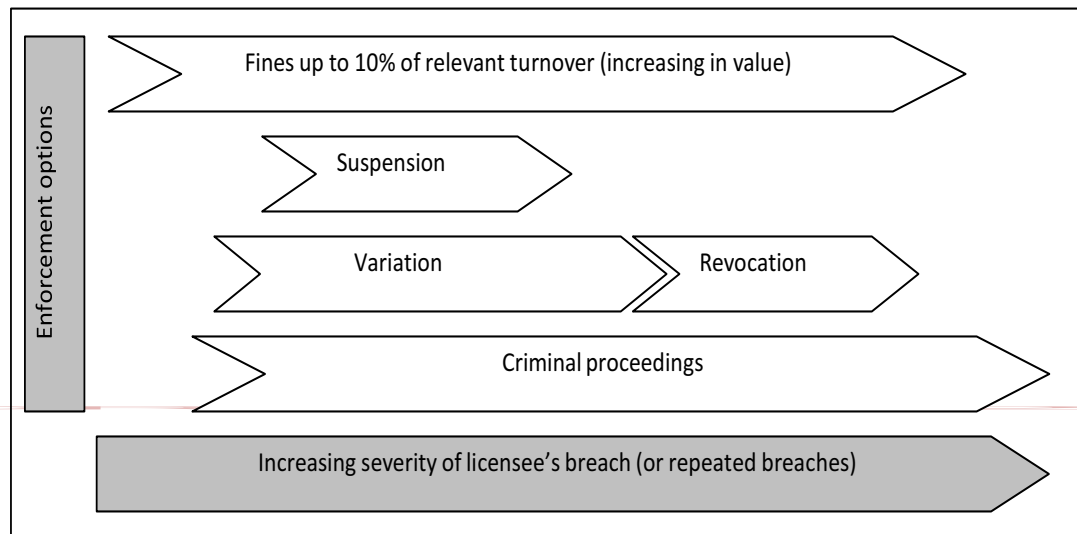
A licensee is not entitled to receive a refund if they surrender their licence. In limited circumstances, URCA may refund a portion of the URCA fees if it would be just in consideration of the factors surrounding the surrender of the licence.

11 ENFORCEMENT OF LICENCE CONDITIONS

11.1 URCA's powers of enforcement against licensees

The Comms Act gives URCA wide powers of enforcement against licensees that breach the Comms Act or their licence conditions. The enforcement powers are set out in the scale below. Generally, the powers to the right side of the scale will be reserved for more serious or repeated breaches by a licensee.

Figure 6: Enforcement options



This range of enforcement options means that URCA can ensure that its enforcement actions are proportionate to the breach. In particular, URCA has wide powers to fine licensees (whether they have an operating or spectrum licence and whether that licence is an individual licence, class licence requiring registration or class licence not requiring registration). URCA can fine licensees up to 10% of their relevant turnover, although it would only do this in exceptional cases. URCA will publish guidelines on its fining policy (although this does not limit URCA's ability to issue fines prior to publishing the fining guidelines).

Under the Comms Act, URCA can commence criminal proceedings against licensees and non-licensees for breach of the Comms Act. It may be necessary for URCA to institute criminal proceedings where a person repeatedly breaches the Comms Act or where an injunction is required (e.g. to stop a person using spectrum illegally).

Prior to taking enforcement action against a licensee, URCA will issue a preliminary determination or adjudication, informing the licensee which provisions of the licence or Comms Act the licensee appears to have breached, the enforcement action that URCA proposes to take and the period during which the licensee can respond to the preliminary determination or adjudication. URCA

will then consider the representations made by the licensee before considering whether the licensee has committed a breach and/or whether to impose a sanction.

11.2 Appealing against URCA's regulatory measures

Any affected person has the right to appeal against any adjudication, determination, order or other regulatory measure issued by URCA that affects them by lodging an appeal before the Utilities Appeal Tribunal. For further information, see the UAT Act, and the Tribunal's guidance on proceedings.

GLOSSARY

Following is a glossary of the terms and phrases used in these Guidelines.

Adjudication	A document issued by URCA under section 103 Comms Act following an investigation of a breach or alleged breach of the competition provisions in Part XI Comms Act.
Broadcasting Act	Broadcasting Act, Chapter 305.
Business licence	A licence permitting the conduct of business in The Bahamas, issued under the Business Licence Act, Chapter 329, or any other relevant legislation.
Change of control	“Change of control” has the meaning as defined in section 71 CA.
Class licence	A licence issued under section 19(1)(b) CA, authorising the provision of electronic communications services or the operation of electronic communications networks or use radio frequency. The conditions of a class licence are the same for any operator covered by that licence. Class licences will be either “operating class licences” or “spectrum class licences”. Class licences, whether operating or spectrum class licences, will also be either requiring registration or not requiring registration.
Class licence not requiring registration	A class licence that does not require registration. The conditions of the licence are public and any person may operate under the licence provided that they comply with the conditions in the licence.
Class Licence Requiring Registration	A class licence that requires the relevant person to register with URCA prior to providing the service or operating the network.
Comms Act	Communications Act, 2009
Communications Licence fee	A fee payable by licensees to the Government under Sch. 3 Comms Act. The Communications Licence fee is collected by URCA on behalf of the Government.

Companies Act	Companies Act, Ch. 308
Content service	A service either for the provision of material with a view to it being comprised in signals conveyed by means of a network or that is an audiovisual media service (as defined in section 2 Comms Act).
Determination	A document issued by URCA under section 99 Comms Act. Determinations may be used to establish rules under the Comms Act (e.g. specifying exemptions under section 17 Comms Act or relate to infringements or alleged infringements by licensees).
General authorisation regime	URCA may replace the current licensing regime with a general authorisation regime under section 8(2) Comms Act. Under a general authorisation regime, licences would not be issued to operators. Operators would be permitted to provide electronic communications services and networks provided that they complied with any general conditions or specific conditions published by URCA. Operators would still require a licence for the use of spectrum.
Individual licence	A licence issued by URCA under section 19(1)(a) Comms Act authorising the provision of electronic communications services or the operation of electronic communications networks or use radio frequency. So far as is practicable, individual licences should include similar terms for different licensees providing similar services. Individual licences may have different terms where licensees have specific obligations, such as SMP conditions.
Individual operating licence	An individual licence that permits the provision of electronic communications services or the operation of electronic communications networks. An individual operating licence does not permit the licensee to use spectrum.
Licence	Unless the context requires otherwise (e.g. for business licences), a permit to provide electronic communications services or electronic communications networks or use spectrum. Licences may be class licences or individual licences.

Licensee	A person authorised under a licence.
Media public interest	Arises where one or more persons involved in a merger or acquisition involving a licensee is a media enterprise (i.e. involves either broadcasting or publishing newspapers).
Notice	A formal written communications between URCA and a licensee. Amongst other things, this may relate to changes of control or whether a licence application was effective.
Operating licence	A licence that permits the provision of electronic communications services or the operation of electronic communications networks. An operating licence does not permit the licensee to use spectrum.
Operator	A person that provides an electronic communications service or operates an electronic communications network (including any such network that requires spectrum) is regulated under the Comms Act.
Order	A document issued by URCA under section 95 Comms Act. An order is directed to a licensee or other person that has breached the Comms Act or regulatory measure. The order will specify actions that the recipient must take, including any fines payable.
Premium spectrum	Spectrum that is specified as being “premium spectrum” in the national spectrum plan published under s.31 Comms Act.
PUC	The Public Utilities Commission, a body established by the Public Utilities Commission Act, 1993, Chapter 306. The Public Utilities Commission Act was repealed by the URCA Act and the powers of the Public Utilities Commission were transferred to URCA.
Relevant turnover	“Relevant turnover” is defined fully in section 2 Comms Act. It refers to the gross receipts in money or money’s worth attributable to the provision of any licensed or exempt service or network or attributable to a content service. The relevant turnover includes associated advertising revenue and other ancillary revenue, less any rebates paid.

Registered class licence	See “Class Licence Requiring Registration”,
Registrar	The person or body responsible for the administration of the Tribunal, appointed under section 3 of the UAT Act.
SMP	Means “significant market power” and refers to a position of economic strength which enables the relevant person to hinder the maintenance of effective competition on the relevant market by allowing it to behave to an appreciable extent independently of its competitors, consumers and subscribers.
Spectrum fee	A fee payable to the Government under section 93 Comms Act relating to the use of spectrum. The spectrum fee is billed and collected by URCA on behalf of the Government.
Spectrum licence	A licence that permits the use of spectrum. A spectrum licence does not permit the licensee to provide an electronic communications service or operate an electronic communications network.
State asset	For the purposes of the electronic communications regulatory regime, these are radio spectrum, national telephone numbers and domain names.
Telecommunications Act	Telecommunications Act 1999, Chapter 304.
Tribunal	The Utilities Appeal Tribunal, established under the UAT Act.
Tribunal fee	A fee payable to the Tribunal under Sch. 3 of the UAT Act. This fee is billed and collected by URCA on behalf of the Tribunal.
UAT Act	The Utilities Appeal Tribunal Act, 2009.
Unregistered class licence	See “Class Licence not requiring registration”.

URCA	The Utilities Regulation and Competition Authority, established under the URCA Act. URCA is an independent regulator for utilities.
URCA Act	The Utilities Regulation and Competition Authority Act, 2009.
URCA fee	A fee payable to URCA under section 92 Comms Act. This includes annual fees and ad hoc fees.