



GIBRALTAR REGULATORY  
AUTHORITY

# Procedure for the grant of a General Authorisation

C09/21

3<sup>rd</sup> December 2021

# FOREWORD

*This document provides guidance and explains the procedures for the granting of a general authorisation.*

*A general authorisation is required for the provision of electronic communications networks and/or services in Gibraltar.*

*All applicants are required to notify the Gibraltar Regulatory Authority of their intention to provide electronic communications networks and/or services by completing Notification Form C10/21.*

*Following receipt of a correctly completed notification form, the Gibraltar Regulatory Authority will enter the details in the Register of Authorised Persons.*

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# 1. GENERAL AUTHORISATIONS

In accordance with the provisions of the Communications Act 2006 (the "Act") and the Communications (Authorisation and Licensing) Regulations 2006 (the "Authorisation Regulations"), a general authorisation is required for the provision of electronic communications networks and/or services in Gibraltar.

Under the terms of the Authorisation Regulations, operators are free to commence operations once a completed notification form has been received, but operations are subject to the conditions set out in the Notice on Conditions C08/21 ("Notice on Conditions").

In addition to the conditions, the Gibraltar Regulatory Authority (the "Authority") may also impose specific obligations on authorised operators. The specific obligations are defined in section 1.1 and the criteria and procedures for imposing them can be found in the various legal references within the definition.

The respective categories of general authorisation include:

- Electronic communications networks; and
- Electronic communications services.

Under the provisions of the Authorisation Regulations, any person may provide an electronic communications network and/or service, as long as they have notified the Authority in advance (unless the network or service concerned is exempt). Please see section 1.2.

The provision and use of radiocommunications based services are subject to Part VI of the Act. Under the Act, radiocommunications apparatus, if not licence exempt ("*Notice concerning exemptions from requirement to obtain a licence, Notice No. C04/17*") will require a licence.

The procedures which apply to such licences are set out in Part 3 of the Authorisation Regulations.

## 1.1 Definitions

**"General authorisation"** means the legal framework established under and pursuant to the Act ensuring rights for the provision of electronic communications networks or electronic communications services or both and laying down sector-specific obligations that may apply to all or to specific types of electronic communications networks and electronic communications services.

**"Electronic communications network"** means transmission systems, whether or not based on a permanent infrastructure or centralised administration capacity, and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit the conveyance of signals by wire, radio, optical or other electromagnetic means, including satellite networks, fixed (circuit and packet-switched, including internet) and mobile networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed.

**“Electronic communications service”** means a service normally provided for remuneration via electronic communications networks, which encompasses, with the exception of services providing, or exercising editorial control over, content transmitted using electronic communications networks and services, the following types of services-

- (a) internet access service;
- (b) interpersonal communications service; and
- (c) services consisting wholly or mainly in the conveyance of signals such as transmission services used for the provision of machine-to-machine services and for broadcasting.

**“Radiocommunications”** means the emitting or receiving over paths which are not provided by any material substance constructed or arranged for that purpose, of electro-magnetic energy which either-

- (a) serves for the conveying of messages, sound or visual images (whether the messages, sound or images are actually received by any person or not) or for the actuation or control of machinery or apparatus; or
- (b) is used in connection with the determination of position, bearing or distance, or for the gaining of information as to the presence, absence, position or motion of any object or of any objects of any class,

and references to stations for radiocommunications and apparatus for radiocommunications or radiocommunications apparatus shall be construed as references to stations and apparatus for the emitting or receiving of such electro-magnetic energy:

Provided that where-

- (i) a station or apparatus for radiocommunications cannot lawfully be used without a radiocommunications licence or could not lawfully be used without a radiocommunications licence but for regulations under Part VI of the Act,
- (ii) any such electro-magnetic energy which is received by that station or apparatus serves for the conveying of messages, sound or visual images, and
- (iii) any apparatus is coupled by wire, radio, optical or any electromagnetic means with that station or apparatus for the purpose of enabling any person to receive any such messages, sound or visual images,

the apparatus so coupled shall be deemed for the purposes of Part VI of the Act to be apparatus for radiocommunications.

**“specific obligations”** means such obligations, conditions or requirements as have been imposed on a person pursuant to-

- (i) regulations 5 (1) (b), (2), (3) or (4), 6 (1), (2) or (3), 7 (1), 9, 10, 11, 12, 13 or 14 of the Communications (Access) Regulations 2006 (the “Access Regulations”),

- (ii) regulations 3, 4, 5, 6 or 8 (2) of the Communications (Universal Service and Users' Rights) Regulations 2006 (the "Universal Service Regulations") pursuant to a designation made under regulation 7 of such Regulations, or
- (iii) regulations 13, 14, 15 or 16 of the Universal Service Regulations.

## 1.2 Exemptions From The Requirement To Notify

Persons intending to provide electronic communications networks and/or services should firstly establish whether the network and/or service which they intend to provide requires notifying.

Under the "*Notice Concerning an Exemption From The Requirement To Notify The Provision Of An Electronic Communications Network Or Service, Notice No. 3/2006*", the Authority has exempted particular classes of networks or services from the notification requirement.

The Authority has determined that operators who do not offer electronic communications networks and/or services to third parties are exempt.

If there is any doubt about whether it is necessary to make a notification, please contact the Authority for advice by emailing **communications@gra.gi**.

## 1.3 Notification Form

Any person who intends to provide an electronic communications network or an electronic communications service is required to notify the Authority by completing **Notification Form 10/21** ("Notification Form").

Any person who intends to submit a notification is encouraged to contact the Authority beforehand in order to facilitate the process and obtain guidance where appropriate.

There is no fee for the submission of the Notification Form.

## 1.4 Important Notice And Additional Requirements

A general authorisation does not automatically entitle any person to, and does not exempt it from, the obligation to obtain and/or notify for and comply with, any permit, right of use, or licence in respect of numbering resources, equipment, or radio spectrum, and/or other approval or authorisation however so described, that may be necessary in Gibraltar law to construct, operate and maintain the network and/or services.

Where networks or services are provided by a number of separate legal entities with common ownership or control (e.g. different subsidiaries or associated companies established to provide distinct services), a separate Notification Form should be completed by each legal entity. When forwarding notifications, entities should indicate the identity of related or connected entities which are also engaged in the provision of networks or services.

## 1.5 Method Of Submitting A Notification

Formal notification will only be recognised once a duly completed form is received by the Authority. To facilitate processing, the Notification Form can be completed electronically by filling in the required fields and emailing **communications@gra.gi**

Alternatively, a duly completed Notification Form can be submitted to the Authority in an envelope clearly marked "General Authorisation Notification Form" by hand or registered mail, addressed to:

The Chief Executive Officer  
Gibraltar Regulatory Authority  
Communications Division  
2nd Floor, Eurotowers 4  
1 Europort Road  
Gibraltar  
GX11 1AA

In handling a notification, the Authority will ensure that the Notification Form is properly completed and may, if necessary, contact the notifying entity. The notification process comprises the following steps:

- (i) A completed Notification Form is sent to the Authority. If the form is completed correctly, the person is deemed to be authorised on the date of receipt of the Notification Form by the Authority.
- (ii) The Authority may request further information from a notifying person if, in its opinion, the Notification Form submitted has not been completed properly.
- (iii) The Authority will publish the relevant contact details of the notifying person on a register of persons that have notified the Authority.

Persons who have submitted a correctly completed Notification Form may commence operations without further formalities, subject to meeting any other requirements provided for in law, such as planning permission, or any other form of licensing required for the provision of the network and/or services.

## 1.6 Register Of Authorised Persons

In accordance with regulation 4(10) of the Authorisation Regulations, upon receipt by the Authority of a correctly completed Notification Form "*...the person concerned is deemed to be an authorised person who, as such, is entitled to provide the notified electronic communications network or electronic communications service.*" However, operations are subject to the conditions set out in the Notice on Conditions.

The Authority shall then update the register of authorised persons after receipt of a correctly completed Notification Form. This register is publicly available and is published in accordance with Section 32(4) of the Act and regulation 37 of the Authorisation Regulations.

In the event that the form is not completed correctly, the Authority shall inform the notifying party accordingly. Authorised persons are responsible for ensuring receipt of notification either directly with the Authority or by reference to the register of authorised persons, available on the Authority's website **www.gra.gi**.

## 1.7 General Authorisation Administrative Charges

In accordance with Section 18(4) of the Act and regulations 31 and 33 of the Authorisation Regulations, the following charging principles shall be applied:

- A service provider shall, at the beginning of each charging period, pay to the Authority an administrative charge of £2,000 and shall be increased by 4% cumulatively each charging year<sup>1</sup>.
- A network provider shall, at the beginning of each charging period, pay the Authority an administrative charge which is to be calculated in accordance with the principle set out in 1.8 below in each charging year and will never be for an amount which is less than £55,000.

## 1.8 Calculation Of Administrative Charge

The administrative charge applicable to all network providers, shall be calculated in accordance with the following charging principle–

$$\frac{A \times C}{B}$$

where A is the relevant turnover of the network provider, B is the total relevant turnover of all network providers and C is the costs incurred by the Authority in accordance with regulation 31 of the Authorisation Regulations in the previous charging year, less the amount received by the Authority at the beginning of each charging period.

A network provider must provide the Authority, at the end of each charging year, with –

(a) a statement of his relevant turnover for that charging year signed by that person or, if that person is a corporation, by two of its directors; and

(b) if that person is an individual, a report by an auditor supporting the statement referred to in paragraph (a); or

(c) if that person is a corporation, a copy of its annual accounts.

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<sup>1</sup> For the period 1st April 2021 – 31st March 2022, this fee is currently £3514.00

# 2. NOTIFICATION OF AMENDMENTS TO A GENERAL AUTHORISATION

## 2.1 Updates And Changes To A General Authorisation

Regulation 4(6) and (7) of the Authorisation Regulations require that a person who has given a notification for providing an electronic communications network or service, also provides the Authority with notification when the network or service it provides has undertaken any significant differences, or when it ceases to provide it altogether.

Furthermore, in accordance with regulation 4(8), authorised undertakings or persons are required to notify the Authority of any changes to the information supplied in the Notification Form within seven days following such change in relation to the information supplied, namely:

(a) The person's website address, where applicable, associated with the provision of electronic communications networks or electronic communications services.

(b) Particulars identifying one or more persons with addresses in Gibraltar who, for the purposes of matters relating to the notified network or service, are authorised to accept service at an address in Gibraltar on behalf of the person giving the notification.

(c) Particulars identifying one or more persons who may be contacted if there is an emergency that is caused by or affects the provision of the notified network or service.

(d) Addresses and other particulars necessary for effecting service on or contacting each of the persons mentioned above together with the person submitting the notification.

**Authorised undertakings should complete the Notification Form and submit to the Authority with all the relevant amendments.**

## 2.2 Cessation Of A General Authorisation

Under the provisions of regulation 4(6) of the Authorisation Regulations, authorised persons must notify the Authority of their intention to cease providing a network and/or service before the provision of such network and/or service is terminated.

Formal notification to the Authority is required in the form of a signed letter, either to the Authority's address or by email to **communications@gra.gi**.

The register of authorised persons will then be updated following receipt of the formal notification of cessation.

# 3. DATA PROTECTION

The Authority will process any personal data supplied on Notification Form C10/21, in accordance with the provisions of the Data Protection Act 2004, for all or any of the following purposes:

- The proper processing of your application/Notification Form as submitted.
- Preventing, detecting and/or prosecuting fraud, any administrative non-compliance, and any other non-compliant or criminal activity or omission which the Authority is bound to report and/or act upon whilst meeting any other legal or regulatory obligations.
- Internal management and administration, research and statistics, and the development and improvement of the Authority's services.
- The proper conduct of the Authority's obligations arising under any law.

Relevant data will be disclosed or shared as appropriate with all our employees and with other third parties if pertinent to any of the purposes listed above.

By signing the form, you confirm that you are giving your explicit consent, on behalf of yourself and all the other persons specified on the form, for the Authority to process your respective personal information as outlined above.

The Authority will implement appropriate measures and safeguards with a view of protecting the confidentiality, integrity and availability of all data processed.

**For further details, please refer to the privacy policy on our website.**

## CONTACT US

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