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Regulations No. 664 of 11 June 1999: Regulations concerning the establishment, operation and use of satellite earth stations.

CONTENTS

Regulations concerning the establishment, operation and use of satellite earth stations.

Chapter 1 Introductory provisions

- Section 1. Scope
- Section 2. Definitions
- Section 3. Licensing requirements
- Section 4. Transfer
- Section 5. Change of name or address

Chapter 2 Requirements for establishment and operation

- Section 6. Requirements for earth stations
- Section 7. Keeping documentation
- Section 8. Supervision

Chapter 3 Special rules for the use of earth stations in Svalbard

- Section 9. Purpose
- Section 10. Duty to provide information
- Section 11. Conditions
- Section 12. Prohibited use
- Section 13. Duty to keep a log and store documentation
- Section 14. Supervision
- Section 15. Access for visits
- Section 16. Sanctions

Chapter 4 Common provisions

- Section 17. Orders to make modifications
 - Section 18. Termination
 - Section 19. Emergencies
 - Section 20. Appeals body
 - Section 21. Administrative charges
 - Section 22. Exemptions
 - Section 23. Penalties
 - Section 24. Entry into force
-

Laid down by Royal Decree of 11 June 1999 pursuant to Sections 3 and 4 of Act No. 11 of 17 July 1925 relating to Svalbard and Sections 5-2, 5-3, 7-1 and 7-7 of Act No. 39 of 23 June 1995 relating to telecommunications (Telecommunications Act), cf. Annex XIV point 13 of the EEA Agreement (Commission Directive 90/388/EEC, Commission Directive 94/46/EC and Council Directive 97/13/EC). Submitted by the Ministry of Transport and Communications.

Chapter 1 Introductory provisions

Section 1. *Scope*

These Regulations applies to the establishment, operation and use of satellite earth stations. Chapters 1, 2 and 4 of the Regulations do not apply to earth stations that are receive only.

In Svalbard, the Regulations also apply to the processing of satellite data received by an earth station.

Chapter 3 of the Regulations applies only in Svalbard. Nevertheless, the provisions of Chapter 3 do not apply to earth stations that receive broadcast programming only, earth stations exempted from the licensing requirement pursuant to Section 5-3 of the Telecommunications Act, user equipment connected to a licensed system and other user equipment accessible to the general public.

In case of doubt, the Norwegian Post and Telecommunications Authority shall decide whether an earth station comes within Chapter 3.

In Svalbard these Regulations apply to the extent the provisions do not infringe Article 4 of the Svalbard Treaty.

Section 2. *Definitions*

In these Regulations, the following terms are understood as follows:

- a) earth station: fixed or mobile equipment for transmission of signals to or from a satellite or other space-based system
- b) radio system licence: a license issued on special conditions to the owner of a radio system consisting of more than one earth station
- c) processing of satellite data: further processing of signals from a satellite after these signals have been received at the earth station
- d) High Contracting Parties: states that are parties to the Spitsbergen Treaty of February 9, 1920 (Svalbard Treaty).

Section 3. *Licensing requirements*

The establishment, operation and use of an earth station require a licence from the Norwegian Post and Telecommunications Authority.

Modifications of an earth station or radio system with regard to the specifications and plans on which a licence is based, require permission by the Norwegian Post and Telecommunications Authority.

An application for a licence shall be submitted to the Norwegian Post and Telecommunications Authority on a stipulated form. If an earth station is to be operated by a party other than the applicant, the party responsible for operation must be stated in the application.

Conditions may be set for a licence.

Section 4. *Transfer*

The licence may not be transferred.

Earth stations may only be transferred to a dealer registered for the sale of such equipment or to a party with the necessary licence for the type of earth station concerned.

A change of ownership must be reported to the Norwegian Post and Telecommunications Authority without undue delay.

Section 5. *Change of name or address*

A change of name or address must be reported to the Norwegian Post and Telecommunications Authority without undue delay.

Chapter 2 Requirements for establishment and operation

Section 6. *Requirements for earth stations*

Earth stations shall satisfy the requirements of one of the following Regulations:

- Regulations No. 857 of 2 September 1998 concerning national approval of telecommunication equipment.
- Regulations No. 867 of 7 September 1994 concerning telecommunications terminal equipment and satellite earth station equipment subject to common technical regulations under the EEA.

An earth station that requires installation by skilled workers shall be installed by an authorised radio installer.

An earth station must be maintained in such working order that all requirements pursuant to conditions of the particular licence are met.

An earth station shall be secured to prevent unauthorised persons from access to the station or from becoming aware of the content of telecommunications or others' use of telecommunications.

Section 7. *Keeping documentation*

The licence and documents on which the licence is based, shall be available at the earth station.

The same applies to documentation concerning the operation and use of the earth station.

Section 8. *Supervision*

The Norwegian Post and Telecommunications Authority shall monitor compliance with the provisions of the Regulations and licences granted in pursuance of the Regulations, with the exception of Chapter 3. The Authority may employ the assistance of others for its supervisory tasks.

Licensees shall assist the Authority in compliance monitoring. Necessary information and documentation shall be submitted, cf. Section 9-1 of the Telecommunications Act.

Chapter 3. Special rules for the use of earth stations in Svalbard

Section 9. *Purpose*

To ensure that the use of an earth station is in compliance with Article 9 of the Svalbard Treaty, Chapter 3 of the Regulations lays down special rules for licences for and use of earth stations in Svalbard, including processing of data received from a satellite or other space-based system.

Section 10. *Duty to provide information*

In addition to the requirements that follow from Section 3, on the application date information shall be provided concerning

- a) the earth station's infrastructure
- b) mission and technical specifications of the satellite from which the earth station is to downlink.
- c) the planned processing of satellite data
- d) the planned flow of data to and from the earth station
- e) the business plan for the earth station.

Section 11. *Conditions*

It is a condition for a licence that the log and other documents and data regarding the use of the earth station is to be submitted if the Governor of Svalbard so requires.

Section 12. *Prohibited use*

It is prohibited to

- a) use an earth station and data downlinked to an earth station for warlike purposes
- b) undertake processing especially intended for military purposes of satellite data at an earth station
- c) use data from an earth station for military command and control of weaponry from Svalbard

d) control of satellites' instruments from an earth station particularly for military purposes.

Section 13. *Obligation to keep a log and store documentation*

A licensee is obliged on an ongoing basis to

- a) log all satellite passes downlinked from
- b) log all processing
- c) store all antenna control orders at the same level at which logging is performed
- d) store all control information uplinked to satellites.

The data shall be kept at the earth station for a minimum of two years.

Section 14. *Supervision*

The Governor of Svalbard shall monitor compliance with the provisions of Chapter 3. The Governor may employ the assistance of others for these supervisory tasks.

The Governor shall at all times be granted unhindered access to the earth station for announced and unannounced inspections. The Governor may require the presence of the licensee or his representative during an inspection.

Expenses for compliance monitoring of an earth station shall be covered by the licensee.

The licence and documentation on which the licence is based in accordance with Chapters 2 and 3 shall be accessible.

The Governor may require the submission to himself or the party assisting with supervisory activities of information and data that is necessary with regard to the implementation of the Regulations. The Governor may require the information to be submitted in writing, including in electronic format. The Governor may also issue orders to keep logs, store and submit data to parties other than those mentioned above.

If the licensee does not operate the earth station himself, orders may be given to the party responsible for operation, cf. Section 3 fourth paragraph.

Section 15. *Access for visits*

Representatives of research institutions domiciled in a High Contracting Party to the Svalbard Treaty, deemed by the Governor of Svalbard to have the necessary professional qualifications, may be given the right to visit the earth station, if they provide reasonable advance notice. The Governor may decide to accompany the representatives or set special conditions for the visit. The licensee is obliged to facilitate approved visits.

Section 16. *Sanctions*

For violations of the provisions of Chapter 3 or justifiable suspicion of violations of these provisions, the Governor of Svalbard may prohibit the use of an earth station. If the prohibition is not complied with, the earth station may be closed down.

Chapter 4 Common provisions

Section 17. *Orders to make modifications*

The Norwegian Post and Telecommunications Authority may issue an order to modify an earth station and its operation if technical developments, the interest of other users of radio frequencies or other circumstances make this necessary.

If an order pursuant to the first paragraph is not complied with, the Authority may prohibit the use of the earth station or close it down.

Section 18. *Termination*

The licence is valid until further notice, unless a time limit is stipulated.

The licence may be terminated by the licensee. The termination notice shall be in writing and dated.

The licence may be revoked in the event of repeated or material violations of the provisions of these Regulations or of conditions of a licence granted pursuant to these Regulations.

If the licence is terminated or revoked, the earth station shall be taken out of operation. The antenna and power supply shall be disconnected, if possible. Unless otherwise decided, the licence documentation shall be clearly marked “invalid” and kept together with the earth station.

The Norwegian Post and Telecommunications Authority shall have written notification that the provisions of the previous paragraph have been complied with and that no use will be made of the earth station until a new licence is granted.

The Norwegian Post and Telecommunications Authority may seal the earth station when the right to use it lapses.

Section 19. *Emergencies*

When the interest of national security or emergency preparedness or other public interests so require, the use of an earth station may be restricted or denied. This does not entitle the licensee to compensation.

Section 20. *Appeals body*

The Norwegian Post and Telecommunications Authority Complaints and Advisory Board decides on appeals of administrative decisions in individual cases issued by the Norwegian Post and Telecommunications Authority pursuant to these Regulations.

Appeal cases concerning matters of principal or of a telecoms policy nature shall be decided by the Ministry of Transport and Communications after the Norwegian Post and Telecommunications Authority Complaints and Advisory Board has provided a reasoned recommendation for a decision.

Orders pursuant to Chapter 3 of these Regulations may be appealed against to the Ministry of Transport and Communications.

Section 21. *Administrative charges*

Annual administrative charges shall be paid to the Norwegian Post and Telecommunications Authority for a licence pursuant to the current Regulations concerning administrative charges etc. to the Norwegian Post and Telecommunications Authority.

Section 22. *Exemptions*

When special considerations so warrant, the telecommunications authority may grant exemptions from the provisions of these Regulations.

Section 23. *Penalties*

Violations of Chapter 3 of these Regulations or of orders issued in pursuance of Chapter 3 of these regulations shall be liable to a penalty pursuant to Section 4 second paragraph of the Svalbard Act.

Violations of these Regulations in other respects are liable to penalties pursuant to Section 10-4 of the Telecommunications Act.

Section 24. *Entry into force*

These Regulations enter into force immediately.

At the same time, Regulations No. 950 of 1 December 1995 concerning licences for earth stations for satellite communications are repealed.
