

*Draft Order laid before Parliament under section 14(1) of the Legislative and Regulatory Reform
Act 2006, for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

2020 No. XXXX

**REGULATORY REFORM
BROADCASTING**

The Legislative Reform (Renewal
of Radio Licences) Order 2020

Made - - - -

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by section 1 of the Legislative and Regulatory Reform Act 2006(1).

For the purposes of section 3(1) of that Act, the Secretary of State considers, where relevant, that the conditions in section 3(2) of that Act are satisfied.

The Secretary of State has consulted in accordance with section 13(1) of that Act(2).

The Secretary of State has laid a draft Order and an explanatory document before Parliament in accordance with section 14 of that Act.

Pursuant to section 15 of that Act, the affirmative resolution procedure (within the meaning of section 17 of that Act) applies in relation to the making of this Order.

In accordance with section 17(2) of that Act, the draft has been approved by resolution of each House of Parliament after the expiry of the 40-day period(3) referred to in that provision.

Citation and commencement

1. This Order may be cited as the Legislative Reform (Renewal of Radio Licences) Order 2020 and comes into force on the day after the day on which it is made.

Amendment of the Broadcasting Act 1990

2. The Broadcasting Act 1990(4) is amended as follows.

(1) 2006 c. 51. There are amendments to section 1 but none is relevant. See section 32 for the definition of “Minister of the Crown”.
(2) There are amendments to section 13(1) but none is relevant.
(3) “40-day period” is defined by section 16(7) of the Legislative and Regulatory Reform Act 2006.
(4) 1990 c.42.

3. In section 103B(5) (further renewal of national licences)—
- (a) in subsection (1)—
 - (i) for “two occasions” substitute “three occasions”;
 - (ii) for “first occasion) or” substitute “first occasion),”;
 - (iii) after “second occasion)” insert “or 10 years (on the third occasion)”;
 - (b) in subsection (2), for “subsection (3)” substitute “subsections (3) and (3A)”;
 - (c) after subsection (3) insert—
 - “(3A) Section 103A(12) (as applied) does not prevent the determination of a date falling less than one year after the making of the determination where—
 - (a) the renewal of the licence in question would be the third renewal under this section,
 - (b) OFCOM consider that the relevant date for the purposes of section 103A (as applied) is a date which is not more than 15 months after the day on which this subsection comes into force, and
 - (c) the determination is made as soon as practicable after that day.”.
4. In section 104A(6) (renewal of local licences)—
- (a) in subsection (4)—
 - (i) in paragraph (b), after “multiplex service” insert “or a relevant small-scale radio multiplex service”;
 - (ii) after “a local radio multiplex service” insert “or a local digital sound programme service and a small-scale radio multiplex service”;
 - (iii) after “that local radio multiplex service” insert “or (as the case may be) that small-scale radio multiplex service”;
 - (b) in subsection (5)(b), after “multiplex service” insert “or the nominated small-scale radio multiplex service”;
 - (c) in subsection (6), after “multiplex service”, in both places it appears, insert “or the nominated small-scale radio multiplex service”;
 - (d) in subsection (10)(a), after “multiplex service” insert “or the nominated small-scale radio multiplex service”;
 - (e) in subsection (12), after “multiplex service” insert “or the nominated small-scale radio multiplex service”;
 - (f) in subsection (13)—
 - (i) omit the “and” at the end of paragraph (c);
 - (ii) in paragraph (d), for the words from ““coverage area”” to the end substitute “the coverage area for a local service or local radio multiplex service is the area determined by OFCOM to be the area in the United Kingdom within which the service is capable of being received at a level satisfying such technical standards as may have been laid down by them for the purposes of this paragraph; and”;
 - (iii) after paragraph (d) insert—
 - “(e) “relevant small-scale radio multiplex service”, in relation to a local licence, means a small-scale radio multiplex service (within the meaning

(5) Section 103B was inserted by section 31 of the Digital Economy Act 2010 (c. 24) and amended by S.I. 2015/2052.

(6) Section 104A was inserted by section 94 of the Broadcasting Act 1996 (c. 55) and was amended by S.I. 2003/3142; there are other amendments but none is relevant.

of section 258A of the Communications Act 2003(7)) with a coverage area which to a significant extent includes the coverage area of the local service provided under the local licence; and for this purpose the coverage area for a local service or small-scale radio multiplex service is the area determined by OFCOM to be the area in the United Kingdom within which the service is capable of being received at a level satisfying such technical standards as may have been laid down by them for the purposes of this paragraph.”.

5. In section 104AA(8) (further renewal of local licences)—
- (a) in subsection (1)—
 - (i) for “two occasions” substitute “three occasions”;
 - (ii) for “first occasion) or” substitute “first occasion),”;
 - (iii) after “second occasion)” insert “or 10 years (on the third occasion)”;
 - (b) in subsection (2), omit the words from “and it is the first occasion” to the end;
 - (c) in subsection (3), after “(4)” insert “, (4A)”;
 - (d) after subsection (4) insert—

“(4A) Section 104A(14) (as applied) does not prevent the determination of a date falling less than one year after the making of the determination where—

 - (a) the renewal of the licence in question would be the third renewal under this section,
 - (b) OFCOM consider that the relevant date for the purposes of section 104A (as applied) is a date which is not more than 15 months after the day on which this subsection comes into force, and
 - (c) the determination is made as soon as practicable after that day.”;
 - (e) in subsection (5)—
 - (i) omit the “and” at the end of paragraph (b);
 - (ii) after paragraph (c) insert—

“, and

 - (d) references to the nominated small-scale radio multiplex service were omitted.”;
 - (f) in subsection (6), at the end insert the following definition—

““small-scale radio multiplex service” has the same meaning as in section 258A of the Communications Act 2003.”.

Date

Name
[Minister of State]
Department for Digital, Culture, Media and
Sport

(7) 2003 c.21. Section 258A was inserted by section 1 of the Broadcasting (Radio Multiplex Services) Act 2017 (c. 12).

(8) Section 104AA was inserted by section 32 of the Digital Economy Act 2010 and amended by S.I. 2015/2052.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under section 1 of the Legislative and Regulatory Reform Act 2006 (c. 51) and concerns radio licences granted under the Broadcasting Act 1990 (c. 42). References to the section numbers in the following paragraphs are to sections of the 1990 Act.

National radio licences granted under section 86 are renewable under section 103A and further renewable on two occasions for not more than 7 and 5 years under section 103B. Article 3 of this Order amends section 103B to allow for a further renewal on a third occasion and for such a renewal to be for a period of not more than 10 years.

A local licence granted under section 86 before 8th April 2010 (the date on which the insertions of sections 104A(1A) and 104AA came into force) may be renewed under section 104A for 12 years and further renewed under section 104AA for periods of not more than 7 and 5 years. Article 5 of this Order amends section 104AA to allow for a further renewal on a third occasion and for such a renewal to be for a period of not more than 10 years.

A local licence granted on or after 8th April 2010 may be renewed under section 104AA on one occasion for a period of not more than 7 years. Article 5 of this Order amends section 104AA to allow for a further renewal on a second occasion for a period of not more than 5 years and on a third occasion for a period of not more than 10 years.

Article 4 of this Order amends section 104A to allow for the nomination of a small-scale radio multiplex service in relation to a licence renewed under that section and to a licence renewed under section 104AA.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.