

SCHEDULES

SCHEDULE 1

Section 10

PROCEDURE FOR WIRELESS TELEGRAPHY LICENCES

General procedure for applications

- 1 (1) An application for a grant of a wireless telegraphy licence is to be determined in accordance with procedures prescribed in regulations made by OFCOM.
- (2) The procedures must include provision for—
 - (a) time limits for dealing with the granting of licences;
 - (b) requirements that must be met for the grant of a licence;
 - (c) particulars of the terms, provisions and limitations to which a licence may be made subject.

Time limits

- 2 (1) The time limits fixed for the purposes of paragraph 1(2) must require a decision on the application to be made, notified to the applicant and published—
 - (a) in the case of an application for a licence relating to a frequency allocated in accordance with the United Kingdom Plan for Frequency Authorisation, not more than six weeks after the day of the receipt of the application; and
 - (b) in any other case, as soon as possible after the receipt of the application.
- (2) The period of six weeks specified in sub-paragraph (1)(a) may be extended by OFCOM where it appears to them necessary to do so—
 - (a) for the purpose of enabling the requirements of any international agreement relating to frequencies, to orbital positions or to satellite co-ordination to be complied with; or
 - (b) in a case where a determination falls to be made as to which of a number of applicants is the more or most suitable to be licensed, for the purpose of securing that the procedure for the making of that determination is fair, reasonable, open and transparent.
- (3) The period may not be extended by virtue of sub-paragraph (2)(b) by more than eight months.

Information to be provided in connection with applications

- 3 The grounds on which a licence may be refused by OFCOM include a failure by the applicant to provide information which OFCOM reasonably require in order to satisfy themselves that the applicant is able to comply with terms, provisions or limitations to which the licence may be made subject.

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Proposed refusal

- 4 Where OFCOM propose to refuse a licence they must—
- (a) give to the applicant the reasons for the proposed refusal;
 - (b) specify a period of not less than one month within which representations about the proposed refusal may be made.

Duration

- 5 A wireless telegraphy licence continues in force, unless previously revoked by OFCOM, for such period as may be specified in the licence.

Revocation or variation

- 6 OFCOM may revoke a wireless telegraphy licence or vary its terms, provisions or limitations—
- (a) by a notice in writing given to the holder of the licence; or
 - (b) by a general notice applicable to licences of the class to which the licence belongs, published in such way as may be specified in the licence.

Notification of proposed revocation or variation

- 7 (1) Where OFCOM propose to revoke or vary a wireless telegraphy licence, they must give the person holding the licence a notification under this sub-paragraph—
- (a) stating the reasons for the proposed revocation or variation; and
 - (b) specifying the period during which the person notified has an opportunity to do the things specified in sub-paragraph (2).
- (2) The things are—
- (a) making representations about the proposal; and
 - (b) if the proposal is the result of a contravention of a term, provision or limitation of the licence, complying with that term, provision or limitation.
- (3) Subject to sub-paragraphs (4) to (6), the period for doing those things must be the period of one month beginning with the day after the one on which the notification was given.
- (4) OFCOM may, if they think fit, allow a longer period for doing those things—
- (a) by specifying a longer period in the notification; or
 - (b) by subsequently, on one or more occasions, extending the specified period.
- (5) The person notified has a shorter period for doing those things if a shorter period is agreed between OFCOM and the person notified.
- (6) The person notified also has a shorter period if—
- (a) OFCOM have reasonable grounds for believing that the case is urgent or a case of serious and repeated contravention;
 - (b) they have determined that, in the circumstances, a shorter period would be appropriate; and
 - (c) the shorter period has been specified in the notification.
- (7) A case is urgent if the failure to revoke or vary the licence will result in, or create an immediate risk of—

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- (a) a serious threat to the safety of the public, to public health or to national security; or
 - (b) serious economic or operational problems for persons, other than the person in contravention, who—
 - (i) use wireless telegraphy stations or wireless telegraphy apparatus; or
 - (ii) are communications providers or make associated facilities available.
- (8) A contravention of a term, provision or limitation of a licence is a repeated contravention, in relation to a proposal to revoke or vary a licence, if it falls within sub-paragraph (9).
- (9) A contravention falls within this sub-paragraph if—
- (a) a previous notification under sub-paragraph (1) has been given in respect of the same contravention or in respect of another contravention of a term, provision or limitation of the same licence; and
 - (b) the subsequent notification under that sub-paragraph is given no more than 12 months after the day of the making by OFCOM of a determination for the purposes of sub-paragraph (10) that the contravention to which the previous notification related did occur.
- (10) Where OFCOM have given a notification under sub-paragraph (1), they must, within the period of one month beginning with the end of the period for the making of representations about the proposal contained in that notification—
- (a) decide whether or not to revoke or vary the licence in accordance with their proposal, or in accordance with that proposal but with modifications; and
 - (b) give the person holding the licence a notification of their decision.
- (11) The notification under sub-paragraph (10)—
- (a) must be given no more than one week after the making of the decision to which it relates; and
 - (b) must, in accordance with that decision, either revoke or vary the licence or withdraw the proposal for a revocation or variation.
- (12) Nothing in this paragraph applies to a proposal to revoke or vary a licence if the proposal is made at the request or with the consent of the holder of the licence.
- (13) The reference in sub-paragraph (9) to a contravention of a term, provision or limitation of the same licence includes a reference to a contravention of a term, provision or limitation contained in a previous licence of which the licence in question is a direct or indirect renewal.

Restriction on powers of revocation and variation

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- (1) The terms that OFCOM may include in a wireless telegraphy licence include terms restricting the exercise by them of their power to revoke or vary the licence.
 - (2) The terms that may be included because of sub-paragraph (1) include, in particular, terms providing that the licence may not be revoked or varied except—
 - (a) with the consent of the holder of the licence; or
 - (b) in such other circumstances and on such grounds as may be specified in the licence.

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- (3) The circumstances or grounds may relate to matters relevant for the purposes of any other enactment (and may, in particular, be dependent on the exercise of a statutory discretion under any other enactment).
- (4) A licence containing terms included because of sub-paragraph (1) may also provide that regulations made under section 45—
 - (a) do not apply in relation to a station or apparatus to which the licence relates; or
 - (b) apply in relation to such a station or such apparatus to such extent only, or subject to such modifications, as may be specified in the licence.
- (5) Despite any term or provision included in a wireless telegraphy licence in accordance with this paragraph, OFCOM may at any time by giving the holder of the licence a notice in writing revoke the licence or vary its terms, provisions or limitations, if it appears to OFCOM to be necessary or expedient to do so—
 - (a) in the interests of national security; or
 - (b) for the purpose of securing compliance with an international obligation of the United Kingdom.