
STATUTORY INSTRUMENTS

2016 No. 700

**The Communications (Access to
Infrastructure) Regulations 2016**

PART 4

Proceedings before the Tribunal and Appeals from the Tribunal

Proceedings before the Tribunal

- 19.**—(1) This regulation applies if OFCOM—
- (a) have made a determination under regulation 13; or
 - (b) have, by virtue of regulation 17, given a confirmation decision to a person under section 139A of the 2003 Act.
- (2) A party to the dispute about which OFCOM made the determination or a person to which a confirmation decision was given may apply to the Tribunal for a review of that determination or decision.
- (3) Except in so far as a direction to the contrary is given by the Tribunal, the effect of the determination or confirmation decision is not suspended by reason of the making of the application.
- (4) In deciding an application the Tribunal must apply the same principles as would be applied by a court on an application for judicial review.
- (5) The application must be brought by way of an appeal before the Tribunal, and OFCOM must be a party to the proceedings.
- (6) The means of making the application is by sending the Tribunal a notice of appeal in accordance with Tribunal rules.
- (7) The notice of appeal must be sent within the period specified in those rules.
- (8) The grounds of appeal must be set out in sufficient detail to indicate why the appellant contends that the determination or confirmation decision (or any part of that determination or decision) was not lawful.
- (9) The Tribunal must either—
- (a) dismiss the appeal, or
 - (b) quash, in whole or part, the determination or confirmation decision.
- (10) If the Tribunal quashes a determination (or any part of it), it must refer the matter back to OFCOM with a direction to reconsider and make a new determination that is consistent with the Tribunal's ruling.
- (11) If the Tribunal quashes a confirmation decision (or any part of it), it must—
- (a) refer the matter back to OFCOM with a direction to reconsider the application of the contravention process to the matter in a manner consistent with the Tribunal's ruling; or
 - (b) make such other direction about the confirmation decision as it considers appropriate.

(12) The “contravention process” is the process set out in sections 138 to 139A of the 2003 Act as applied by regulation 17.

Appeals from the Tribunal

20.—(1) An appeal lies to the appropriate court on any point of law arising from a decision of the Tribunal under regulation 19.

(2) An appeal under this regulation may be brought by—

- (a) a party to the proceedings before the Tribunal; or
- (b) any other person who has a sufficient interest in the matter.

(3) An appeal under this regulation requires the permission of the Tribunal or the appropriate court.

(4) In this regulation “the appropriate court” means—

- (a) in relation to England and Wales and Northern Ireland, the Court of Appeal; and
- (b) in relation to Scotland, the Court of Session.

Changes to legislation:

There are currently no known outstanding effects for the The Communications (Access to Infrastructure) Regulations 2016, PART 4.