



Broadcasting Act 1990

1990 CHAPTER 42

PART III

INDEPENDENT RADIO SERVICES

CHAPTER II

SOUND BROADCASTING SERVICES

Local and other services

[^{F1}104A Renewal of local licences.

- (1) A local licence may (subject to the following provisions of this section) be renewed [^{F2}under this section] on one occasion for a period of [^{F3}twelve] years beginning with the date of renewal.

[A local licence may be renewed under this section only if it is granted before the day ^{F4}(1A) on which section 104AA comes into force.]
- (2) No application for the renewal of a local licence under subsection (1) may be made before [^{F5}OFCOM] first publish a notice pursuant to section 50(2) of the Broadcasting Act 1996 inviting applications for a licence to provide a relevant local radio multiplex service.
- (3) Subject to subsection (2), an application for the renewal of a local licence under subsection (1) may be made by the licence holder not earlier than three years before the date on which it would otherwise cease to be in force and not later than [^{F6}the day falling three months before] the relevant date.
- (4) The applicant must, in his application or at any time before the consideration of his application, nominate—
 - (a) a local digital sound programme service provided or to be provided by him, and

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- (b) a relevant local radio multiplex service [^{F7}or a relevant small-scale radio multiplex service],
- but may not nominate together a local digital sound programme service and a local radio multiplex service [^{F8}or a local digital sound programme service and a small-scale radio multiplex service] if another local licence held by him includes a condition in pursuance of subsection (12) relating to the broadcasting of that local digital sound programme service by that local radio multiplex service [^{F9}or (as the case may be) that small-scale radio multiplex service].
- (5) Where an application for the renewal of a local licence has been duly made to [^{F5}OFCOM], they shall grant the application if—
- (a) they are satisfied that the applicant would, if his licence were renewed, provide a local service which complied with the conditions included in the licence in pursuance of section 106 (whether as originally imposed or as varied under that section), ^{F10}...
 - (b) the nominated local digital sound programme service provided by the applicant is being broadcast by means of the nominated local radio multiplex service [^{F11}or the nominated small-scale radio multiplex service].
 - ^{F12}(c) [they are satisfied that the period for which the nominated local digital sound programme service will be available for reception and the times at which it will be available will not be significantly different, week by week, from those for which and at which the licensed local service will be broadcast;]
- (6) Where the condition specified in subsection (5)(a) is satisfied, [^{F5}OFCOM] may grant the application even though the condition specified in subsection (5)(b) is not satisfied if—
- (a) the applicant holds a licence to provide local digital sound programme services,
 - (b) a licence to provide the nominated local radio multiplex service [^{F13}or the nominated small-scale radio multiplex service] has been awarded, and
 - (c) it appears to [^{F5}OFCOM] that, under a contract between the applicant and the person to whom that licence has been awarded, the applicant is obliged to provide the nominated local digital sound programme service for broadcasting by means of the nominated local radio multiplex service [^{F13}or the nominated small-scale radio multiplex service].
- (7) [^{F5}OFCOM] may in any case postpone consideration of the application until the relevant date.
- (8) If, at the relevant date, the condition specified in subsection (5)(b) is not satisfied, and any of the conditions specified in subsection (6) is not satisfied, [^{F5}OFCOM] may postpone consideration of the application for such period not exceeding twelve months as they think appropriate.
- (9) Where [^{F5}OFCOM] postpone consideration of an application under this section for any period beyond the relevant date (the “postponement period”), they shall extend the period for which the licence is in force by a period equal to the postponement period; and section 86(3) shall not limit the powers of [^{F5}OFCOM] under this subsection.
- (10) On the grant of any application under this section [^{F5}OFCOM] shall—
- (a) where the nominated local digital sound programme service provided by the applicant is not being broadcast by means of the nominated local radio multiplex service [^{F14}or the nominated small-scale radio multiplex service],

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determine a date by which that service must have begun to be so broadcast; and

(b) specify a fee payable to [F⁵OFCOM] in respect of the renewal.

(11) Where [F⁵OFCOM] have granted a person's application under this section they shall formally renew his licence as soon afterwards as is reasonably practicable; and they shall not so renew his licence unless they have notified him of—

(a) any date determined by them under subsection (10)(a), and

(b) the renewal fee specified by them under subsection (10)(b),

and he has, within such period as is specified in that notification, notified them that he consents to the licence being renewed on those terms.

(12) Where [F⁵OFCOM] renew a licence under this section they shall include in the licence as renewed a condition requiring the licence holder to do all that he can to ensure that the nominated local digital sound programme service is broadcast by means of the nominated local radio multiplex service [F¹⁵or the nominated small-scale radio multiplex service] throughout the period beginning with whichever is the later of—

(a) the date on which the licence would expire if not renewed, and

(b) any date determined by them under subsection (10)(a),

and ending with the date on which the licence (as renewed) is to expire.

[In the case of a pre-transfer local licence (including one for a period extended under F¹⁶(12A) section 253 of the Communications Act 2003)—

(a) the licence is not to be capable of being renewed under this section if it has already been renewed under this section before the radio transfer date; and

(b) on the renewal of the licence, it shall be the duty of OFCOM to secure that the renewed licence contains only such provision as would be included in a local licence granted by OFCOM under this Part after the radio transfer date.]

(13) In this section—

(a) “local digital sound programme service” has the same meaning as in Part II of the Broadcasting Act 1996;

(b) “nominated” means nominated by the applicant under subsection (4);

(c) “relevant date”, in relation to a local licence, means the date which [F⁵OFCOM] determine to be that by which they would need to publish a notice under section 104(1) if they were to grant, as from the date on which that licence would expire if not renewed, a fresh licence to provide the local service formerly provided under that licence; F¹⁷...

(d) “relevant local radio multiplex service”, in relation to a local licence, means a local radio multiplex service (within the meaning of Part II of the Broadcasting Act 1996) with a [F¹⁸the 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]

[F¹⁹(e) “relevant small-scale radio multiplex service”, in relation to a local licence, means a small-scale radio multiplex service (within the meaning of section 258A of the Communications Act 2003) 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

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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.]

- [A determination for the purposes of subsection (13)(c)—
 F20(14) (a) must be made at least one year before the date determined; and
 (b) must be notified by OFCOM to the person who holds the licence in question.]]

Textual Amendments

- F1** Ss. 104A, 104B inserted (1.11.1996) by 1996 c. 55, s. 94(1) (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**
- F2** Words in s. 104A(1) inserted (8.4.2010) by Digital Economy Act 2010 (c. 24), ss. 32(1)(a), 47(2)(b)
- F3** Word in s. 104A(1) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 46(3)** (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)
- F4** S. 104A(1A) inserted (8.4.2010) by Digital Economy Act 2010 (c. 24), ss. 32(1)(b), 47(2)(b)
- F5** Words in s. 104A substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 46(2)** (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)
- F6** Words in s. 104A(3) inserted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 46(4)** (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)
- F7** Words in s. 104A(4)(b) inserted (10.12.2020) by The Legislative Reform (Renewal of Radio Licences) Order 2020 (S.I. 2020/1526), arts. 1, **4(a)(i)**
- F8** Words in s. 104A(4) inserted (10.12.2020) by The Legislative Reform (Renewal of Radio Licences) Order 2020 (S.I. 2020/1526), arts. 1, **4(a)(ii)**
- F9** Words in s. 104A(4) inserted (10.12.2020) by The Legislative Reform (Renewal of Radio Licences) Order 2020 (S.I. 2020/1526), arts. 1, **4(a)(iii)**
- F10** Word in s. 104A(5)(a) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 19(1)** Note 1 (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)
- F11** Words in s. 104A(5)(b) inserted (10.12.2020) by The Legislative Reform (Renewal of Radio Licences) Order 2020 (S.I. 2020/1526), arts. 1, **4(b)**
- F12** S. 104A(5)(c) inserted (29.12.2003) by Communications Act 2003 (c. 21), ss. 254, 411(2) (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)
- F13** Words in s. 104A(6) inserted (10.12.2020) by The Legislative Reform (Renewal of Radio Licences) Order 2020 (S.I. 2020/1526), arts. 1, **4(c)**
- F14** Words in s. 104A(10)(a) inserted (10.12.2020) by The Legislative Reform (Renewal of Radio Licences) Order 2020 (S.I. 2020/1526), arts. 1, **4(d)**
- F15** Words in s. 104A(12) inserted (10.12.2020) by The Legislative Reform (Renewal of Radio Licences) Order 2020 (S.I. 2020/1526), arts. 1, **4(e)**
- F16** S. 104A(12A) inserted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 46(5)** (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)
- F17** Word in s. 104A(13)(c) omitted (10.12.2020) by virtue of The Legislative Reform (Renewal of Radio Licences) Order 2020 (S.I. 2020/1526), arts. 1, **4(f)(i)**
- F18** Words in s. 104A(13)(d) substituted (10.12.2020) by The Legislative Reform (Renewal of Radio Licences) Order 2020 (S.I. 2020/1526), arts. 1, **4(f)(ii)**
- F19** S. 104A(13)(e) inserted (10.12.2020) by The Legislative Reform (Renewal of Radio Licences) Order 2020 (S.I. 2020/1526), arts. 1, **4(f)(iii)**
- F20** S. 104A(14) inserted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 46(7)** (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

Modifications etc. (not altering text)

- C1** Pt. III: transfer of functions (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 1 para. 5** (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

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| C2 | S. 104A(3) modified (29.12.2003) by Communications Act 2003 (c. 21) , s. 411(2), Sch. 18 para. 50(3)–(6) (with Sch. 18); S.I. 2003/3142 , art. 3(1), Sch. 1 (with art. 11) |
| C3 | S. 104A(14) restricted (29.12.2003) by Communications Act 2003 (c. 21) , s. 411(2) Sch. 18 para. 50(1), (2)(c), (6) (with Sch. 18); S.I. 2003/3142 , art. 3(1), Sch. 1 (with art. 11) |

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