

Changes to legislation: There are currently no known outstanding effects for the Wireless Telegraphy Act 2006, SCHEDULE 1. (See end of Document for details)

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.
- [^{F1}(3) The procedures must be—
- (a) open (except where sub-paragraph (4) applies);
 - (b) objective;
 - (c) transparent;
 - (d) not such as to discriminate unduly against particular persons or against a particular description of persons; and
 - (e) proportionate to what they are intended to achieve.
- (4) The requirement for a procedure to be open does not apply if—
- (a) the procedure relates to licences for frequencies for the broadcasting of television and radio programmes, and
 - (b) OFCOM think that, in order to ensure the fulfilment of a general interest objective (within the meaning given by section 8B(3)), the procedure should not be open.]

Textual Amendments

- F1** Sch. 1 para. 1(3)(4) inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 2 para. 16(a)** (with Sch. 3 para. 2)

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.

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- (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.

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 [^{F2}30 days] within which representations about the proposed refusal may be made.

Textual Amendments

- F2** Words in [Sch. 1 para. 4\(b\)](#) substituted (21.12.2020) by [The Electronic Communications and Wireless Telegraphy \(Amendment\) \(European Electronic Communications Code and EU Exit\) Regulations 2020 \(S.I. 2020/1419\)](#), reg. 1(2), [Sch. 1 para. 90](#)

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.
- [^{F3}6A. OFCOM may not revoke or vary a wireless telegraphy licence unless the proposed revocation or variation is objectively justifiable.]

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Textual Amendments

F3 Sch. 1 para. 6A inserted (26.5.2011) by The Electronic Communications and Wireless Telegraphy Regulations 2011 (S.I. 2011/1210), reg. 1(2), **Sch. 2 para. 16(b)** (with Sch. 3 para. 221)

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 [^{F4}to make representations about the proposal].

^{F5}(2)

[^{F6}(3) The period for making representations—

- (a) if the proposal is the result of a contravention of a term, provision or limitation of a licence, is such period as OFCOM may specify; and
- (b) in any other case, must be the period of [^{F7}30 days] beginning with the day after the one on which the notification was given (but this is subject to sub-paragraphs (4) to (6)).]

(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 ^{F8}...;
- (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—

- (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.

^{F9}(8)

^{F10}(9)

(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—

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- (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; ^{F11} ...
 - (b) give the person holding the licence a notification of their decision.;^{F12} and
 - (c) in the case of a variation of a wireless telegraphy licence extending the duration of the licence, publish the notification and the reasons for the 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; ^{F13} ...
 - ^{F14}(aa) must give reasons for the decision; 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^{F15}(but OFCOM must, where a proposal is made by or with the consent of the holder of the licence to vary a wireless telegraphy licence in order to extend the duration of the licence, publish the notification of their decision and the reasons for it)].

^{F16}(13)

Textual Amendments

- F4** Words in Sch. 1 para. 7(1)(b) substituted (26.5.2011) by *The Electronic Communications and Wireless Telegraphy Regulations 2011* (S.I. 2011/1210), reg. 1(2), **Sch. 2 para. 16(c)** (with Sch. 3 para. 221)
- F5** Sch. 1 para. 7(2) omitted (26.5.2011) by virtue of *The Electronic Communications and Wireless Telegraphy Regulations 2011* (S.I. 2011/1210), reg. 1(2), **Sch. 2 para. 16(d)** (with Sch. 3 para. 221)
- F6** Sch. 1 para. 7(3) substituted (26.5.2011) by *The Electronic Communications and Wireless Telegraphy Regulations 2011* (S.I. 2011/1210), reg. 1(2), **Sch. 2 para. 16(e)** (with Sch. 3 para. 221)
- F7** Words in Sch. 1 para. 7(3)(b) substituted (21.12.2020) by *The Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020* (S.I. 2020/1419), reg. 1(2), **Sch. 1 para. 90**
- F8** Words in Sch. 1 para. 7(6)(a) omitted (26.5.2011) by virtue of *The Electronic Communications and Wireless Telegraphy Regulations 2011* (S.I. 2011/1210), reg. 1(2), **Sch. 2 para. 16(f)** (with Sch. 3 para. 221)
- F9** Sch. 1 para. 7(8) omitted (26.5.2011) by virtue of *The Electronic Communications and Wireless Telegraphy Regulations 2011* (S.I. 2011/1210), reg. 1(2), **Sch. 2 para. 16(g)** (with Sch. 3 para. 221)
- F10** Sch. 1 para. 7(9) omitted (26.5.2011) by virtue of *The Electronic Communications and Wireless Telegraphy Regulations 2011* (S.I. 2011/1210), reg. 1(2), **Sch. 2 para. 16(g)** (with Sch. 3 para. 221)
- F11** Word in Sch. 1 para. 7(10)(a) omitted (26.5.2011) by virtue of *The Electronic Communications and Wireless Telegraphy Regulations 2011* (S.I. 2011/1210), reg. 1(2), **Sch. 2 para. 16(h)(i)** (with Sch. 3 para. 221)
- F12** Sch. 1 para. 7(10)(c) and word inserted (26.5.2011) by *The Electronic Communications and Wireless Telegraphy Regulations 2011* (S.I. 2011/1210), reg. 1(2), **Sch. 2 para. 16(h)(ii)** (with Sch. 3 para. 221)
- F13** Word in Sch. 1 para. 7(11)(a) omitted (26.5.2011) by virtue of *The Electronic Communications and Wireless Telegraphy Regulations 2011* (S.I. 2011/1210), reg. 1(2), **Sch. 2 para. 16(i)** (with Sch. 3 para. 221)
- F14** Sch. 1 para. 7(11)(aa) inserted (26.5.2011) by *The Electronic Communications and Wireless Telegraphy Regulations 2011* (S.I. 2011/1210), reg. 1(2), **Sch. 2 para. 16(i)** (with Sch. 3 para. 221)
- F15** Words in Sch. 1 para. 7(12) inserted (26.5.2011) by *The Electronic Communications and Wireless Telegraphy Regulations 2011* (S.I. 2011/1210), reg. 1(2), **Sch. 2 para. 16(j)** (with Sch. 3 para. 221)

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F16 Sch. 1 para. 7(13) omitted (26.5.2011) by virtue of [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), [Sch. 2 para. 16\(g\)](#) (with Sch. 3 para. 221)

Restriction on powers of revocation and variation

- 8
- (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.
 - (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.

Changes to legislation:

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