

SCHEDULE 1

Amendments of primary legislation

PART 3

Amendments of Wireless Telegraphy Act 2006 coming into force on 21st December 2020

80. The Wireless Telegraphy Act 2006 ^{M1} is amended as follows.

Commencement Information

I1 Sch. 1 para. 80 in force at 21.12.2020, see reg. 1(2)

Marginal Citations

M1 2006 c. 36.

81.—(1) Section 8 (licences and exemptions) ^{M2} is amended as follows.

^{F1}(2)

(3) In subsection (5), after paragraph (c) insert—

“(ca) inhibit the development of effective arrangements for the sharing of frequencies;”.

F1 Sch. 1 para. 81(2) omitted (31.12.2020) by virtue of [The Electronic Communications and Wireless Telegraphy \(Amendment\) \(European Electronic Communications Code and EU Exit\) Regulations 2020 \(S.I. 2020/1419\)](#), reg. 1(3)(b), **Sch. 2 para. 6(g)**

Commencement Information

I2 Sch. 1 para. 81 in force at 21.12.2020, see reg. 1(2)

Marginal Citations

M2 Subsections (3A), (3B) and (5) were inserted by [S.I. 2011/1210](#); subsection (3A) is prospectively repealed by [S.I. 2019/246](#).

82. In section 8C (consultation before grant of exclusive licence) ^{M3}, in subsection (4), for “one month” substitute “ 30 days ”.

Commencement Information

I3 Sch. 1 para. 82 in force at 21.12.2020, see reg. 1(2)

Marginal Citations

M3 Section 8C was inserted by [S.I. 2011/1210](#).

83.—(1) Section 9 (terms, provisions and limitations) ^{M4} is amended as follows.

^{F2}(2)

(3) In subsection (4), after paragraph (c) insert—

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“(ca) terms or provisions requiring the holder of the licence to enter into wholesale roaming access agreements in specified circumstances on terms specified or described in the licence.”.

(4) After subsection (7) insert—

“(7A) In this section “wholesale roaming access agreement”, in relation to the holder of a wireless telegraphy licence, means an agreement between the holder and the provider of a public electronic communications service that depends on the use of wireless telegraphy (“the roaming provider”) for the purpose of enabling public electronic communications services to be provided to the customers of the roaming provider in all or part of the area to which the licence relates.”.

F2 Sch. 1 para. 83(2) omitted (31.12.2020) by virtue of [The Electronic Communications and Wireless Telegraphy \(Amendment\) \(European Electronic Communications Code and EU Exit\) Regulations 2020 \(S.I. 2020/1419\)](#), reg. 1(3)(b), [Sch. 2 para. 6\(h\)](#)

Commencement Information

I4 Sch. 1 para. 83 in force at 21.12.2020, see reg. 1(2)

Marginal Citations

M4 Section 9 was amended by [S.I. 2009/2979](#) and [S.I. 2011/1210](#) and subsection (1A) is prospectively repealed by [S.I. 2019/246](#).

84. In section 14 (bidding for licences)^{M5}, after subsection (3B) insert—

“(3C) In exercising their power to make regulations under this section, OFCOM must consider whether, if they were to specify under subsection (3)(h) a term, provision or limitation requiring a specified level of use of any station, apparatus or frequency to which the licence relates, they would by doing so promote the optimal use of the electromagnetic spectrum.”.

Commencement Information

I5 Sch. 1 para. 84 in force at 21.12.2020, see reg. 1(2)

Marginal Citations

M5 Section 14 was amended by section 38 of the [Digital Economy Act 2010 \(c. 24\)](#) and by [S.I. 2011/1210](#).

85. In section 30 (spectrum trading), omit subsection (1A)^{M6}.

Commencement Information

I6 Sch. 1 para. 85 in force at 21.12.2020, see reg. 1(2)

Marginal Citations

M6 Subsection (1A) was inserted by [S.I. 2011/1210](#) and is prospectively repealed by paragraph 45(4) of Schedule 1 to [S.I. 2019/246](#) (which is omitted by paragraph 4(2)(k) of Schedule 2 to these Regulations).

86. After section 30 insert—

“30A General duty of OFCOM to allow leasing or transfer

(1) OFCOM must exercise the powers mentioned in subsection (2) in such a way as to ensure that, except in the cases excluded by subsection (4), the holder of a wireless telegraphy licence can do at least one of the following—

- (a) confer the benefit of the licence on another person in respect of any station or apparatus to which the licence relates; or
- (b) transfer to another person rights and obligations arising as a result of the licence.

(2) The powers are—

- (a) their power under section 9 to impose terms, provisions and limitations on a wireless telegraphy licence; and
- (b) their power to make regulations under section 30.

(3) OFCOM must exercise their powers to make regulations under section 30 so as to authorise the transfer to another person by the holder of a grant of recognised spectrum access of rights and obligations arising as a result of such a grant, except in the cases excluded by subsection (5).

(4) The duty in subsection (1) does not apply where—

- (a) no charge was payable to OFCOM on the grant of the licence;
- (b) the licence contains terms, provisions or limitations as a result of which the services for which the use of the station or apparatus is authorised consist of or include the transmission or provision of relevant television or radio services;
- (c) the duration of the licence does not exceed 12 months;
- (d) the licence contains terms, provisions or limitations as a result of which the purposes for which the use of the station or apparatus is authorised consist of or include experimental, innovation, research, demonstration or trial purposes;
- (e) the licence contains terms, provisions or limitations as a result of which the purposes for which the use of the station or apparatus is authorised consist of or include safety of life services; or
- (f) the licence relates to frequencies that are not subject to individual frequency planning or co-ordination.

(5) The duty in subsection (3) does not apply where—

- (a) no charge was payable to OFCOM on the making of the grant of recognised spectrum access;
- (b) the grant contains restrictions or conditions as a result of which the services for which the use of the station or apparatus is authorised consist of or include the transmission or provision of relevant television or radio services;
- (c) the duration of the grant does not exceed 12 months;
- (d) the grant contains restrictions or conditions as a result of which the purposes for which the use of the station or apparatus is authorised consist of or include experimental, innovation, research, demonstration or trial purposes;
- (e) the grant contains restrictions or conditions as a result of which the purposes for which the use of the station or apparatus is authorised consist of or include safety of life services; or
- (f) the grant relates to frequencies that are not subject to individual frequency planning or co-ordination.

(6) In subsections (4)(b) and (5)(b) “relevant television or radio services” means—

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- (a) services provided under the authority of a licence under the Broadcasting Act 1990 or the Broadcasting Act 1996;
- (b) sound broadcasting services (as defined by section 126(1) of the Broadcasting Act 1990) provided by the British Broadcasting Corporation;
- (c) television multiplex services (as defined by section 241 of the Communications Act 2003) for which a licence under Part 1 of the Broadcasting Act 1996 is not required;
- (d) radio multiplex services (as defined by section 258 of the Communications Act 2003) for which a licence under Part 2 of the Broadcasting Act 1996 is not required;
- (e) general multiplex services (as defined by section 362(1) of the Communications Act 2003).”.

Commencement Information

I7 Sch. 1 para. 86 in force at 21.12.2020, see reg. 1(2)

87. In section 31 (wireless telegraphy register), in subsection (3)—

- (a) omit the “or” at the end of paragraph (a);
- (b) at the end of paragraph (b) insert—
“or
- (c) the conferring by the holder of a wireless telegraphy licence on another person of the benefit of the licence in respect of any station or apparatus to which the licence relates.”.

Commencement Information

I8 Sch. 1 para. 87 in force at 21.12.2020, see reg. 1(2)

88. In section 115 (general interpretation), in subsection (1), after the definition of “dynamic spectrum access service”^{M7} insert—

““the EECC Directive” means Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code;”.

Commencement Information

I9 Sch. 1 para. 88 in force at 21.12.2020, see reg. 1(2)

Marginal Citations

M7 This definition was inserted by the [Digital Economy Act 2017 \(c. 30\)](#), [section 8\(3\)](#).

89. In section 122 (orders and regulations made by OFCOM), in subsection (6), for “one month” substitute “ 30 days ”.

Commencement Information

I10 Sch. 1 para. 89 in force at 21.12.2020, see reg. 1(2)

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90. In Schedule 1 (procedure for wireless telegraphy licences)^{M8}, in paragraphs 4(b) and 7(3) (b), for “one month” substitute “ 30 days ”.

Commencement Information

I11 Sch. 1 para. 90 in force at 21.12.2020, see reg. 1(2)

Marginal Citations

M8 Schedule 1 was amended by [S.I. 2011/1210](#).

91. In Schedule 2 (procedure for grants of recognised spectrum access), in paragraphs 3(2) and 6(3), for “one month” substitute “ 30 days ”.

Commencement Information

I12 Sch. 1 para. 91 in force at 21.12.2020, see reg. 1(2)

Changes to legislation:

There are currently no known outstanding effects for the The Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020, PART 3.