



Communications Act 2003

2003 CHAPTER 21

PART 3

TELEVISION AND RADIO SERVICES

CHAPTER 3

REGULATORY STRUCTURE FOR INDEPENDENT RADIO SERVICES

Licence periods etc.

252 Extension of licence periods

- (1) In subsection (1) of section 86 of the 1990 Act (period of licences), for the words from “for such period” onwards there shall be substituted “(subject to a suspension of the licence under section 111B)—
- (a) in the case of a licence to provide radio licensable content services, until such time as it is surrendered or is revoked in accordance with any of the following provisions of this Part; and
 - (b) in any other case, until whichever is the earlier of any such time or the end of the period specified in the licence.”
- (2) For subsection (3) of that section there shall be substituted—
- “(3) A licence to provide a local or national service or to provide an additional service must specify a period of no more than twelve years as the period for which it is to be in force.”

253 Extension and modification of existing licences

- (1) A person who immediately before the radio transfer date holds a pre-transfer national licence or a pre-transfer local licence is entitled, in accordance with the following provisions of this section, to apply to OFCOM for an extension of the licence.

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- (2) The period for which a licence may be extended on such an application is a period ending not more than four years after the end of the period for which it was granted originally or (if it has been renewed) for which it was last renewed.
- (3) An application under subsection (1) may only be made in the period which—
 - (a) begins three years before the date on which the licence would otherwise expire; and
 - (b) ends three months before the day that OFCOM have determined to be the day by which they would need to publish a notice under section 98(1) or 104(1) of the 1990 Act if they were proposing to grant a fresh licence to take effect from that date.
- (4) A determination for the purposes of subsection (3)(b)—
 - (a) must be made at least one year before the day determined; and
 - (b) must be notified by OFCOM to the person who holds the licence in question.
- (5) An application under subsection (1)—
 - (a) must be made in such manner,
 - (b) must contain such information about the applicant, his business and the service he proposes to provide, and
 - (c) must be accompanied by such fee (if any),as OFCOM may determine.
- (6) If, on an application for an extension under subsection (1), OFCOM are satisfied as to the matters mentioned in subsection (7), they shall—
 - (a) modify the licence by extending the period for which the licence is to be in force by such period authorised by subsection (2) as they think fit; and
 - (b) make such other modifications as appear to them to be necessary for the purpose of securing that the provisions of the licence correspond to those that would be contained in a national sound broadcasting licence or (as the case may be) a local sound broadcasting licence granted after the radio transfer date.
- (7) Those matters are—
 - (a) the ability of the licence holder to maintain the service for the period of the extension; and
 - (b) the likelihood of a contravention by the licence holder of a requirement imposed by—
 - (i) a condition included in the licence by virtue of section 106 of the 1990 Act; or
 - (ii) a condition of the licence varied in accordance with subsection (8).
- (8) For the purposes of the modification under this section of a national licence, OFCOM—
 - (a) shall determine an amount which is to be payable to OFCOM by the licence holder in respect of the first complete calendar year falling within the period for which the licence is extended; and
 - (b) may, in relation to any accounting period of the licence holder during the period of the extension, modify a condition included in the licence in pursuance of section 102(1)(c) of the 1990 Act (additional payments to be made in respect of national licences) by specifying a different percentage

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of the qualifying revenue for that accounting period from that which was previously specified in the condition.

- (9) The amount determined by OFCOM under subsection (8)(a) must be the amount which, in OFCOM’s opinion, would have been the cash bid of the licence holder were the licence (instead of being extended) being granted afresh on an application made in accordance with section 98 of the 1990 Act.
- (10) For the purposes of subsection (8)(b)—
- (a) different percentages may be specified for different accounting periods; and
 - (b) the percentages that may be specified for an accounting period include a nil percentage.
- (11) The modifications set out in accordance with subsection (6)(b) must secure—
- (a) that the amount falling to be paid under the conditions of the licence for each calendar year subsequent to that for which an amount has been determined in accordance with subsection (8)(a) is the amount so determined as increased by the appropriate percentage; and
 - (b) that such adjustments as are appropriate are made as respects sums already paid in respect of any year or accounting period to which a modification under subsection (8) applies.
- (12) Where OFCOM have granted a person’s application under this section, the extensions and modifications take effect only if that person—
- (a) has been notified by OFCOM of their proposals for modifications by virtue of subsection (6)(b) or (8)(b), and for the making of a determination under subsection (8)(a); and
 - (b) has consented to the extension on the terms proposed.
- (13) In this section—
- “the appropriate percentage” has the same meaning as in section 102 of the 1990 Act;
 - “national sound broadcasting licence” means a licence under Part 3 of the 1990 Act to provide a sound broadcasting service which, under subsection (4) of section 245 is a national service for the purposes of that section;
 - “pre-transfer licence” means a licence which was granted under Part 3 of the 1990 Act before the radio transfer date and has not been modified under this section or renewed at any time on or after that date;
 - “pre-transfer local licence” means a pre-transfer licence which was granted as a local licence (within the meaning of Part 3 of the 1990 Act, as it had effect without the amendments made by this Act);
 - “pre-transfer national licence” means a pre-transfer licence granted or last renewed as a national licence (within the meaning of Part 3 of the 1990 Act, as it had effect without the amendments made by this Act).

254 Renewal of local licences

In section 104A(5) of the 1990 Act (conditions of renewal of local licence), after paragraph (b) there shall be inserted—

- “(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

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by week, from those for which and at which the licensed local service will be broadcast.”.

255 Extension of special application procedure for local licences

In section 104B(1) of the 1990 Act (special application procedure for local licences for areas with 4.5 million residents or fewer)—

- (a) the word “and” shall be inserted at the end of paragraph (a); and
- (b) paragraph (b) (which excludes areas with more than 4.5 million residents) shall cease to have effect.