

## SCHEDULES

### SCHEDULE 5

Section 159

#### PROCEDURE FOR GRANTS OF RECOGNISED SPECTRUM ACCESS

##### *General procedure for applications*

- 1 (1) An application for a grant of recognised spectrum access shall be determined in accordance with procedures prescribed in regulations made by OFCOM.
- (2) Section 403 applies to regulations made under this paragraph.
- (3) The procedures must include provision for—
  - (a) time limits for dealing with applications for a grant of recognised spectrum access;
  - (b) requirements which must be met before a grant is made;
  - (c) the restrictions and conditions to which a grant may be made subject.

##### *Information to be provided in connection with applications*

- 2 The grounds on which a grant of recognised spectrum access 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 restrictions or conditions to which the grant may be made subject.

##### *Notice of proposed refusal of application*

- 3 (1) Where OFCOM propose to refuse an application for a grant of recognised spectrum access, they shall give notice to the applicant—
  - (a) stating the reasons for their proposal; and
  - (b) specifying a period within which representations may be made about the proposal.
- (2) That period must be a period ending not less than one month after the day of the giving of the notice.

##### *Duration of grant*

- 4 A grant of recognised spectrum access continues in force, unless previously revoked by OFCOM, for such period as may be specified in the notification by which the grant is made.

##### *Revocation or modification*

- 5 OFCOM may revoke or modify a grant of recognised spectrum access, or the restrictions or conditions to which such a grant is subject, by a notice to the person to whom the grant was made.

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*Notice of proposed revocation or modification*

- 6 (1) Where OFCOM propose to revoke or modify a grant of recognised spectrum access or a restriction or condition to which such a grant is subject, they shall give a notification to the holder of the grant—
- (a) stating the reasons for their proposal; and
  - (b) specifying the period during which the person notified has an opportunity to do the things specified in sub-paragraph (2).
- (2) Those things are—
- (a) making representations about the proposal; and
  - (b) if the proposal is the result of a contravention of a restriction or condition of the grant, complying with it.
- (3) Subject to sub-paragraphs (4) to (6), the period for doing those things must be the period of one month beginning with the day after the one on which the notification was given.
- (4) OFCOM may, if they think fit, allow a longer period for doing those things either—
- (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 shall have a shorter period for doing those things if a shorter period is agreed between OFCOM and the person notified.
- (6) The person notified shall also have a shorter period if—
- (a) OFCOM have reasonable grounds for believing that the case is a case of serious and repeated contravention or an urgent case;
  - (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 an urgent case if the failure to revoke or modify the grant 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 stations or apparatus for wireless telegraphy; or
    - (ii) are communications providers or make associated facilities available.
- (8) For the purposes of this paragraph a contravention of a restriction or condition of a grant of recognised spectrum access is a repeated contravention, in relation to a proposal to revoke or modify the grant, if it falls within sub-paragraph (9).
- (9) A contravention falls within this sub-paragraph if—
- (a) a previous notification under sub-paragraph (1) has been given in respect of the same contravention or in respect of any other contravention of a restriction or condition of the same grant; and
  - (b) the subsequent notification under that sub-paragraph is given no more than twelve months after the day of the making by OFCOM of a determination

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for the purposes of sub-paragraph (10) that the contravention to which the previous notification related did occur.

- (10) Where OFCOM have given a notification under sub-paragraph (1), they shall, 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—
- (a) decide whether or not to revoke or modify the grant of recognised spectrum access in accordance with their proposal, or in accordance with that proposal but with modifications; and
  - (b) give the holder of the grant a notification of their 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; and
  - (b) must, in accordance with that decision, either revoke or modify the grant or withdraw the proposal for revocation or modification.
- (12) Nothing in this paragraph is to apply to—
- (a) a revocation or modification to be made at the request or with the consent of the holder of the grant; or
  - (b) a revocation or modification that appears to OFCOM to be necessary or expedient for the purpose of securing compliance with an international obligation of the United Kingdom.
- (13) The reference in sub-paragraph (9) to a contravention of a restriction or condition of a grant includes a reference to a contravention of a restriction or condition contained in any previous grant of which the grant in question is a direct or indirect renewal.

#### *Restriction on powers of revocation and modification*

- 7 (1) The conditions that OFCOM may include in a grant of recognised spectrum access include conditions restricting the exercise by them of their power to revoke or modify that grant.
- (2) Those conditions include, in particular, conditions providing that the grant may not be revoked or modified except—
- (a) with the consent of the holder of the grant; or
  - (b) in such other circumstances, and on such grounds, as may be specified in the conditions.
- (3) The circumstances or grounds—
- (a) may relate to matters relevant for the purposes of any enactment (whether relating to wireless telegraphy or not); and
  - (b) may, in particular, be made dependent on the exercise of a statutory discretion under any enactment.
- (4) Nothing in any condition included in a grant of recognised spectrum access shall restrict the power of OFCOM to revoke or modify a grant of recognised spectrum access if it appears to OFCOM to be necessary or appropriate to do so—
- (a) in the interests of national security;
  - (b) in the interests of the safety of the public or public health; or
  - (c) for the purpose of securing compliance with any international obligation of the United Kingdom.

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### *Interpretation*

- 8 In this Schedule, “stations for wireless telegraphy” and “apparatus for wireless telegraphy” each has the same meaning as in the Wireless Telegraphy Act 1949 (c. 54).