

## 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<sup>(1)</sup> is amended as follows.

**81.**—(1) Section 8 (licences and exemptions)<sup>(2)</sup> is amended as follows.

(2) In subsection (3A) (as it has effect until its repeal by the Electronic Communications and Wireless Telegraphy (Amendment etc.) (EU Exit) Regulations 2019), for “Part A of the Annex to [Directive 2002/20/EC](#) of the European Parliament and of the Council” substitute “Part A or B of Annex 1 to the EECC Directive”.

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

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

**82.** In section 8C (consultation before grant of exclusive licence)<sup>(3)</sup>, in subsection (4), for “one month” substitute “30 days”.

**83.**—(1) Section 9 (terms, provisions and limitations)<sup>(4)</sup> is amended as follows.

(2) In subsection (1A) (as it has effect until its repeal by the Electronic Communications and Wireless Telegraphy (Amendment etc.) (EU Exit) Regulations 2019), for “Part B of the Annex to [Directive 2002/20/EC](#) of the European Parliament and of the Council” substitute “Part D of Annex 1 to the EECC Directive”.

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

“(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.”.

**84.** In section 14 (bidding for licences)<sup>(5)</sup>, 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.”.

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(1) [2006 c. 36](#).

(2) Subsections (3A), (3B) and (5) were inserted by [S.I. 2011/1210](#); subsection (3A) is prospectively repealed by [S.I. 2019/246](#).

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

(4) 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](#).

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

*Status: This is the original version (as it was originally made).*

85. In section 30 (spectrum trading), omit subsection (1A)(6).

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;

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(6) 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).

- (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—
- (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).”.
- 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.”.
- 88.** In section 115 (general interpretation), in subsection (1), after the definition of “dynamic spectrum access service”(7) 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;”.
- 89.** In section 122 (orders and regulations made by OFCOM), in subsection (6), for “one month” substitute “30 days”.
- 90.** In Schedule 1 (procedure for wireless telegraphy licences)(8), in paragraphs 4(b) and 7(3) (b), for “one month” substitute “30 days”.
- 91.** In Schedule 2 (procedure for grants of recognised spectrum access), in paragraphs 3(2) and 6(3), for “one month” substitute “30 days”.

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(7) This definition was inserted by the Digital Economy Act 2017 (c. 30), section 8(3).

(8) Schedule 1 was amended by S.I. 2011/1210.