



# Communications Act 2003

## 2003 CHAPTER 21

### PART 3

#### TELEVISION AND RADIO SERVICES

### CHAPTER 3

#### REGULATORY STRUCTURE FOR INDEPENDENT RADIO SERVICES

##### *Licence periods etc.*

#### **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.
- (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.

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*Status: Point in time view as at 02/01/2004.*

*Changes to legislation: Communications Act 2003, Section 253 is up to date with all changes known to be in force on or before 19 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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- (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 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

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- 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) (a) 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).

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**Commencement Information**

**II** S. 253 in force at 2.1.2004 by [S.I. 2003/3142](#), [art. 4\(1\)](#) (with [art. 11](#))

**Status:**

Point in time view as at 02/01/2004.

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