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STATUTORY INSTRUMENTS

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**2020 No. 1199**

**The Wireless Telegraphy (Licence Award) Regulations 2020**

**PART 11**

Miscellaneous

**General power of exclusion**

**125.** OFCOM may, at any time, notify any applicant or bidder of its exclusion from the award process, if required to do so by any direction given by the Secretary of State to OFCOM under section 5 of the Communications Act 2003<sup>(1)</sup> or if, after OFCOM's determination under regulation 10(1) (and notwithstanding that determination), in their opinion the applicant or bidder is not a fit and proper person to hold a licence.

**Notification to OFCOM**

**126.** If, in accordance with any provision of these Regulations, an applicant or bidder is required, or wishes, to notify OFCOM of any fact or circumstance, it must do so by notice in writing which is marked for the attention of the OFCOM personnel who are specified by OFCOM for that purpose on OFCOM's website and must deliver that notice to OFCOM by electronic mail to an electronic mail address dedicated to the award process which is published by OFCOM on their website.

**Changes to timing or location**

**127.—(1)** Subject to regulations 128 and 129, paragraph (2) applies where OFCOM determine that it is impracticable for reasons relating to the coronavirus pandemic or for any other reason—

- (a) for any document which is to be delivered to OFCOM under these Regulations to be delivered at the place specified or by the deadline specified under these Regulations; or
- (b) for any action which is required to be undertaken in accordance with these Regulations to be completed by the deadline specified.

(2) Where this paragraph applies, OFCOM shall take reasonable steps to notify applicants or bidders that—

- (a) delivery must be made on a different day or within different times on that day or at a different place; and
- (b) the action must be completed on a different day or by a different deadline.

**Changes to round times and use of electronic auction system**

**128.—(1)** Where a time for the start of a round has been notified to bidders and OFCOM determine that it is impracticable for reasons relating to the coronavirus pandemic or for any other reason to start the round at that time, OFCOM shall take reasonable steps to notify bidders of a revised time for the start of the round.

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(1) 2003 c.21.

(2) Where a time for the end of a round has been notified to bidders and OFCOM determine that it is impracticable for reasons relating to the coronavirus pandemic or for any other reason for the round to end at that time, OFCOM shall take reasonable steps to notify bidders of a revised time for the end of the round.

(3) Where OFCOM determine that it is impracticable for reasons relating to the coronavirus pandemic or for any other reason to use the electronic auction system for any of the purposes specified in these Regulations, OFCOM shall take reasonable steps to notify bidders of an alternative method of participating in the award process and any requirements relating to the authentication of communications made by means of the alternative method.

(4) Bidders must use the alternative method of participating in the award process in accordance with a notification under paragraph (3).

### **Rerunning rounds**

**129.**—(1) Paragraph (2) applies where a round is in progress and OFCOM determine that it is not possible to continue the round because of—

- (a) technical failure; or
- (b) an event or circumstance with similar effect to technical failure on the continuation of the round (including, in particular, any such event or circumstance relating to the coronavirus pandemic).

(2) Where this paragraph applies, OFCOM shall—

- (a) take reasonable steps to notify bidders of their determination under paragraph (1);
- (b) disregard the bids (and other bidding indications) made in that round; and
- (c) resume the award process from the end of the most recent round.

(3) Paragraph (4) applies where OFCOM determine that it is not possible to continue the award process in accordance with the provisions of these Regulations because of—

- (a) technical failure; or
- (b) an event or circumstance with similar effect to technical failure on the continuation of the award process (including, in particular, any such event or circumstance relating to the coronavirus pandemic).

(4) Where this paragraph applies, OFCOM shall—

- (a) determine the rounds for which bids (and other bidding indications) made in those rounds should be disregarded in order to have a fair and efficient outcome to the award process;
- (b) take reasonable steps to notify bidders of their determinations under paragraph (3) and sub-paragraph (a); and
- (c) resume the award process from the end of the latest round for which bids (and other bidding indications) are not disregarded under sub-paragraph (a), or, where all bids (and other bidding indications) are to be disregarded under that sub-paragraph, to rerun the award process from the start of the first principal stage round.

### **Refunds**

**130.** OFCOM may, in such cases as they think fit, refund, in whole or in part, sums which have been paid to them in accordance with any provision of these Regulations.

## **Deposits**

**131.** In determining under these Regulations the amount that an applicant or bidder has on deposit OFCOM shall disregard any sum forfeited under these Regulations and any interest which may have accrued on any deposit.