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Draft Order laid before Parliament under section 244(9) of the Communications Act 2003 (c. 21), for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2024 No.

BROADCASTING

The Local Digital Television Programme Services (Amendment) Order 2024

Made - - - -

Coming into force in accordance with article 1(1)

The Secretary of State makes this Order in exercise of the powers conferred by sections 244(1)(b) and 402(3)(a) of the Communications Act 2003(**a**) ("the 2003 Act").

This Order is made in relation to the local digital television programme services described in article 3 of the Local Digital Television Programme Services Order 2012(**b**). The Secretary of State considers that these are services in relation to which all of the conditions in section 244(4) of the 2003 Act are satisfied. In accordance with section 244(2)(c) of that Act, the Secretary of State is satisfied that the making of this Order in relation to that description of services will make possible, facilitate or encourage the provision of services falling within section 244(4) of that Act.

In accordance with section 244(9) of that Act a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Local Digital Television Programme Services (Amendment) Order 2024 and comes into force on the day after the day on which it is made.

(2) This Order extends to England and Wales, Scotland and Northern Ireland.

Amendment of the Schedule to the Local Digital Television Programme Services Order 2012

2. Part 1 (modifications to the Broadcasting Act 1996(**c**)) of the Schedule to the Local Digital Television Programme Services Order 2012 is amended in accordance with articles 3 and 4.

(**a**) 2003 c. 21.
(**b**) S.I. 2012/292, amended by S.I. 2012/1842.
(**c**) 1996 c. 55.

Amendments relating to local multiplex licences

3.—(1) In paragraph 7 (modifications to section 12 (conditions attached to multiplex licence)(**a**))—

(a) before sub-paragraph (a) insert—

"(za) in subsection (1), at the end of paragraph (a) there were inserted "and any supplementary technical plan submitted under section 16B(1)(a)",",

(b) after sub-paragraph (a) insert—

"(aa) in that subsection, at the end of paragraph (b) there were inserted "and any supplementary proposals submitted under section 16B(1)(b)",",

(c) at the end of sub-paragraph (d), omit "and", and

(d) after that sub-paragraph insert—

"(da) in subsection (2), at the end there were inserted ", except that such consent is not needed where the variation is to secure the implementation of any supplementary technical plan or supplementary proposals submitted under section 16B(1)", and".

(2) Paragraph 8 (modifications to section 16 (duration and renewal of multiplex licences)(**b**)) is amended in accordance with paragraphs (3) to (5).

(3) Before sub-paragraph (a) insert—

"(za) in the heading, for "renewal" there were substituted "extension",".

(4) At the end of sub-paragraph (a), omit "and".

(5) After that sub-paragraph insert—

"(aa) after subsection (1) there were inserted—

"(1A) OFCOM may, with the consent of the licence holder, extend the period for which a local multiplex licence(**c**) continues in force by twelve months.

(1B) The power in subsection (1A) may be exercised in relation to a local multiplex licence even if the total period for which the licence continues in force exceeds twelve years.

(1C) The power in subsection (1A) may only be exercised once in relation to each local multiplex licence.

(1D) Subsection (1A) does not affect the operation of section 17(1)(b)(**d**).", and".

(6) After paragraph 8 insert—

"8A. Part 1 has effect as if after section 16 there were inserted—

(**a**) Section 12 has effect in relation to a local multiplex licence with the modifications set out in paragraphs 3 and 7 of Part 1 of the Schedule to S.I. 2012/292. There are other amendments, but none is relevant to the modifications made by this Order.

(**b**) Section 16 was amended by the Communications Act 2003, Schedule 15, Part 2, paragraph 88 and section 406(7), Schedule 19(1). Section 16 has effect in relation to a local multiplex licence with the modifications set out in paragraph 8 of Part 1 of the Schedule to S.I. 2012/292.

(**c**) "Local multiplex licence" is defined in section 39 of the Broadcasting Act 1996, as modified by paragraph 12 of the Schedule to S.I. 2012/292.

(**d**) Section 17(1) was amended by paragraph 89 of Part 2 of Schedule 15 to the Communications Act 2003.

"16A Renewal of extended local multiplex licences

(1) Where OFCOM have extended a local multiplex licence under section 16(1A), OFCOM may, at any time before 26th November 2025, renew that local multiplex licence on one occasion in accordance with this section for a period beginning with the date on which it would otherwise expire and ending before 1st January 2035.

(2) An application for the renewal of a local multiplex licence under subsection (1) must be made—

(a) by the licence holder,

(b) in writing, and

(c) before 1st April 2025.

(3) At any time before determining the application, OFCOM may require the applicant to furnish—

(a) information about the service the applicant proposes to provide if their licence is renewed, and

(b) such other information as OFCOM may reasonably require for the purpose of considering the application.

(4) Where an application for the renewal of a local multiplex licence has been duly made to OFCOM they may refuse the application only if—

(a) it appears to them that the applicant has failed to comply with any of the conditions included in their licence, or

(b) they are not satisfied that the applicant would, if their licence were renewed, provide a service which complied with the conditions to be included in the licence as renewed.

(5) For the purposes of subsection (4)(b), OFCOM may consider any conditions that would be included to secure the implementation of any supplementary technical plan or supplementary proposals submitted under section 16B(1) (see section 16B(2)).

(6) Where OFCOM have granted a person's application under this section, they shall formally renew that person's licence from the date on which it would otherwise expire.

(7) Nothing in this section prevents the holder of a local multiplex licence from applying for a new licence on one or more occasions in pursuance of a notice under section 7(1)(**a**).

16B Renewals: supplementary technical plan and supplementary proposals

(1) When making an application for the renewal of a local multiplex licence under section 16A, the applicant may submit—

(a) a technical plan which supplements the technical plan submitted by the licence holder under section 7(4)(b), and

(b) proposals which supplement the proposals submitted by the licence holder under section 7(4)(f)(**b**).

(**a**) Section 7(1) was amended by paragraph 79(2) of Part 2 of Schedule 15 to the Communications Act 2003.

(**b**) Section 7(4)(f) has effect in relation to a local multiplex licence with the modification set out in paragraph 4(c) of Part 1 of the Schedule to S.I. 2012/292.

(2) Where a local multiplex licence has been renewed under section 16A, the licence as renewed may include such further conditions, or OFCOM may make such variations to existing conditions, as appear to OFCOM to be appropriate for securing the implementation of any supplementary technical plan or supplementary proposals submitted under subsection (1).

(3) OFCOM may postpone consideration of any supplementary technical plan and supplementary proposals submitted under subsection (1) until after 25th November 2025, in which case OFCOM must treat the submission of such information as an application by the holder of the licence as renewed for a variation of the conditions imposed in pursuance of section 12(1)(a) or (b) (see section 12(2))(**a**).

16C Revocation of local multiplex licences for spectrum management reasons

(1) Where OFCOM have awarded a local multiplex licence under section 8(**b**), or renewed a local multiplex licence under section 16A, they may, with the consent of the Secretary of State, revoke the licence.

(2) OFCOM may only revoke the licence for reasons related to the management of the radio spectrum.

(3) Where OFCOM propose to revoke the licence, they must give the holder of the licence a notification—

(a) stating the reasons for the proposed revocation, and

(b) specifying the period during which the person notified has an opportunity to make representations about the proposal.

(4) Where OFCOM have given a notification under subsection (3), they must, as soon as reasonably practicable after the end of the period for the making of representations—

(a) decide whether or not to revoke the licence, and

(b) give the holder of the licence a notification of their decision—

(i) stating the reasons for the decision, and

(ii) where the decision is to revoke the licence, specifying a date, not earlier than five years after the date on which the notification is given, on which the revocation takes effect.”.”.

Amendments relating to local digital television programme service licences

4.—(1) After paragraph 2, insert—

“2A. Section 3 (licences under Part 1)(**c**) has effect as if in subsection (5), after “section 17(1)(b)”, there were inserted “or section 23(1)(b)(**d**)”.”.

(**a**) Section 12(1)(b) has effect in relation to a local multiplex licence with the modification set out in paragraph 7(a) of Part 1 of the Schedule to S.I. 2012/292.

(**b**) Section 8 was amended by paragraph 80 of Part 2 of Schedule 15 to the Communications Act 2003. Section 8 has effect in relation to a local multiplex licence with the modifications set out in paragraphs 3 and 5 of Part 1 of the Schedule to S.I. 2012/292.

(**c**) There are amendments to section 3, but none is relevant.

(**d**) Section 23(1) was amended by paragraph 92(2) of Part 2 of Schedule 15 to the Communications Act 2003.

(2) In paragraph 10 (modifications to section 19 (duration and conditions of digital programme licence)(**a**)), after sub-paragraph (a) insert—

"(aa) after subsection (1) there were inserted—

"(1A) A local digital television programme service licence(**b**) may be extended and renewed in accordance with sections 19ZA and 19ZB.",".

(3) In paragraph 11, before new section 19A (pornographic material) insert—

"19ZA Extension of local digital television programme service licences

(1) OFCOM may, with the consent of the licence holder, extend the period for which a local digital television programme service licence continues in force by twelve months.

(2) The power in subsection (1) may be exercised in relation to a local digital television programme service licence even if the total period for which the licence continues in force exceeds twelve years.

(3) The power in subsection (1) may only be exercised once in relation to each local digital television programme service licence.

(4) Subsection (1) does not affect the operation of section 23(1)(b).

19ZB Renewal of extended local digital television programme service licences

(1) Where OFCOM have extended a local digital television programme service licence under section 19ZA(1), OFCOM may, at any time before 26th November 2025, renew that local digital television programme service licence on one occasion in accordance with this section for a period beginning with the date on which it would otherwise expire and ending before 1st January 2035.

(2) An application for the renewal of a local digital television programme service licence under subsection (1) must be made—

(a) by the licence holder,

(b) in writing, and

(c) before 1st April 2025.

(3) An application under subsection (2) must be accompanied by—

(a) details of the local digital television programme service the applicant proposes to provide,

(b) a detailed explanation of the applicant's ability to maintain, throughout the period for which the licence, if renewed, would be in force, the proposed service,

(c) a detailed explanation of how the character of the service is to be maintained for the period for which the licence, if renewed, would be in force, and

(**a**) Section 19 has effect in relation to a local digital television programme service with the modifications set out in S.I. 2012/292, as amended by S.I. 2012/1842. There are other amendments, but none is relevant to the modifications made by this Order.

(**b**) "Local digital television programme service licence" is defined in section 29 of the Broadcasting Act 1996, as modified by paragraph 12 of the Schedule to S.I. 2012/292.

(d) such information as OFCOM may reasonably require as to the applicant's present and projected financial position during the period for which the licence, if renewed, would be in force.

(4) At any time after receiving such an application and before determining it, OFCOM may require the applicant to furnish such other information as OFCOM may reasonably require for the purpose of considering the application.

(5) Where an application for the renewal of a local digital television programme service licence has been duly made to OFCOM they may refuse the application only if—

(a) it appears to them that the applicant has failed to comply with any of the conditions in their licence, or

(b) they are not satisfied that the applicant would, if their licence were renewed, provide a service which complied with the conditions to be included in the licence as renewed.

(6) Where OFCOM have granted a person's application under this section, they shall formally renew that person's licence from the date on which it would otherwise expire.

(7) Nothing in this section prevents the holder of a local digital television programme service licence from applying for a new licence on one or more occasions in pursuance of a notice under section 18(1)(**a**).".

[Name]
Parliamentary Under Secretary of State
Department for Culture, Media and Sport

(**a**) Section 18 has effect in relation to a local digital television programme service with the modifications set out in paragraph 9 of the Schedule to S.I. 2012/292.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Part 1 of the Schedule to the Local Digital Television Programme Services Order 2012 (S.I. 2012/292) ("the 2012 Order"). The 2012 Order provides that specified provisions of Part 1 of the Broadcasting Act 1996 (c. 55) ("the 1996 Act") and Part 3 of the Communications Act 2003 (c. 21) have effect with modifications in relation to local digital television programme services (described in article 3 of the 2012 Order). Part 1 of the Schedule to the 2012 Order makes modifications to the 1996 Act.

Article 3 of this Order makes amendments relating to local multiplex licences (defined in section 39 of the 1996 Act, as modified by paragraph 12 of the Schedule to the 2012 Order). As a result of these amendments to the 2012 Order, section 16 of the 1996 Act is modified to give OFCOM the power to extend any local multiplex licence by twelve months on one occasion. Article 3 also makes amendments which will modify the 1996 Act to give OFCOM the power to renew an extended local multiplex licence on one occasion for a period ending before 1st January 2035. Part 1 of the 1996 Act is also modified to give OFCOM the power to revoke a local multiplex licence for spectrum management reasons; new section 16C sets out the procedure to be followed by OFCOM which provides for a notice period of five years and allows for representations from the licence holder.

Article 4 of this Order makes amendments relating to local digital television programme service licences (defined in section 39 of the 1996 Act, as modified by paragraph 12 of the Schedule to the 2012 Order). These amendments modify the 1996 Act to give OFCOM the power to extend any local digital television programme service licence by twelve months on one occasion and then to renew any extended licence on one occasion for a period ending before 1st January 2035.

The new powers to vary the licences to extend the period for which they are in force do not affect the operation of section 3(4) of the 1996 Act (OFCOM's power to vary licences).

An impact assessment of the effect that this instrument will have on the costs of business and the public sector is available from the Department for Culture, Media and Sport at 100 Parliament Street, London, SW1A 2BQ and is published alongside this Order on www.legislation.gov.uk.

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