

MOD

RESOLUTION 27 (REV.WRC-19)

Use of incorporation by reference in the Radio Regulations

The World Radiocommunication Conference (Sharm el-Sheikh, 2019),

considering

- a) that the Voluntary Group of Experts (VGE) on simplification of the Radio Regulations proposed the transfer of certain texts of the Radio Regulations to other documents, especially to the ITU Radiocommunication Sector (ITU-R) Recommendations, using the incorporation by reference procedure;
- b) that the principles of incorporation by reference were adopted by WRC-95 and revised by subsequent conferences;
- c) that, in some cases, there are provisions in the Radio Regulations containing references which fail to distinguish adequately whether the status of the referenced text is mandatory or non-mandatory;
- d) that all texts of ITU-R Recommendations incorporated by reference are published in a volume of the Radio Regulations;
- e) that, taking into account the rapid evolution of technology, ITU-R may revise the ITU-R Recommendations containing text incorporated by reference at short intervals;
- f) that, following revision of an ITU-R Recommendation containing text incorporated by reference, the reference in the Radio Regulations shall continue to apply to the earlier version until such time as a competent world radiocommunication conference (WRC) agrees to incorporate the new version;
- g) that it would be desirable that texts incorporated by reference reflect the most recent technical developments,

noting

- a) that references to Resolutions or Recommendations of a WRC require no special procedures, and are acceptable for consideration, since such texts will have been agreed by a WRC;
- b) that administrations need sufficient time to examine the potential consequences of changes to ITU-R Recommendations containing text incorporated by reference and would therefore benefit greatly from being advised, as early as possible, of which ITU-R Recommendations have been revised and approved during the elapsed study period or at the Radiocommunication Assembly (RA) preceding WRC,

resolves

- 1 that, for the purposes of the Radio Regulations, the term “incorporation by reference” shall only apply to those references intended to be mandatory;
- 2 that the text incorporated by reference shall have the same treaty status as the Radio Regulations themselves;

3 that the reference shall be explicit, specifying the specific part of the text (if appropriate) and the version or issue number;

4 that, where a mandatory reference to an ITU-R Recommendation, or parts thereof, is included in the *resolves* of a WRC Resolution, which is itself cited in a provision or footnote of the Radio Regulations using mandatory language (i.e. “shall”), the ITU-R Recommendation or parts thereof shall also be considered as incorporated by reference;

5 that texts which are of a non-mandatory nature or which refer to other texts of a non-mandatory nature shall not be considered for incorporation by reference;

6 that, when considering the introduction of new cases of incorporation by reference, such incorporation shall be kept to a minimum and made by applying the following criteria:

6.1 only texts which are relevant to a specific WRC agenda item may be considered;

6.2 where the relevant texts are brief, the referenced material should be placed in the body of the Radio Regulations rather than using incorporation by reference;

6.3 the guidance contained in Annex 1 to this Resolution shall be applied in order to ensure that the correct method of reference for the intended purpose is employed;

7 that the text to be incorporated by reference shall be submitted for adoption by a competent WRC and the procedure described in Annex 2 to this Resolution shall be applied for approving the incorporation by reference of ITU-R Recommendations or parts thereof;

8 that existing references to ITU-R Recommendations shall be reviewed to clarify whether the reference is mandatory or non-mandatory in accordance with Annex 1 to this Resolution;

9 that ITU-R Recommendations, or parts thereof, incorporated by reference at the conclusion of each WRC, and a cross-reference list of the regulatory provisions, including footnotes and Resolutions, incorporating such ITU-R Recommendations by reference, shall be collated and published in a volume of the Radio Regulations (see Annex 2 to this Resolution);

10 that if, between WRCs, a text incorporated by reference (e.g. an ITU-R Recommendation) is updated, the reference in the Radio Regulations shall continue to apply to the earlier version incorporated by reference until such time as a competent WRC agrees to incorporate the new version; the mechanism for considering such a step is given in the *further resolves* part of this Resolution,

further resolves

1 that each RA shall communicate to the next WRC a list of the ITU-R Recommendations containing text incorporated by reference in the Radio Regulations which have been revised and approved during the elapsed study period;

2 that, on this basis, WRC is invited to examine those revised ITU-R Recommendations, and decide whether or not to update the corresponding references in the Radio Regulations;

3 that, if WRC decides not to update the corresponding references, the currently referenced version shall be maintained in the Radio Regulations;

4 to invite future WRCs to include a standing agenda item on examination of the revised ITU-R Recommendations in accordance with *further resolves* 1 and 2 of this Resolution,

instructs the Director of the Radiocommunication Bureau

1 to bring this Resolution to the attention of RA and the radiocommunication study groups;

2 to identify the provisions and footnotes of the Radio Regulations containing references to ITU-R Recommendations and make suggestions on any further action to the second session of the Conference Preparatory Meeting (CPM) for its consideration and inclusion in the CPM Report;

3 to identify the provisions and footnotes of the Radio Regulations containing references to WRC Resolutions that contain references to ITU-R Recommendations, and make suggestions on any further action to the second session of CPM for its consideration and inclusion in the CPM Report;

4 to provide the second session of CPM with a list, for inclusion in the CPM Report, of those ITU-R Recommendations containing texts incorporated by reference that have been revised or approved since the previous WRC, or that may be revised in time for the next WRC,

invites administrations

1 to submit proposals to future conferences, taking into account the CPM Report, in order to clarify the status of references, where ambiguities remain regarding the mandatory or non-mandatory status of the references in question, with a view to amending those references:

- i) that appear to be of a mandatory nature, identifying such references as being incorporated by reference by using clear linking language in accordance with Annex 1 to this Resolution;
- ii) that are of a non-mandatory character, so as to refer to “the most recent version” of the Recommendations;

2 to participate actively in the work of the radiocommunication study groups and the RA on revision of those Recommendations to which mandatory references are made in the Radio Regulations;

3 to examine any indicated revisions of ITU-R Recommendations containing text incorporated by reference and to prepare proposals on possible updating of relevant references in the Radio Regulations.

ANNEX 1 TO RESOLUTION 27 (REV.WRC-19)

Application of incorporation by reference

When introducing new cases of incorporation by reference in the provisions of the Radio Regulations or reviewing existing cases of incorporation by reference, administrations and ITU-R should address the following factors in order to ensure that the correct method of reference is employed for the intended purpose, according to whether each reference is mandatory (i.e. incorporated by reference) or non-mandatory:

Mandatory references

- 1 Mandatory references shall use clear linking language, i.e. “shall”.
- 2 Mandatory references shall be explicitly and specifically identified, e.g. “Recommendation ITU-R M.541-8”.
- 3 If the intended reference material is, as a whole, unsuitable as treaty-status text, the reference shall be limited to just those portions of the material in question which are of a suitable nature, e.g. “Annex A to Recommendation ITU-R Z.123-4”.

Non-mandatory references

- 4 Non-mandatory references or ambiguous references that are determined to be of a non-mandatory character (i.e. not incorporated by reference) shall use appropriate language, such as “should” or “may”. This appropriate language may refer to “the most recent version” of a Recommendation. Any appropriate language may be changed at any future WRC.

ANNEX 2 TO RESOLUTION 27 (REV.WRC-19)

Procedures applicable by WRC for approving the incorporation by reference of ITU-R Recommendations or parts thereof

During the course of each WRC, a list of the ITU-R Recommendations incorporated by reference, and a cross-reference list of the regulatory provisions, including footnotes and Resolutions, incorporating such ITU-R Recommendations by reference, shall be developed and maintained by the committees. These lists shall be published as a conference document in line with developments during the conference.

Following the end of each WRC, the Radiocommunication Bureau and the General Secretariat will update the volume of the Radio Regulations which serves as the repository of ITU-R Recommendations incorporated by reference in line with developments at the conference as recorded in the above-mentioned document.