

RESOLUTION 27 (REV.WRC-12)

Use of incorporation by reference in the Radio Regulations

The World Radiocommunication Conference (Geneva, 2012),

considering

a) that the principles of incorporation by reference were adopted by WRC-95 and revised by subsequent conferences (see Annexes 1 and 2 to this Resolution);

b) that 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,

noting

that references to Resolutions or Recommendations of a world radiocommunication conference (WRC) require no special procedures, and are acceptable for consideration, since such texts will have been agreed by a 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 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:

- only texts which are relevant to a specific WRC agenda item may be considered;
- the correct method of reference shall be determined on the basis of the principles set out in Annex 1 to this Resolution;
- the guidance contained in Annex 2 to this Resolution shall be applied in order to ensure that the correct method of reference for the intended purpose is employed;

3 that the procedure described in Annex 3 to this Resolution shall be applied for approving the incorporation by reference of ITU-R Recommendations or parts thereof;

4 that existing references to ITU-R Recommendations shall be reviewed to clarify whether the reference is mandatory or non-mandatory in accordance with Annex 2 to this Resolution;

5 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 3 to this Resolution),

instructs the Director of the Radiocommunication Bureau

1 to bring this Resolution to the attention of the Radiocommunication Assembly and the ITU-R 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, as well as for inclusion in the Director’s Report to the next WRC;

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 the Conference Preparatory Meeting (CPM) for its consideration, as well as for inclusion in the Director's Report to the next WRC,

invites administrations

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 2;
- ii) that are of a non-mandatory character, so as to refer to "the most recent version" of the Recommendations.

ANNEX 1 TO RESOLUTION 27 (REV.WRC-07)

Principles of incorporation by reference

1 For the purposes of the Radio Regulations, the term "incorporation by reference" shall apply only to those references intended to be mandatory.

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.

3 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"), that ITU-R Recommendation or parts thereof shall also be considered as incorporated by reference.

4 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.

5 If, on a case-by-case basis, it is decided to incorporate material by reference on a mandatory basis, then the following provisions shall apply:

5.1 the text incorporated by reference shall have the same treaty status as the Radio Regulations themselves;

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

5.3 the text incorporated by reference must be submitted for adoption by a competent WRC in accordance with *resolves* 3;

5.4 all texts incorporated by reference shall be published following a WRC, in accordance with *resolves* 5.

6 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 Resolution **28 (Rev.WRC-03)**.

ANNEX 2 TO RESOLUTION 27 (REV.WRC-07)

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 3 TO RESOLUTION 27 (REV.WRC-12)

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

The referenced texts shall be made available to delegations in sufficient time for all administrations to consult them in the ITU languages. A single copy of the texts shall be made available to each administration as a conference document.

During the course of each WRC, a list of the texts 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 Bureau and General Secretariat will update the volume of the Radio Regulations which serves as the repository of texts incorporated by reference in line with developments at the conference as recorded in the above-mentioned document.