



# Broadcasting Act 1990

## 1990 CHAPTER 42

### PART VII

#### PROHIBITION ON INCLUSION OF OBSCENE AND OTHER MATERIAL IN PROGRAMME SERVICES

##### *Obscenity*

#### **162 Obscenity in programme services: England and Wales**

- (1) In section 1 of the Obscene Publications Act 1959 (test of obscenity)—
- (a) the proviso to subsection (3) (exemption for television and sound broadcasting) shall cease to have effect; and
  - (b) the following subsections shall be added after that subsection—
    - “(4) For the purposes of this Act a person also publishes an article to the extent that any matter recorded on it is included by him in a programme included in a programme service.
    - (5) Where the inclusion of any matter in a programme so included would, if that matter were recorded matter, constitute the publication of an obscene article for the purposes of this Act by virtue of subsection (4) above, this Act shall have effect in relation to the inclusion of that matter in that programme as if it were recorded matter.
    - (6) In this section “programme” and “programme service” have the same meaning as in the Broadcasting Act 1990.”
- (2) Schedule 15 to this Act shall have effect for the purpose of supplementing subsection (1) above.

### **163 Obscenity in programme services: Scotland**

- (1) Section 51 of the Civic Government (Scotland) Act 1982 (offences of displaying, publishing, etc. of obscene material) shall be amended in accordance with the following provisions of this section.
- (2) After subsection (2) there shall be inserted the following subsection—
  - “(2A) Subject to subsection (4) below, any person who—
    - (a) is responsible for the inclusion of any obscene material in a programme included in a programme service; or
    - (b) with a view to its eventual inclusion in a programme so included, makes, prints, has or keeps any obscene material,shall be guilty of an offence under this section.”
- (3) In subsection (6), paragraph (a) shall cease to have effect.
- (4) In subsection (8)—
  - (a) in the definition of “material”, the words from “and” onwards shall be omitted;
  - (b) after the definition of “prescribed sum” there shall be inserted—

““programme” and “programme service” have the same meaning as in the Broadcasting Act 1990;” and
  - (c) the word “showing,” shall be omitted.