



# Broadcasting Act 1990

## 1990 CHAPTER 42

### PART X

#### MISCELLANEOUS AND GENERAL

##### *Foreign satellite services*

#### **177 Orders proscribing unacceptable foreign satellite services.**

- (1) Subject to the following provisions of this section, the Secretary of State may make an order proscribing a foreign satellite service for the purposes of section 178.
- (2) If [<sup>F1</sup>OFCOM consider that the quality of any ] foreign satellite service which is brought to their attention is unacceptable and that the service should be the subject of an order under this section, they shall notify to the Secretary of State details of the service and their reasons why they consider such an order should be made.
- (3) [<sup>F2</sup>OFCOM] shall not consider a foreign satellite service to be unacceptable for the purposes of subsection (2) unless they are satisfied that there is repeatedly contained in programmes included in the service matter which offends against good taste or decency or is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling.
- (4) Where the Secretary of State has been notified under subsection (2), he shall not make an order under this section unless he is satisfied that the making of the order—
  - (a) is in the public interest; and
  - (b) is compatible with any international obligations of the United Kingdom.
- (5) An order under this section—
  - (a) may make such provision for the purpose of identifying a particular foreign satellite service as the Secretary of State thinks fit; and
  - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[<sup>F3</sup>(6) In this section and section 178—

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[<sup>F4</sup>“foreign satellite service” means—

- (a) a service which is provided by a person who is not for the purposes of [<sup>F5</sup>the Audiovisual Media Services Directive] under the jurisdiction of the United Kingdom and which consists wholly or mainly in the transmission by satellite of television programmes which are capable of being received in the United Kingdom, or
- (b) a service which consists wholly or mainly in the transmission by satellite from a place outside the United Kingdom of sound programmes which are capable of being received in the United Kingdom;]

<sup>F6</sup> ...]

#### Textual Amendments

- F1** Words in s. 177(2) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 61\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F2** Words in s. 177(3) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 61\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F3** S. 177(6) substituted (11.7.1997) by [S.I. 1997/1682, reg. 2, Sch. para. 13](#)
- F4** S. 177(6): definition of “foreign satellite service” substituted (30.12.1998) by [S.I. 1998/3196, reg. 2, Sch. para. 5](#)
- F5** Words in s. 177(6) substituted (18.8.2010) by [The Audiovisual Media Services \(Codification\) Regulations 2010 \(S.I. 2010/1883\), regs. 1, 2](#)
- F6** Words in s. 177(6) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 61\(4\), Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

#### Modifications etc. (not altering text)

- C1** S. 177: transfer of functions (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 1 para. 6](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

### 178 Offence of supporting proscribed foreign satellite services.

- (1) This section applies to any foreign satellite service which is proscribed for the purposes of this section by virtue of an order under section 177; and references in this section to a proscribed service are references to any such service.
- (2) Any person who in the United Kingdom does any of the acts specified in subsection (3) shall be guilty of an offence.
- (3) Those acts are—
  - (a) supplying any equipment or other goods for use in connection with the operation or day-to-day running of a proscribed service;
  - (b) supplying, or offering to supply, programme material to be included in any programme transmitted in the provision of a proscribed service;
  - (c) arranging for, or inviting, any other person to supply programme material to be so included;
  - (d) advertising, by means of programmes transmitted in the provision of a proscribed service, goods supplied by him or services provided by him;
  - (e) publishing the times or other details of any programmes which are to be transmitted in the provision of a proscribed service or (otherwise than by publishing such details) publishing an advertisement of matter calculated to promote a proscribed service (whether directly or indirectly);

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- (f) supplying or offering to supply any decoding equipment which is designed or adapted to be used primarily for the purpose of enabling the reception of programmes transmitted in the provision of a proscribed service.
- (4) In any proceedings against a person for an offence under this section, it is a defence for him to prove that he did not know, and had no reasonable cause to suspect, that the service in connection with which the act was done was a proscribed service.
- (5) A person who is guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (6) For the purposes of this section a person exposing decoding equipment for supply or having such equipment in his possession for supply shall be deemed to offer to supply it.
- (7) Section 46 of the <sup>M1</sup>Consumer Protection Act 1987 shall have effect for the purpose of construing references in this section to the supply of any thing as it has effect for the purpose of construing references in that Act to the supply of any goods.
- (8) In this section “programme material” includes—
  - (a) a film (within the meaning of Part I of the <sup>M2</sup>Copyright, Designs and Patents Act 1988);
  - (b) any other recording; and
  - (c) any advertisement or other advertising material.

**Marginal Citations**

**M1** 1987 c. 43.

**M2** 1988 c. 48.

*Unauthorised decoders*

**179 Unauthorised decoders for encrypted services etc.**

<sup>F7</sup>(1) .....

- (2) In section 299 of the Act of 1988 (fraudulent reception of programmes broadcast from countries or territories outside the United Kingdom)—
  - (a) subsection (2) shall cease to have effect; and
  - (b) in subsection (5), after “297” there shall be inserted “, 297A ”.

**Textual Amendments**

**F7** S. 179(1) repealed (28.5.2000) by S.I. 2000/1175, art. 4

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*Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1990, Part X. (See end of Document for details)*

### *Television licensing*

#### **F<sup>8</sup>180 Transfer to BBC of functions connected with television licences.**

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##### **Textual Amendments**

**F8** S. 180 repealed (25.6.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(2), **Sch. 21 para. 2**

#### **F<sup>9</sup>181 Certain apparatus to be deemed to be apparatus for wireless telegraphy.**

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##### **Textual Amendments**

**F9** S. 181 repealed (1.4.2004) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 19(1)** Note 1 (with Sch. 18); S.I. 2003/3142, art. 4(2), Sch. 2 (with art. 11)

##### **Modifications etc. (not altering text)**

**C2** S. 181 modified (temp.) (8.12.2003) by The Office of Communications Act 2002 (Commencement No. 3) and Communications Act 2003 (Commencement No. 2) Order 2003 (S.I. 2003/3142), **art. 10(3)** (with art. 11)

### *Listed events*

#### **F<sup>10</sup>182 .**

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##### **Textual Amendments**

**F10** S. 182 repealed (1.10.1996) by 1996 c. 55, ss. 105(2), 148(2), **Sch. 11 Pt. I** (with s. 43(1)(6)); S.I. 1996/2120, art. 4, **Sch. 1**

### *Gaelic television programmes*

#### **183 Financing of programmes in Gaelic out of Gaelic Television Fund.**

[<sup>F11</sup>(1) The Scottish Ministers must, for each financial year, pay to OFCOM such amount as they may determine to be appropriate for the purposes of this section.]

(2) Any amount received by [<sup>F12</sup>OFCOM] under subsection (1) shall be carried by them to the credit of a fund established [<sup>F13</sup>by the Independent Television Commission under this section and] known as the [<sup>F14</sup>Gaelic Broadcasting Fund] (and any such amount shall accordingly not be regarded as forming part of the revenues of [<sup>F12</sup>OFCOM]).

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(3) The Fund shall be under the management of a body established for the purposes of this section <sup>F15</sup>...

<sup>F16</sup>(3A) .....

[<sup>F17</sup>(3B) The functions of the Service shall be to secure that a wide and diverse range of high quality programmes in Gaelic are broadcast or otherwise transmitted so as to be available to persons in Scotland.

(4A) In carrying out their functions, the Service may finance, or engage in, any of the following—

- (a) the making of programmes in Gaelic with a view to those programmes being broadcast or otherwise transmitted so as to be available to persons in Scotland;
- (b) the provision of training for persons employed, or to be employed, in connection with the making of programmes in Gaelic to be so broadcast or otherwise transmitted;
- (c) research into the types of programmes in Gaelic that members of the Gaelic-speaking community would like to be broadcast or otherwise transmitted.

(4B) But the Service are not to be entitled, for the purpose of carrying out their functions, to provide—

- (a) a Channel 3 service;
- (b) Channel 4;
- (c) Channel 5;
- (d) a national sound broadcasting service;
- (e) a national digital sound programme service; or
- (f) a television multiplex service or a radio multiplex service.]

(5) When making any grant out of the Fund in pursuance of subsection (4) the Committee may impose such conditions as they think fit, including conditions requiring the grant to be repaid in specified circumstances.

<sup>F18</sup>(6) .....

<sup>F18</sup>(7) .....

<sup>F19</sup>(8) .....

[<sup>F20</sup>(9) In this section, section 183A and Schedule 19—

“Channel 3 service”, “Channel 4” and “Channel 5” each has the same meaning as in Part 1;

“national digital sound programme service” has the same meaning as in Part 2 of the Broadcasting Act 1996;

“national sound broadcasting service” means a sound broadcasting service within the meaning of Part 3 which, under subsection (4)(a) of section 245 of the Communications Act 2003, is a national service for the purposes of that section;

“Gaelic” means the Gaelic language as spoken in Scotland;

“programme” includes any item included in a programme service;

“radio multiplex service” has the same meaning as in Part 2 of the Broadcasting Act 1996;

“the Service” means the body established under subsection (3) and known as Seirbheis nam Meadhanan Gàidhlig (the Gaelic Media Service);

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“television multiplex service” has the meaning given by section 241(1) of the Communications Act 2003 to a multiplex service within the meaning of Part 1 of the Broadcasting Act 1996;

and a reference to being available to persons in Scotland includes a reference to being available both to persons in Scotland and to others.]

#### Textual Amendments

- F11** S. 183(1) substituted (31.10.2012) by Scotland Act 2012 (c. 11), ss. 17(2), 44(5); S.I. 2012/2516, art. 2(c)
- F12** Words in s. 183 substituted (with effect in accordance with Sch. 15 para. 62(4)(a) of the amending Act) by Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 62(2) (with Sch. 15 para. 62(4)(b), Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F13** Words in s. 183(2) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 62(3) (with Sch. 15 para. 62(4)(b), Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F14** Words in s. 183(2) substituted (1.4.1997) by 1996 c. 55, s. 95(2); S.I. 1997/1005, art. 4
- F15** Words in s. 183(3) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 19(1) Note 1 (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F16** S. 183(3A) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 19(1) Note 1 (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F17** S. 183(3B)-(4B) substituted for s. 183(4) (29.12.2003) by Communications Act 2003 (c. 21), ss. 208(3), 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F18** S. 183(6)(7) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 19(1) Note 1 (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F19** S. 183(8) omitted (31.10.2012) by virtue of Scotland Act 2012 (c. 11), ss. 17(3), 44(5); S.I. 2012/2516, art. 2(c)
- F20** S. 183(9) substituted (29.12.2003) by Communications Act 2003 (c. 21), ss. 208(4), 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

#### Modifications etc. (not altering text)

- C3** S. 183: transfer of functions to the Scottish Ministers (1.7.1999) by S.I. 1999/1750, arts. 1, 2, Sch. 1; S.I. 1998/3178
- C4** S. 183: transfer of functions (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 1 para. 7 (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

#### [<sup>F21</sup>183A Membership of the Gaelic Media Service

- (1) The Service shall consist of not more than twelve members.
- (2) The members of the Service are to be appointed by OFCOM
- (3) OFCOM must appoint one of the members to be the chairman of the Service.
- (4) The approval of the Secretary of State [<sup>F22</sup>and the Scottish Ministers] is required for the appointment of a person as a member of the Service, and for the appointment of a member as their chairman.
- (5) The members of the Service must include—
  - (a) a member nominated by the BBC;
  - (b) a member nominated by Highlands and Islands Enterprise; and
  - (c) a member nominated by [<sup>F23</sup>Bòrd na Gàidhlig].
- (6) When appointing members of the Service, OFCOM must have regard to—

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- (a) the desirability of having members of the Service who are proficient in written and spoken Gaelic; and
  - (b) any guidance issued by the Secretary of State [<sup>F24</sup>with the agreement of the Scottish Ministers] for the purposes of this section.
- (7) OFCOM must secure, so far as practicable, that the membership of the Service is such that the interests of each of the following are adequately represented—
- <sup>F25</sup>(a) .....
  - <sup>F25</sup>(b) .....
  - (c) the independent television and radio production industries in Scotland;
  - (d) other persons and bodies concerned with the promotion and use of the Gaelic language, including those concerned with education in Gaelic and in Gaelic culture.
- (8) Schedule 19 to this Act shall have effect with respect to the Service.
- (9) In this section—
- [<sup>F26</sup>“Bòrd na Gàidhlig” means the body of that name established by section 1 of the Gaelic Language (Scotland) Act 2005]
  - “regional Channel 3 service” has the same meaning as in Part 1.

<sup>F27</sup>(10) .....

<sup>F27</sup>(11) .....]

**Textual Amendments**

- F21** S. 183A inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 209**, 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), **art. 3(1)**, [Sch. 1](#) (with [art. 11](#))
- F22** Words in s. 183A(4) inserted (31.10.2012) by [Scotland Act 2012 \(c. 11\)](#), **ss. 17(5)**, 44(5); [S.I. 2012/2516](#), **art. 2(c)**
- F23** Words in s. 183A(5)(c) substituted (31.3.2006) by [The Gaelic Language \(Scotland\) Act 2005 \(Consequential Modifications\) Order 2006 \(S.I. 2006/241\)](#), **arts. 1**, **2(2)**
- F24** Words in s. 183A(6)(b) inserted (31.10.2012) by [Scotland Act 2012 \(c. 11\)](#), **ss. 17(6)**, 44(5); [S.I. 2012/2516](#), **art. 2(c)**
- F25** S. 183A(7)(a)(b) repealed (22.6.2011) by [Digital Economy Act 2010 \(c. 24\)](#), **ss. 29(2)**, 47(3)(b), **Sch. 2**; [S.I. 2011/1170](#), **art. 2**
- F26** Words in s. 183A(9) substituted (31.3.2006) by [The Gaelic Language \(Scotland\) Act 2005 \(Consequential Modifications\) Order 2006 \(S.I. 2006/241\)](#), **arts. 1**, **2(3)**
- F27** S. 183A(10)(11) omitted (31.3.2006) by virtue of [The Gaelic Language \(Scotland\) Act 2005 \(Consequential Modifications\) Order 2006 \(S.I. 2006/241\)](#), **arts. 1**, **2(4)**

<sup>F28</sup>**184 Broadcasting of programmes in Gaelic on Channel 3 in Scotland.**

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**Textual Amendments**

- F28** S. 184 repealed (22.6.2011) by [Digital Economy Act 2010 \(c. 24\)](#), **ss. 29(1)**, 47(3)(b), **Sch. 2**; [S.I. 2011/1170](#), **art. 2**

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### *National television archive*

#### **185 Contributions towards maintenance of national television archive.**

- (1) [F29]OFCOM] shall, for the financial year which includes the commencement of this section and each subsequent financial year, determine an aggregate amount which they consider it would be appropriate for the holders of Channel 3 [F30, Channel 4 ] and Channel 5 licences to contribute, in accordance with this section, towards the expenses incurred by the nominated body in connection with the maintenance by it of a national television archive.
- (2) In this section “the nominated body” means such body as may for the time being be nominated by [F29]OFCOM] for the purposes of this section, being a body which—
  - (a) is for the time being a designated body for the purposes of section 75 of the M3Copyright, Designs and Patents Act 1988 (recordings for archival purposes), and
  - (b) appears to [F29]OFCOM] to be in a position to maintain a national television archive.
- (3) A Channel 3 [F31, Channel 4 ] or Channel 5 licence shall include conditions requiring the licence holder to pay to [F29]OFCOM] , in respect of each of the financial years mentioned in subsection (1), such amount as they may notify to him for the purposes of this section, being such proportion of the aggregate amount determined for that year under that subsection as they consider appropriate (and different proportions may be determined in relation to different persons).
- (4) Any amount received by [F29]OFCOM] by virtue of subsection (3) shall be transmitted by them to the nominated body.
- (5) In this section—
 

F32  
...

“Channel 3 licence” and “Channel 5 licence” have the same meaning as in Part I of this Act.

[F33]“Channel 4 licence” means—

  - (a) the licence referred to in section 231(1)(b) of the Communications Act 2003; and
  - (b) a licence renewing that licence on the first or any subsequent occasion.]

#### **Textual Amendments**

- F29** Words in s. 185 substituted (with effect in accordance with Sch. 15 para. 64(2) of the amending Act) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 64\(1\)\(a\)](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)
- F30** Words in s. 185(1) inserted (with effect in accordance with s. 297(4) of the amending Act) by [Communications Act 2003 \(c. 21\)](#), [ss. 297\(2\)](#), 411(2) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)
- F31** Words in s. 185(3) inserted (with effect in accordance with s. 297(4) of the amending Act) by [Communications Act 2003 \(c. 21\)](#), [ss. 297\(2\)](#), 411(2) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)
- F32** Words in s. 185(5) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 64\(1\)\(b\)](#), [Sch. 19\(1\)](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)



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**F33** Words in s. 185(5) inserted (with effect in accordance with s. 297(4) of the amending Act) by [Communications Act 2003 \(c. 21\)](#), **ss. 297(3)**, 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**Modifications etc. (not altering text)**

**C5** S. 185: transfer of functions (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 1 para. 8** (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**Marginal Citations**

**M3** [1988 c. 48](#).

*Duties of BBC as respects independent productions*

**F34 186 Duty of BBC to include independent productions in their television services.**

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**Textual Amendments**

**F34** S. 186 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 19(1)** Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**187 Information to be furnished by BBC for purposes of reports under section 186.**

**F35**(1) .....

**F35**(2) .....

**F36**(3) .....

**Textual Amendments**

**F35** S. 187(1)(2) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 19(1)** Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**F36** S. 187(3) repealed (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 24\(6\)\(b\)](#), **Sch. 26**; [S.I. 2003/766](#), art. 2, [Sch.](#) (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))

*Power to give directions relating to international obligations*

**188 Power to give broadcasting bodies etc. directions relating to international obligations.**

(1) A body to which this section applies shall carry out any functions which the Secretary of State may by order direct them to carry out for the purpose of enabling Her Majesty's Government in the United Kingdom to give effect to any international obligations of the United Kingdom.

(2) This section applies to—

(a) the BBC;

**F37**(b) .....

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- (c) the Welsh Authority;
- <sup>F38</sup>(d) .....
- <sup>F38</sup>(e) .....

(3) An order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**

**F37** S. 188(2)(b) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**F38** S. 188(2)(d)(e) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

*Matters relating to telecommunication systems*

<sup>F39</sup>**189 Sharing of apparatus by operators of telecom- munication systems.**

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**Textual Amendments**

**F39** Ss. 189-191 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

<sup>F39</sup>**190 Modification of certain references in Telecom- munications Act licences.**

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**Textual Amendments**

**F39** Ss. 189-191 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

<sup>F39</sup>**191 Revocation of class licence to run broadcast relay systems.**

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**Textual Amendments**

**F39** Ss. 189-191 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

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### *Application of competition legislation*

#### **<sup>F40</sup>192 Application of provisions of Fair Trading Act 1973 to broadcasting and telecommunication services.**

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#### **Textual Amendments**

**F40** S. 192 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 26; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

#### **[<sup>F41</sup>193 Modification of networking arrangements in consequence of competition legislation**

- (1) Where [<sup>F42</sup>the relevant authority] makes a relevant order, the order may also provide for the modification of any networking arrangements to such extent as may appear to the relevant authority to be requisite or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.
- (2) In subsection (1) “relevant order” means—
  - (a) an order under section 75, 83 or 84 of, or paragraph 5, 10 or 11 of Schedule 7 to, the Enterprise Act 2002 where—
    - (i) one or more than one of the enterprises which have, or may have, ceased to be distinct enterprises was engaged in the provision of programmes for broadcasting in regional Channel 3 services; or
    - (ii) one or more than one of the enterprises which will or may cease to be distinct enterprises is engaged in the provision of such programmes; or
  - (b) an order under section 160 or 161 of that Act where the feature, or combination of features, of the market in the United Kingdom for goods or services which prevents, restricts or distorts competition relates to the provision of programmes for broadcasting in regional Channel 3 services.
- [<sup>F43</sup>(2A) In subsection (1), “relevant authority” means—
  - (a) in relation to a relevant order falling within subsection (2)(a), the Office of Fair Trading, the Competition Commission or (as the case may be) the Secretary of State;
  - (b) in relation to a relevant order falling within subsection (2)(b), the Office of Fair Trading, the Competition Commission, the Secretary of State or (as the case may be) OFCOM.]
- (3) Expressions used in subsection (2) and in Part 3 or (as the case may be) Part 4 of the Enterprise Act 2002 have the same meanings in that subsection as in that Part.
- (4) In this section —
  - “networking arrangements” means any such arrangements as are mentioned in [<sup>F44</sup>section 290(4) of the Communications Act 2003]; and
  - “regional Channel 3 service” has the meaning given by section 14(6) above.]

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#### Textual Amendments

- F41** S. 193 substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, **Sch. 9 para. 6**; S.I. 2003/1397, art. 2(1), Sch.
- F42** Words in s. 193(1) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 15 para. 65(2)** (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F43** S. 193(2A) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 15 para. 65(3)** (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F44** Words in s. 193(4) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 15 para. 65(4)** (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

#### Modifications etc. (not altering text)

- C6** S. 193(2)(a) extended (20.6.2003) by [The Enterprise Act 2002 \(Protection of Legitimate Interests\) Order 2003 \(S.I. 2003/1592\)](#), art. 1(1), **Sch. 4 para. 9**

<sup>F45</sup>**194** .....

#### Textual Amendments

- F45** S. 194 repealed (1.3.2000) by [S.I. 2000/311](#), **art. 26(2)**

#### <sup>F46</sup>**194A Modification of Restrictive Trade Practices Act 1976 in its application to agreements relating to Channel 3 news provision.**

- (1) In this section a “relevant agreement” means an agreement—
- (a) which is made between all holders of regional Channel 3 licences for securing the appointment by them, in accordance with conditions included in their licences by virtue of <sup>F47</sup>section 280 of the Communications Act 2003], of a single body corporate to be the appointed news provider for the purposes of <sup>F48</sup>[that section], or
  - (b) which is made between them and the body corporate appointed to be the appointed news provider for the purposes of <sup>F48</sup>[that section] for purposes connected with the appointment.

<sup>F49</sup>(2) [ If, having sought the advice of the <sup>F50</sup>OFT][<sup>F51</sup>and OFCOM], it appears to the Secretary of State, in relation to some or all of the provisions of a relevant agreement, that the conditions mentioned in subsection (3) are satisfied, he may make a declaration to that effect.

- (3) The conditions are that—
- (a) the provisions in question do not have, and are not intended or likely to have, to any significant extent the effect of restricting, distorting or preventing competition; or
  - (b) the effect of restricting, distorting or preventing competition which the provisions in question do have or are intended or are likely to have, is not greater than is necessary—
    - (i) in the case of a relevant agreement falling within subsection (1)(a), for securing the appointment by holders of regional Channel 3 licences

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- of a single body corporate to be the appointed news provider for the purposes of [F52]section 280 of the Communications Act 2003], or
- (ii) in the case of a relevant agreement falling within subsection (1)(b), for compliance by them with conditions included in their licences by virtue of [F53]that section of that Act of 2003].
- (4) If the Secretary of State makes a declaration under this section, the Chapter I prohibition does not apply to the agreement to the extent to which the agreement consists of provisions to which the declaration relates.
- (5) If the Secretary of State is satisfied that there has been a material change of circumstances, he may—
- (a) revoke a declaration made under this section, if he considers that the grounds on which it was made no longer exist;
  - (b) vary such a declaration, if he considers that there are grounds for making a different declaration; or
  - (c) make a declaration, even though he has notified the [F50]OFT][F54]or OFCOM or both of them] of his intention not to do so.
- (6) If the Secretary of State makes, varies or revokes a declaration under this section, he must notify the [F50]OFT][F55]and OFCOM] of his decision.
- (7) [F56]Neither the OFT nor OFCOM may] exercise any Chapter III powers in respect of a relevant agreement, unless—
- [F57](a) the Secretary of State has been notified by the OFT or (as the case may be) by OFCOM of its or their intention to do so; and]
  - (b) the Secretary of State—
    - (i) has notified the [F50]OFT][F58]and OFCOM] that he has not made a declaration in respect of the agreement, or provisions of the agreement, under this section and that he does not intend to make such a declaration; or
    - (ii) has revoked a declaration under this section and a period of six months beginning with the date on which the revocation took effect has expired.
- (8) [F59]Where the OFT or OFCOM is or are proposing to exercise any Chapter III powers in respect of a relevant agreement, it or they must give the Secretary of State particulars of the agreement and such other information—
- (a) it considers or (as the case may be) they consider will assist] the Secretary of State to decide whether to exercise his powers under this section; or
  - (b) as the Secretary of State may request.
- (9) In this section—
- “the Chapter I prohibition” means the prohibition imposed by section 2(1) of the Competition Act 1998;
  - “Chapter III powers” means the powers [F60]of the OFT and of OFCOM under] Chapter III of Part I of that Act so far as they relate to the Chapter I prohibition;
  - [F61]“OFT” means the Office of Fair Trading;]
  - [F62].....
  - “regional Channel 3 licence” has the same meaning as in Part I;

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and expressions used in this section which are also used in Part I of the Competition Act 1998 are to be interpreted in the same way as for the purposes of that Part of that Act.

- (10) In this section references to an agreement are to be read as applying equally to, or in relation to, a decision or concerted practice.
- (11) In the application of this section to decisions and concerted practices, references to provisions of an agreement are to be read as references to elements of a decision or concerted practice.]]

#### Textual Amendments

- F46** Shoulder heading and s. 194A inserted (24.7.1996) by 1996 c. 55, s. 77(1)(2) (with s. 43(1)(6))
- F47** Words in s. 194A(1) substituted (29.12.2003) by Communications Act 2003 (c. 21), ss. 372(2)(a), 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F48** Words in s. 194A(1) substituted (29.12.2003) by Communications Act 2003 (c. 21), ss. 372(2)(b), 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F49** S. 194A(2)-(11) substituted (1.3.2000) by 1998 c. 41, s. 3(1)(b), Sch. 2 Pt. III para. 4(2); S.I. 2000/344, art. 2, Sch.
- F50** Word in s. 194A substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 24(7)(a); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F51** Words in s. 194A(2) inserted (29.12.2003) by Communications Act 2003 (c. 21), ss. 372(3), 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F52** Words in s. 194A(3)(b) substituted (29.12.2003) by Communications Act 2003 (c. 21), ss. 372(4)(a), 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F53** Words in s. 194A(3)(b) substituted (29.12.2003) by Communications Act 2003 (c. 21), ss. 372(4)(b), 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F54** Words in s. 194A(5)(c) inserted (29.12.2003) by Communications Act 2003 (c. 21), ss. 372(5), 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F55** Words in s. 194A(6) inserted (29.12.2003) by Communications Act 2003 (c. 21), ss. 372(3), 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F56** Words in s. 194A(7) substituted (29.12.2003) by Communications Act 2003 (c. 21), ss. 372(6)(a), 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F57** S. 194A(7)(a) substituted (29.12.2003) by Communications Act 2003 (c. 21), ss. 372(6)(b), 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F58** Words in s. 194A(7)(b)(i) inserted (29.12.2003) by Communications Act 2003 (c. 21), ss. 372(3), 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F59** Words in s. 194A(8) substituted (29.12.2003) by Communications Act 2003 (c. 21), ss. 372(7), 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F60** Words in s. 194A(9) substituted (29.12.2003) by Communications Act 2003 (c. 21), ss. 372(8), 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F61** Words in s. 194A(9) inserted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 24(7)(d) (ii); S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F62** Words in s. 194A(9) repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 24(7)(d) (i), Sch. 26; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

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## General

### 195 Offences by bodies corporate.

- (1) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, then he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

### 196 Entry and search of premises.

- (1) If a justice of the peace is satisfied by information on oath—
  - (a) that there is reasonable ground for suspecting that an offence under section 13<sup>F63</sup>... or 97 has been or is being committed on any premises specified in the information, and
  - (b) that evidence of the commission of the offence is to be found on those premises,

he may grant a search warrant conferring power on any person or persons authorised in that behalf by [<sup>F64</sup>OFCOM] to enter and search the premises specified in the information at any time within one month from the date of the warrant.

<sup>F65</sup>(2) .....

- (3) A person who intentionally obstructs a person in the exercise of powers conferred on him under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fifth level on the standard scale.
- (4) A person who discloses, otherwise than for the purposes of any legal proceedings or of a report of any such proceedings, any information obtained by means of an exercise of powers conferred by this section shall be guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (5) In the application of this section to Scotland, for the reference to a justice of the peace there shall be substituted a reference to the sheriff and for any reference to information on oath there shall be substituted a reference to evidence on oath.
- (6) In the application of this section to Northern Ireland, for the reference to a justice of the peace there shall be substituted a reference to a resident magistrate and for any reference to information on oath there shall be substituted a reference to a complaint on oath.

#### Textual Amendments

**F63** Words in s. 196(1)(a) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

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**F64** Words in s. 196(1) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 66\(2\)](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**F65** S. 196(2) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 66\(3\), Sch. 19\(1\)](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**Modifications etc. (not altering text)**

**C7** S. 196(1): transfer of functions (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 1 para. 9](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**F66** **197 Restriction on disclosure of information.**

.....

**Textual Amendments**

**F66** S. 197 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**198 Financial provisions.**

- (1) There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under any other Act.
- (2) Any sums received by the Secretary of State by virtue of this Act shall be paid into the Consolidated Fund.

**199 Notices.**

<sup>F67</sup>(1) .....

<sup>F67</sup>(2) .....

<sup>F67</sup>(3) .....

<sup>F67</sup>(4) .....

- (5) Any notice served [<sup>F68</sup>by OFCOM under section 21, 41, 42, 55, [<sup>F69</sup> 97B,] 103, [<sup>F70</sup>105A,] 109, 110, 111 or 120] shall be published in such manner as that body consider appropriate, and shall be so published as soon as reasonably practicable after it is served.

<sup>F71</sup>(6) .....

**Textual Amendments**

**F67** S. 199(1)-(4) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**F68** Words in s. 199(5) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 67](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**F69** Word in s. 199(5) inserted (8.4.2010) by [Digital Economy Act 2010 \(c. 24\), ss. 30\(3\), 47\(2\)\(b\)](#)

**F70** Word in s. 199(5) inserted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\), ss. 33\(3\), 47\(1\)](#)



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**F71** S. 199(6) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

## **200 Regulations and orders.**

- (1) Any power of the Secretary of State to make regulations or an order under this Act shall be exercisable by statutory instrument.
- (2) Any regulations or order made by the Secretary of State under this Act may make—
  - (a) different provision for different cases; and
  - (b) such supplemental, incidental, consequential or transitional provision or savings as the Secretary of State considers appropriate.

## **201 Programme services.**

- (1) In this Act “programme service” means any of the following services (whether or not it is, or it requires to be, licensed <sup>F72</sup>...), namely—
  - <sup>F73</sup>(aa) any service which is a programme service within the meaning of the [Communications Act 2003](#);
  - (c) any other service which consists in the sending, by means of <sup>F74</sup>an electronic communications network (within the meaning of the [Communications Act 2003](#))], of sounds or visual images or both either—
    - (i) for reception at two or more places in the United Kingdom (whether they are so sent for simultaneous reception or at different times in response to requests made by different users of the service); or
    - (ii) for reception at a place in the United Kingdom for the purpose of being presented there to members of the public or to any group of persons.

<sup>F75</sup>(2A) Subsection (1)(c) does not apply to so much of a service consisting only of sound programmes as—

- (a) is a two-way service (within the meaning of section 248(4) of the [Communications Act 2003](#));
- (b) satisfies the conditions in section 248(5) of that Act; or
- (c) is provided for the purpose only of being received by persons who have qualified as users of the service by reason of being persons who fall within paragraph (a) or (b) of section 248(7) of that Act.

(2B) Subsection (1)(c) does not apply to so much of a service not consisting only of sound programmes as—

- (a) is a two-way service (within the meaning of section 232 of the [Communications Act 2003](#));
- (b) satisfies the conditions in section 233(5) of that Act; or
- (c) is provided for the purpose only of being received by persons who have qualified as users of the service by reason of being persons who fall within paragraph (a) or (b) of section 233(7) of that Act.]

### **Textual Amendments**

**F72** Words in s. 201(1) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

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- F73** S. 201(1)(aa) substituted for s. 201(1)(a)-(bb) (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 360(1)(a)**, 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F74** Words in s. 201(1)(c) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 360(1)(b)**, 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F75** S. 201(2A)(2B) substituted for s. 201(2) (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 360(2)**, 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

## 202 General interpretation.

(1) In this Act (unless the context otherwise requires)—

“advertising agent” shall be construed in accordance with subsection (7);  
<sup>[F76</sup>“the Audiovisual Media Services Directive” means Directive 2010/13/EU of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services]

“the BBC” means the British Broadcasting Corporation;

<sup>[F77</sup>“a BBC company” means—

- (a) any body corporate which is controlled by the BBC, or
- (b) any body corporate in which the BBC or any body corporate falling within paragraph (a) above is (to any extent) a participant (as defined in paragraph 1(1) of Part I of Schedule 2);]

“body”, without more, means a body of persons whether incorporated or not, and includes a partnership;

“broadcast” means broadcast by wireless telegraphy;

<sup>[F78</sup>“a Channel 4 company” means—

- (a) any body corporate which is controlled by the Channel Four Television Corporation, or
- (b) any body corporate in which the Corporation or any body corporate falling within paragraph (a) above is (to any extent) a participant (as defined in paragraph 1(1) of Part I of Schedule 2);]

“connected”, in relation to any <sup>[F79</sup>person], shall be construed in accordance with paragraph 3 in Part I of Schedule 2;

“control”, in relation to a body, has the meaning given by paragraph 1(1) in that Part of that Schedule;

“dwelling-house” includes a hotel, inn, boarding-house or other similar establishment;

<sup>[F80</sup>“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

“EEA State” means a State which is a contracting party to the EEA Agreement;]

“financial year” shall be construed in accordance with subsection (2);

“frequency” includes frequency band;

“modifications” includes additions, alterations and omissions;

<sup>[F81</sup>“OFCOM” means the Office of Communications;]

<sup>[F81</sup>“pension scheme” means a scheme for the payment of pensions, allowances or gratuities;]

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[<sup>F82</sup>“product placement” has the meaning given by paragraph 1 of Schedule 11A to the Communications Act 2003;]

“programme” includes an advertisement and, in relation to any service, includes any item included in that service;

[<sup>F83</sup>“an S4C company” means—

- (a) any body corporate which is controlled by the Welsh Authority, or
- (b) any body corporate in which the Welsh Authority or any body corporate falling within paragraph (a) above is (to any extent) a participant (as defined in paragraph 1(1) of Part I of Schedule 2);]

<sup>F84</sup> ...

“the Welsh Authority” means the authority renamed Sianel Pedwar Cymru by section 56(1);

[<sup>F85</sup>“wireless telegraphy” and “wireless telegraphy station” each has the same meaning as in the Wireless Telegraphy Act 2006.]

(2) In any provision of—

- (a) <sup>F86</sup> ...
- (b) Schedule <sup>F87</sup> ..., 2, 3, 6, <sup>F87</sup> ..., <sup>F88</sup> ... or 19,

“financial year” means a financial year of the body with which that provision is concerned; and in any other provision of this Act “financial year” means the twelve months ending with 31st March.

(3) In this Act—

- (a) references to pensions, allowances or gratuities include references to like benefits to be given on death or retirement; and
- (b) any reference to the payment of pensions, allowances or gratuities to or in respect of any persons includes a reference to the making of payments towards provision for the payment of pensions, allowances or gratuities to or in respect of those persons.

(4) Any reference in this Act (however expressed) to a licence under this Act being in force is a reference to its being in force so as to authorise the provision under the licence of the licensed service; and any such reference shall accordingly not be construed as prejudicing the operation of any provisions of such a licence which are intended to have effect otherwise than at a time when the licensed service is authorised to be so provided.

<sup>F89</sup>(4A) .....

(5) It is hereby declared that, for the purpose of determining for the purposes of any provision of this Act whether a service is—

- (a) <sup>F90</sup> ... capable of being received, within the United Kingdom or elsewhere, or
- (b) for reception at any place or places, or in any area, in the United Kingdom, the fact that the service has been encrypted to any extent shall be disregarded.

<sup>F91</sup>(5A) .....

(6) Any reference in this Act, in relation to a service consisting of programmes transmitted by satellite—

- (a) to a person by whom the programmes are transmitted, or
- (b) to a place from which the programmes are transmitted,

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is a reference to a person by whom, or a place from which, the programmes are transmitted to the satellite by means of which the service is provided.

[<sup>F92</sup>(6A) Subsections (2) and (3) of section 362 of the Communications Act 2003 (persons by whom services provided) are to apply for the purposes of this Act as they apply for the purposes of Part 3 of that Act.]

(7) For the purposes of this Act—

- (a) a person shall not be regarded as carrying on business as an advertising agent, or as acting as such an agent, unless he carries on a business involving the selection and purchase of advertising time or space for persons wishing to advertise;
- (b) a person who carries on such a business shall be regarded as carrying on business as an advertising agent irrespective of whether in law he is the agent of those for whom he acts;
- (c) a person who is the proprietor of a newspaper shall not be regarded as carrying on business as an advertising agent by reason only that he makes arrangements on behalf of advertisers whereby advertisements appearing in the newspaper are also to appear in one or more other newspapers;
- (d) a company or other body corporate shall not be regarded as carrying on business as an advertising agent by reason only that its objects or powers include or authorise that activity.

#### Textual Amendments

- F76** Words in s. 202 inserted (18.8.2010) by [The Audiovisual Media Services \(Codification\) Regulations 2010 \(S.I. 2010/1883\)](#), regs. 1, **3(a)**
- F77** Definition “a BBC company” inserted (24.7.1996) in s. 202(1) by [1996 c. 55, s. 136, Sch. 8](#), para. 8 (with s. 43(1)(6))
- F78** Definition “a Channel 4 company” inserted (1.10.1996) in s. 201(1) by [1996 c. 55, s. 148\(1\), Sch. 10 Pt. I para. 21\(a\)](#) (with s. 43(1)(6)); S.I. 1996/2120, art. 4, **Sch. 1**
- F79** Words in definition “connected” in s. 202(1) substituted (1.11.1996) by [1996 c. 55, s. 148\(1\), Sch. 10 Pt. I para. 21\(c\)](#) (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**
- F80** S. 202(1): definitions of “EEA Agreement” and “EEA State” inserted (11.7.1997) by S.I. 1997/1682, reg. 2, **Sch. para. 14(2)**
- F81** Words in s. 202(1) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 68\(2\)](#) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F82** Words in s. 202(1) inserted (16.4.2010) by [The Audiovisual Media Services \(Product Placement\) Regulations 2010 \(S.I. 2010/831\)](#), regs. 1(1), **10(2)**
- F83** Definition “an S4C company” inserted (1.10.1996) by [1996 c. 55, s. 148\(1\), Sch. 10 Pt. I para. 21\(c\)](#) (with s. 43(1)(6)); S.I. 1996/2120, art. 4, **Sch. 1**
- F84** Words in s. 202(1) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 19\(1\) Note 1](#) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F85** Words in s. 202(1) substituted (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\), s. 126\(2\), Sch. 7 para. 13](#)
- F86** S. 202(2)(a) repealed (1.4.1997) by [1996 c. 55, s. 148\(2\), Sch. 11 Pt. I](#) (with s. 43(1)(6)); S.I. 1997/1005, **art. 4**
- F87** Words in s. 202(2)(b) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 19\(1\) Note 1](#) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F88** Words in S. 202(2)(b) repealed (1.4.1997) by [1996 c. 55, s. 148\(2\), Sch. 11 Pt. I](#) (with s. 43(1)(6)); S.I. 1997/1005, **art. 4**

*Status: Point in time view as at 25/06/2013.*

*Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1990, Part X. (See end of Document for details)*

- F89** S. 202(4A) omitted (18.8.2010) by virtue of [The Audiovisual Media Services \(Codification\) Regulations 2010 \(S.I. 2010/1883\)](#), regs. 1, **3(b)**
- F90** Words in s. 202(5)(a) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 19(1)** Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F91** S. 202(5A) omitted (30.12.1998) by virtue of [S.I. 1998/3196](#), reg. 2, **Sch. para. 6(3)**
- F92** S. 202(6A) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 15 para. 68(3)** (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

## **203 Consequential and transitional provisions.**

- (1) The enactments mentioned in Schedule 20 to this Act shall have effect subject to the amendments there specified (being minor amendments or amendments consequential on the provisions of this Act).
- (2) Unless the context otherwise requires, in any enactment amended by this Act—
  - “programme”, in relation to a programme service, includes any item included in that service; and
  - “television programme” includes a teletext transmission.
- (3) The enactments mentioned in Schedule 21 to this Act (which include certain spent provisions) are hereby repealed to the extent specified in the third column of that Schedule.
- (4) The transitional provisions and savings contained in Schedule 22 to this Act shall have effect.

## **204 Short title, commencement and extent.**

- (1) This Act may be cited as the Broadcasting Act 1990.
- (2) This Act shall come into force on such day as the Secretary of State may by order appoint; and different days may be so appointed for different provisions or for different purposes.
- (3) Subject to subsections (4) and (5), this Act extends to the whole of the United Kingdom.
- (4) In Part VII—
  - (a) section 162 and Schedule 15 extend to England and Wales only;
  - (b) section 163 extends to Scotland only;
  - (c) section 164 extends to England and Wales and Scotland; and
  - (d) section 165 extends to Northern Ireland only.
- (5) The amendments and repeals in Schedules 20 and 21 have the same extent as the enactments to which they refer.
- (6) Her Majesty may by Order in Council direct that any of the provisions of this Act shall extend to the Isle of Man or any of the Channel Islands with such modifications, if any, as appear to Her Majesty to be appropriate.

### **Modifications etc. (not altering text)**

- C8** [S. 204\(2\)](#): Power of appointment conferred by s. 204(2) partly exercised: [S.I. 1990/2347](#)

**Status:**

Point in time view as at 25/06/2013.

**Changes to legislation:**

There are currently no known outstanding effects for the Broadcasting Act 1990, Part X.