



# Communications Act 2003

## 2003 CHAPTER 21

### PART 3

#### TELEVISION AND RADIO SERVICES [<sup>F1</sup>ETC]

#### CHAPTER 1

##### THE BBC, C4C THE WELSH AUTHORITY AND THE GAELIC MEDIA SERVICE

##### *The BBC*

#### **198 Functions of OFCOM in relation to the BBC**

- (1) It shall be a function of OFCOM, to the extent that provision for them to do so is contained in—
  - (a) the BBC Charter and Agreement, and
  - (b) the provisions of this Act and of Part 5 of the 1996 Act,  
[<sup>F1</sup>to regulate the BBC.]
- (2) For the purposes of the carrying out of that function OFCOM—
  - (a) are to have such powers and duties as may be conferred on them by or under the BBC Charter and Agreement; and
  - (b) are entitled, to the extent that they are authorised to do so by the Secretary of State or under the terms of that Charter and Agreement, to act on his behalf in relation to that Charter and Agreement.

[<sup>F2</sup>(2A) The BBC Charter and Agreement may in particular confer on OFCOM, as a power they are to have by virtue of subsection (2)(a), power to require any person to provide information for the purposes of the carrying out by OFCOM of their function under subsection (1).]

- (3) The BBC must pay OFCOM such penalties in respect of contraventions by the BBC of provision made by or under—

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- (a) this Part,  
 [<sup>F3</sup>(aa) Part 4A,] or  
 (b) the BBC Charter and Agreement,  
 as are imposed by OFCOM in exercise of powers conferred on them by that Charter and Agreement.
- (4) The BBC are also to be liable to pay OFCOM such sums in respect of the carrying out by OFCOM of their functions in relation to the BBC as may be—  
 (a) agreed from time to time between the BBC and OFCOM; or  
 (b) (in default of agreement) fixed by the Secretary of State.
- (5) The maximum penalty that may be imposed on the BBC on any occasion by OFCOM in exercise of a power conferred by virtue of the BBC Charter and Agreement is £250,000.
- (6) The Secretary of State may by order substitute a different sum for the sum for the time being specified in subsection (5).
- (7) No order is to be made containing provision authorised by subsection (6) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (8) It shall be the duty of OFCOM to have regard to their functions under this section when carrying out their functions under the 1990 Act, the 1996 Act and this Part in relation to services provided by persons other than the BBC.
- <sup>F4</sup>(9) .....

#### Textual Amendments

- F1** Words in s. 198(1) substituted (27.4.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 88(3)**, 118(1)  
**F2** S. 198(2A) inserted (27.4.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 88(4)**, 118(1)  
**F3** S. 198(3)(aa) inserted (19.12.2009) by [Audiovisual Media Services Regulations 2009 \(S.I. 2009/2979\)](#), [regs. 1\(1\)](#), **3(1)(a)**  
**F4** S. 198(9) omitted (27.4.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), **ss. 88(5)**, 118(1)

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

- C1** S. 198(1) amendment by 2017 c. 30, s. 88(3) extended to Isle of Man (1.3.2020) by [The Communications \(Isle of Man\) Order 2020 \(S.I. 2020/149\)](#), [arts. 1\(2\)](#), **2**  
**C2** S. 198(2A) amendment by 2017 c. 30, s. 88(4) extended to Isle of Man (1.3.2020) by [The Communications \(Isle of Man\) Order 2020 \(S.I. 2020/149\)](#), [arts. 1\(2\)](#), **2**  
**C3** S. 198(9) amendment by 2017 c. 30, s. 88(5) extended to Isle of Man (1.3.2020) by [The Communications \(Isle of Man\) Order 2020 \(S.I. 2020/149\)](#), [arts. 1\(2\)](#), **2**

#### Commencement Information

- I1** S. 198 in force at 29.12.2003 by [S.I. 2003/3142](#), [art. 3\(1\)](#), **Sch. 1** (with [art. 11](#))

#### [<sup>F5</sup>198ZA] Penalties for failure to provide information

- (1) This section applies if—  
 (a) under a power conferred by virtue of section 198(2A), OFCOM require a person other than the BBC to provide information, and

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- (b) OFCOM determine that there are reasonable grounds to believe the person has not provided the information.
- (2) OFCOM may give the person a notice which sets out the determination and specifies—
  - (a) what information the person must provide,
  - (b) the time within which the person must provide it,
  - (c) a penalty that OFCOM may impose if the person does not provide it, and
  - (d) a period in which the person may make representations.
- (3) OFCOM may impose a penalty on the person if they fail without reasonable excuse to provide the information in accordance with the notice.
- (4) The penalty may include an amount for each day the person fails to provide the information after the time required by the notice.
- (5) The penalty in respect of any notice—
  - (a) must not be more than OFCOM determine to be proportionate,
  - (b) must not be more than the penalty specified in the notice, and
  - (c) must not be more than £250,000.
- (6) OFCOM may withdraw a notice without imposing a penalty, and that does not affect the power to issue a further notice in relation to the same information.
- (7) OFCOM must publish and keep up to date a statement of their proposed approach to issuing notices and imposing and recovering penalties under this section (subject to the guidelines published under section 392).]

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#### Textual Amendments

**F5** S. 198ZA inserted (27.4.2017) by [Digital Economy Act 2017 \(c. 30\)](#), ss. **88(6)**, 118(1)

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

**C4** S. 198ZA amendment by 2017 c. 30, s. 88(6) extended to Isle of Man (1.3.2020) by [The Communications \(Isle of Man\) Order 2020 \(S.I. 2020/149\)](#), arts. 1(2), 2

### C4C

#### [<sup>F6</sup>198A C4C's functions in relation to media content

- (1) C4C must participate in—
  - (a) the making of a broad range of relevant media content of high quality that, taken as a whole, appeals to the tastes and interests of a culturally diverse society,
  - (b) the making of high quality films intended to be shown to the general public at the cinema in the United Kingdom, and
  - (c) the broadcasting and distribution of such content and films.
- (2) C4C must, in particular, participate in—
  - (a) the making of relevant media content that consists of news and current affairs,
  - (b) the making of relevant media content that appeals to the tastes and interests of older children and young adults,

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- (c) the broadcasting or distribution by means of electronic communications networks of feature films that reflect cultural activity in the United Kingdom (including third party films), and
  - (d) the broadcasting or distribution of relevant media content by means of a range of different types of electronic communications networks.
- (3) In performing their duties under subsections (1) and (2) C4C must—
- (a) promote measures intended to secure that people are well-informed and motivated to participate in society in a variety of ways, and
  - (b) contribute towards the fulfilment of the public service objectives (as defined in section 264A).
- (4) In performing their duties under subsections (1) to (3) C4C must—
- (a) support the development of people with creative talent, in particular—
    - (i) people at the beginning of their careers in relevant media content or films, and
    - (ii) people involved in the making of innovative content and films,
  - (b) support and stimulate well-informed debate on a wide range of issues, including by providing access to information and views from around the world and by challenging established views,
  - (c) promote alternative views and new perspectives, and
  - (d) provide access to material that is intended to inspire people to make changes in their lives.
- (5) In performing those duties C4C must have regard to the desirability of—
- (a) working with cultural organisations,
  - (b) encouraging innovation in the means by which relevant media content is broadcast or distributed, and
  - (c) promoting access to and awareness of services provided in digital form.
- (6) In this section—
- “participate in” includes invest in or otherwise procure;
  - “relevant media content” means material, other than advertisements, which is included in any of the following services that are available to members of the public in all or part of the United Kingdom—
    - (a) television programme services, additional television services or digital additional television services,
    - (b) on-demand programme services, or
    - (c) other services provided by means of the internet where there is a person who exercises editorial control over the material included in the service;
- and a film is a “third party film” if C4C did not participate in making it.
- (7) The services that are to be taken for the purposes of this section to be available to members of the public include any service which—
- (a) is available for reception by members of the public (within the meaning of section 361); or
  - (b) is available for use by members of the public (within the meaning of section 368R(4)).]

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**Textual Amendments**

**F6** S. 198A inserted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), **ss. 22(1)**, 47(1)

**[<sup>F7</sup>198B Statement of media content policy**

- (1) C4C must prepare a statement of media content policy—
  - (a) at the same time as they prepare the first statement of programme policy that is prepared under section 266 after this section comes into force, and
  - (b) subsequently at annual intervals.
- (2) C4C must monitor their performance in carrying out the proposals contained in their statements of media content policy.
- (3) A statement of media content policy must—
  - (a) set out C4C's proposals for securing that, during the following year, they will discharge their duties under section 198A, and
  - (b) include a report on their performance in carrying out the proposals contained in the previous statement.
- (4) In preparing the statement, C4C must—
  - (a) have regard to guidance given by OFCOM, and
  - (b) consult OFCOM.
- (5) C4C must publish each statement of media content policy—
  - (a) as soon as practicable after its preparation is complete, and
  - (b) in such manner as they consider appropriate, having regard to any guidance given by OFCOM.
- (6) OFCOM must—
  - (a) from time to time review the guidance for the time being in force for the purposes of this section, and
  - (b) revise that guidance as they think fit.

**Textual Amendments**

**F7** Ss. 198B-198D inserted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), **ss. 23(1)**, 47(1)

**198C OFCOM reports on C4C's media content duties**

- (1) For each relevant period, OFCOM must—
  - (a) carry out a review of the extent to which C4C have discharged their duties under section 198A, and
  - (b) prepare a report on the matters found on the review.
- (2) OFCOM must publish each report under this section—
  - (a) as soon as practicable after its preparation is complete, and
  - (b) in such manner as they consider appropriate.

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- (3) “Relevant period” means each period selected by OFCOM for the purposes of section 264(1)(b) that ends after this section comes into force.

**Textual Amendments**

**F7** Ss. 198B-198D inserted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), **ss. 23(1)**, 47(1)

**198D Directions in relation to C4C's media content duties**

- (1) This section applies if OFCOM—
- (a) are of the opinion that C4C have failed to perform one or more of their duties under section 198A or section 198B(1), (3) or (5),
  - (b) are of the opinion that the failure is serious and is not excused by economic or market conditions, and
  - (c) determine that the situation requires the exercise of their functions under this section.
- (2) In making a determination under subsection (1)(c), OFCOM must have regard, in particular, to—
- (a) C4C's statements of media content policy,
  - (b) C4C's effectiveness and efficiency in monitoring their own performance, and
  - (c) general economic and market conditions affecting the provision of relevant media content (as defined in section 198A).
- (3) OFCOM may give directions to C4C to do one or both of the following—
- (a) to revise the latest statement of media content policy in accordance with the direction;
  - (b) to take such steps for remedying the failure as OFCOM specify in the direction.
- (4) A direction given under this section must set out—
- (a) a reasonable timetable for complying with it, and
  - (b) the factors that OFCOM will take into account in determining whether or not a failure has been remedied.
- (5) OFCOM must consult C4C before giving a direction under this section.]

**Textual Amendments**

**F7** Ss. 198B-198D inserted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), **ss. 23(1)**, 47(1)

**199 [F8 Other ] Functions of C4C**

- (1) The activities that C4C are able to carry on include any activities which appear to them—
- (a) to be activities that it is appropriate for them to carry on in association with the carrying out of their primary functions; and
  - (b) to be connected, otherwise than merely in financial terms, with activities undertaken by them for the carrying out of those functions.

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- (2) [<sup>F9</sup> In subsection (1) “primary functions” means—
- (za) the performance of C4C's duties under section 198A;]
  - (a) securing the continued provision of Channel 4; and
  - (b) the fulfilment of the public service remit for that Channel under section 265.
- (3) Section 24(5)(b) and (6) of the 1990 Act (power of C4C to establish, acquire an interest in or assist a qualifying company) shall cease to have effect.
- (4) For sub-paragraphs (3) and (4) of paragraph 1 of Schedule 3 to the 1990 Act (power of C4C to do things incidental or conducive to the carrying out of their functions) there shall be substituted—
- “(3) The Corporation may do anything which appears to them to be incidental or conducive to the carrying out of their functions.
  - (4) The powers of the Corporation under sub-paragraph (3) include power, to the extent that it appears to them incidental or conducive to the carrying out of their functions to do so—
    - (a) to borrow money;
    - (b) to carry on activities (other than those comprised in their duty to carry out their primary functions) through Channel 4 companies; and
    - (c) to participate with others in the carrying on of any such activities.”
- (5) Schedule 9 (which makes provision for the approval by OFCOM, and for the enforcement, of arrangements made by C4C about the carrying on of their activities) shall have effect.

#### Textual Amendments

**F8** Word in s. 199 heading inserted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\), ss. 22\(2\), 47\(1\)](#)

**F9** Words in s. 199(2) substituted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\), ss. 22\(2\), 47\(1\)](#)

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

**C5** S. 199(2)(b) 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. 7 \(with art. 11\)](#)

#### Commencement Information

**I2** S. 199 in force at 29.12.2003 by [S.I. 2003/3142, art. 3\(1\), Sch. 1 \(with art. 11\)](#)

## 200 Removal of members of C4C

- (1) In paragraph 3 of Schedule 3 to the 1990 Act (term of office of members of C4C), after sub-paragraph (2) there shall be inserted—
- “(2A) OFCOM may at any time, by notice to a member of the Corporation, terminate the appointment of that member.
  - (2B) Before terminating a person’s appointment under sub-paragraph (2A), OFCOM must consult the Secretary of State.”

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- (2) This section applies only to a member whose appointment was made, or last renewed, after the coming into force of this section.

**Commencement Information**

**I3** S. 200 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

**201 Deficits and surpluses of C4C**

- (1) Sections 26 and 27 of the 1990 Act (revenue deficits of C4C to be funded by providers of Channel 3 services and application of excess revenues of C4C) shall cease to have effect.
- (2) This section has effect in relation to a deficit or excess for a year ending after the commencement of this section.

**Commencement Information**

**I4** S. 201 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

**202 Borrowing limit for C4C**

- (1) The Secretary of State may by order provide for a limit on the borrowing that C4C is allowed to undertake.
- (2) The order may fix the limit either—
- (a) by specifying the sum which the outstanding borrowing of C4C must not at any time exceed; or
  - (b) by providing a method of determining the sum which that borrowing must not exceed.
- (3) C4C are not to borrow money if the effect of the borrowing would be to cause the amount of their outstanding borrowing to be, or to remain, in excess of the limit (if any) that is for the time being in force.
- (4) For the purposes of this section the amount of C4C's outstanding borrowing at any time is the aggregate amount outstanding at that time in respect of the principal of sums borrowed by them, but after allowing sums borrowed to repay existing loans to be applied for that purpose.
- (5) Before making an order under this section, the Secretary of State must consult C4C.
- (6) The consent of the Treasury is required for the making of an order under this section.

**Commencement Information**

**I5** S. 202 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)



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## The Welsh Authority

### 203 Function of OFCOM in relation to the Welsh Authority

It shall be a function of OFCOM, to the extent that provision for them to do so is contained in this Act and Part 5 of the 1996 Act, to regulate the services provided by the Welsh Authority.

#### Commencement Information

**I6** S. 203 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

### 204 Welsh Authority's function of providing S4C and S4C Digital

- (1) The Welsh Authority shall continue in existence with the substitution of the following function for their functions under section 57 of the 1990 Act.
- (2) The Welsh Authority shall have the function of providing television programme services of high quality with a view to their being available for reception wholly or mainly by members of the public in Wales.
- [<sup>F10</sup>(3) The carrying out of that function—
  - (a) must include the continuing provision of the service provided in digital form and known as S4C Digital; and
  - (b) may include the continuing provision of the television broadcasting service known as Sianel Pedwar Cymru (“S4C”).]
  - [<sup>F11</sup>(4) The duty of the Welsh Authority to provide S4C Digital includes a duty to secure that arrangements are made and remain in force for it to be broadcast in digital form.]
  - (5) It shall be the duty of the Welsh Authority to secure that S4C and S4C Digital each represents a public service for the dissemination of information, education and entertainment.
  - (6) The Welsh Authority may use part of the signals carrying S4C to provide—
    - (a) subtitling in relation to programmes included in the service; and
    - (b) other services which are ancillary to programmes included in S4C and which are directly related to their contents.
  - (7) In providing S4C Digital the Welsh Authority may also provide—
    - (a) assistance for disabled people in relation to programmes included in the service; and
    - (b) any other service (other than one mentioned in paragraph (a)) which is an ancillary service in relation to S4C Digital.
  - (8) The Secretary of State may by order modify this Act and such other enactments as he thinks fit for the purpose of—
    - (a) replacing the requirement of the Welsh Authority to provide S4C with a requirement to provide a service in digital form;
    - (b) requiring the Welsh Authority to secure that arrangements are made for that service and S4C Digital to be merged and provided as one service (also to be known as “S4C Digital”); and

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- (c) applying enactments relating to the provision of S4C or S4C Digital to the provision of the merged service.
- (9) An order under subsection (8) may require the Welsh Authority to ensure that, from the coming into force of a requirement to provide a merged service in digital form until a time determined in the manner described in the order, the whole or a part of the merged service is also to be provided for broadcasting in analogue form.
- (10) In this section “programme” does not include an advertisement.

#### Textual Amendments

- F10** S. 204(3) substituted (12.8.2009) by [Welsh Authority \(Digital Switchover\) Order 2009 \(S.I. 2009/1968\)](#), arts. 1, **2(2)**
- F11** S. 204(4) substituted (12.8.2009) by [Welsh Authority \(Digital Switchover\) Order 2009 \(S.I. 2009/1968\)](#), arts. 1, **2(3)**

#### Commencement Information

- I7** S. 204 in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), **Sch. 1** (with art. 11)

## 205 Powers to provide other services

- (1) The Welsh Authority are not, in the carrying out of their function under section 204, to provide any television programme service (apart from S4C and S4C Digital) unless—
  - (a) the service appears to them to satisfy the requirements of subsection (3); and
  - (b) the provision by them of the service has been approved by an order made by the Secretary of State.
- (2) The functions of the Welsh Authority include the provision of services that are neither television programme services nor sound services but—
  - (a) are provided with a view to being made available for reception wholly or mainly by members of the public in Wales or otherwise to be received or used by persons in Wales;
  - (b) are services appearing to them to satisfy the requirements of subsection (3); and
  - (c) are services the provision of which by the Authority has been approved by an order made by the Secretary of State.
- (3) A service provided under this section must be a public service of high quality for the dissemination of information, education or entertainment (or a combination of them) wholly or mainly to members of the public in Wales.
- (4) The Welsh Authority are not to provide a television programme service under this section unless it is one the provision of which by them broadens the range of television programme services available for reception by members of the public in Wales.
- (5) The Welsh Authority must ensure, in the case of every television programme service provided with the approval of the Secretary of State under this section, that a substantial proportion of the programmes included in the service consists of programmes in Welsh.
- (6) An order under this section approving the provision of a service must set out—
  - (a) the nature and other characteristics of the service that is approved; and

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- (b) in the case of a service that is a television programme service, a public service remit for that service.
- (7) In providing a service approved under this section the Welsh Authority may also provide—
- (a) assistance for disabled people in relation to programmes included in the service;
  - (b) other services which are ancillary to programmes included in the service and which are directly related to their contents; and
  - (c) any other service (other than one mentioned in paragraph (a) or (b)) which is an ancillary service in relation to so much of the service as is provided in digital form.
- (8) A television programme service provided under this section in digital form is a qualifying service for the purposes of the 1996 Act.
- (9) In this section “sound service” means a service which would fall to be regulated under section 245 if provided by an S4C company.

#### Commencement Information

**18** S. 205 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

## 206 Other activities of Welsh Authority

- (1) The activities that the Welsh Authority are able to carry on include activities which appear to them—
- (a) to be activities that it is appropriate for them to carry on in association with the carrying out of their function of providing S4C, S4C Digital or a service the provision of which is approved under section 205; and
  - (b) to be connected, otherwise than merely in financial terms, with activities undertaken by them for the carrying out of that function.
- (2) The approval of the Secretary of State is required for the carrying on by the Welsh Authority of activities authorised only by subsection (1).
- (3) The approval of the Secretary of State—
- (a) must be contained in an order made by him; and
  - (b) may be a general approval in relation to a description of activities or a specific approval in relation to particular activities.
- (4) The activities capable of being authorised under subsection (1)—
- (a) do not include the provision of a licensable service; but
  - (b) do include activities for securing the provision of such a service by an S4C company and other activities connected with the provision of such a service by such a company.
- (5) The activities referred to in subsection (4)(b) include—
- (a) the formation of a company to provide a programme service;
  - (b) the taking of steps by means of which a company that is providing such a service becomes an S4C company.

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- (6) For sub-paragraphs (2) and (3) of paragraph 1 of Schedule 6 to the 1990 Act (power of Welsh Authority to do things incidental or conducive to the carrying out of their functions) there shall be substituted—
- “(2) The Authority may do anything which appears to them to be incidental or conducive to the carrying out of their functions.
- (3) The powers of the Authority under sub-paragraph (2) include power, to the extent that it appears to them incidental or conducive to the carrying out of their functions to do so—
- (a) to carry on activities (other than those comprised in their duty to carry out their functions under section 204 of the Communications Act 2003) through S4C companies; and
- (b) to participate with others in the carrying on of any such activities.”
- (7) In this section “licensable service” means a service that would fall to be regulated under section 211 or 245 if provided by an S4C company.
- (8) Section 57(1A)(b) and (1B) of the 1990 Act (power of Welsh Authority to establish, acquire an interest in or assist a qualifying company) shall cease to have effect.

**Commencement Information**

**19** S. 206 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**207 Welsh Authority finances**

- (1) The Welsh Authority must not, whether directly or indirectly, impose charges on persons—
- (a) in respect of their reception or use in Wales of any of the Authority’s public services;
- (b) in respect of their reception in Wales of any service consisting in the provision of assistance for disabled people in relation to programmes included in any one or more of those services; or
- (c) in respect of their reception in Wales of any service (other than one mentioned in paragraph (b)) which is an ancillary service in relation to any of the Authority’s public services provided in digital form.
- (2) It shall be unlawful to impose a charge in contravention of subsection (1).
- (3) The power of the Welsh Authority to do anything that appears to them to be conducive or incidental to the carrying out of their functions includes power, subject to subsection (4), to borrow money.
- (4) The Welsh Authority are not to borrow money except with the approval of the Secretary of State.
- (5) The consent of the Treasury is to be required for the giving of an approval for the purposes of subsection (4).
- (6) The Welsh Authority are to be liable to pay OFCOM such sums in respect of the carrying out by OFCOM of their functions in relation to the Authority as may be—
- (a) agreed from time to time between the Authority and OFCOM; or

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- (b) (in default of agreement) fixed by the Secretary of State.
- (7) In section 61(4) of the 1990 Act (power of Secretary of State to increase amount of grant to the Welsh Authority), for “transmitting S4C and the service referred to in section 57(1A)(a), by order” there shall be substituted—
- “(a) providing services that are public services of the Authority (within the meaning of section 207 of the Communications Act 2003), and
  - (b) arranging for the broadcasting or distribution of those services,
- by order”.
- (8) In section 61A of the 1990 Act (the public service fund)—
- (a) in subsection (2) (application of fund), for “their functions under section 57(1) or (1A)(a)” there shall be substituted “ their functions in relation to the provision of the services that are public services of the Authority (within the meaning of section 207 of the Communications Act 2003). ”; and
  - (b) in subsection (4) (programmes to be broadcast first on S4C or S4C Digital), for the words from “on S4C” onwards there shall be substituted “ on a television programme service that is one of their public services (within the meaning of section 207 of the Communications Act 2003) ”.
- (9) In this section references to the Welsh Authority’s public services are references to the following—
- (a) S4C;
  - (b) S4C Digital; and
  - (c) the services the provision of which by the Authority is authorised by or under section 205.

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**Commencement Information**

**I10** S. 207 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

*The Gaelic Media Service*

**208 The Gaelic Media Service**

- (1) The body established for the purposes of section 183 of the 1990 Act (financing of programmes in Gaelic out of the Gaelic Television Fund) is hereby renamed Seirbheis nam Meadhanan Gàidhlig (the Gaelic Media Service).
- (2) References in any instrument or other document to Comataidh Craolaidh Gàidhlig or to the Gaelic Broadcasting Committee are to be construed accordingly.
- (3) For subsection (4) of that section there shall be substituted—
- “(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.
- (4) The Service may—
- (a) make grants out of the Fund, or
  - (b) otherwise apply it,

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for any of the purposes of carrying out their functions or for any purpose connected with the carrying out of those functions.

(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.”

(4) For subsection (9) of that section there shall be substituted—

“(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);

“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.”

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### Commencement Information

**111** S. 208 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

## 209 Membership of the Service

After section 183 of the 1990 Act there shall be inserted—

### “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 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 Bòrd Gàidhlig na h-Alba (the Gaelic Development Agency).
- (6) When appointing members of the Service, OFCOM must have regard to—
  - (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 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—
  - (a) the holders of licences to provide regional Channel 3 services for areas wholly in Scotland;
  - (b) the holders of licences to provide regional Channel 3 services in respect of which determinations under section 184(4)(b) are for the time being in force;
  - (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—

“Bòrd Gàidhlig na h-Alba” means the body of that name formed under section 5 of the National Heritage (Scotland) Act 1985;

“regional Channel 3 service” has the same meaning as in Part 1.

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- (10) The Secretary of State may by order amend the reference in subsection (5) to Bòrd Gàidhlig na h-Alba (the Gaelic Development Agency)—
- (a) by substituting a reference to another body formed under section 5 of the National Heritage (Scotland) Act 1985 with functions relating to the promotion of Gaelic; or
  - (b) for the purpose of giving effect to a change to the name of the body referred to in that subsection.
- (11) An order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

**Commencement Information**

**I12** S. 209 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

**210 Supplementary provisions about the Service**

- (1) Schedule 19 to the 1990 Act (supplementary provisions about the Gaelic Broadcasting Committee) shall be amended as follows.
- (2) In paragraph 2 (tenure of office and remuneration)—
- (a) in sub-paragraph (1), for “sub-paragraph (2)” there shall be substituted “ sub-paragraphs (1A) and (2) ”;
  - (b) after sub-paragraph (1) there shall be inserted—
 

“(1A) A person is not to be appointed as a member of the Service for a term of more than four years (but a person so appointed shall be eligible for re-appointment at the end of his term of office).”
- (3) In paragraph 7 (employees of the Committee), after sub-paragraph (3) there shall be inserted—
- “(4) A person who is an employee of the Service is not to be eligible to be appointed as a member of the Service.”
- (4) After paragraph 8 (financial provision) there shall be inserted—
- “8A
- (1) The Service must pay all their receipts to OFCOM.
  - (2) OFCOM must hold amounts received by them under this paragraph to the credit of the Gaelic Broadcasting Fund (and, accordingly, those amounts are not to be regarded as forming part of OFCOM’s revenues).”
- (5) In paragraph 12 (annual reports), after sub-paragraph (1) there shall be inserted—
- “(1A) The report must include a statement of how the Service are proposing to carry out their functions during the next financial year.”

**Commencement Information**

**I13** S. 210 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)



**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2003/1900, art. 3(2) by [S.I. 2003/3142 art. 1\(3\)](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 by [S.I. 2004/1492 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 by [S.I. 2004/697 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 art. 4 Sch. 2 by [S.I. 2004/545 art. 2](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 124Q(7)(a) words substituted by [2013 c. 22 Sch. 9 para. 52](#)
- s. 148A and cross-heading inserted by [2022 c. 46 s. 73\(2\)](#)
- s. 368E(5)(d)(e) inserted by [2017 c. 30 s. 94\(3\)](#)
- s. 402(2A)(za)(zb) inserted by [2022 c. 46 Sch. para. 2](#)
- Sch. 3A para. 21(6) inserted by [2022 c. 46 Sch. para. 3\(5\)\(b\)](#)
- Sch. 3A para. 37(3)(aza) inserted by [2022 c. 46 Sch. para. 3\(9\)](#)
- Sch. 3A para. 84(1)(aza) inserted by [2022 c. 46 Sch. para. 3\(10\)](#)
- Sch. 3A para. 103(1)(ca) inserted by [2022 c. 46 s. 70](#)
- Sch. 3A para. 119A inserted by [2022 c. 46 s. 72](#)
- Sch. 3A Pt. 4ZA inserted by [2022 c. 46 s. 67\(1\)](#)