



Communications Act 2003

2003 CHAPTER 21

PART 3

TELEVISION AND RADIO SERVICES [F1ETC]

CHAPTER 3

REGULATORY STRUCTURE FOR INDEPENDENT RADIO SERVICES

Radio licensable content services

247 Meaning of “radio licensable content services”

- (1) In this Part “radio licensable content service” means (subject to section 248) any service falling within subsection (2) in so far as it is provided with a view to its availability for reception by members of the public being secured by one or both of the following means—
- (a) the broadcasting of the service (whether by the person providing it or by another) from a satellite; or
 - (b) the distribution of the service (whether by that person or by another) by any means involving the use of an electronic communications network.
- (2) A service falls within this subsection if it—
- (a) consists of sound programmes; and
 - (b) is provided (whether in digital or in analogue form) as a service that is to be made available for reception by members of the public.

Commencement Information

II S. 247 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Changes to legislation: Communications Act 2003, Cross Heading: Radio licensable content services is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

248 Services that are not radio licensable content services

- (1) A service is not a radio licensable content service to the extent that—
 - (a) it is provided with a view to its being broadcast by means of a multiplex service;
 - (b) it is a sound broadcasting service to which subsection (3) of section 245 applies; or
 - (c) it is comprised in a television licensable content service.
- (2) A service is not a radio licensable content service to the extent that it is provided by means of an electronic communications service if—
 - (a) it forms part only of a service provided by means of that electronic communications service or is one of a number of services access to which is made available by means of a service so provided; and
 - (b) the service of which it forms part, or by which it may be accessed, is provided for purposes that do not consist wholly or mainly in making available services of radio programmes or television programmes (or both) for reception by members of the public.
- (3) A service is not a radio licensable content service if it is a two-way service.
- (4) A service is a two-way service for the purposes of subsection (3) if it is provided by means of an electronic communications network and an essential feature of the service is that the purposes for which it is provided involve the use of that network, or a part of it, both—
 - (a) for the transmission of sounds by the person providing the service to users of the service; and
 - (b) for the transmission of sounds by those users for reception by the person providing the service or by other users of the service.
- (5) A service is not a radio licensable content service if—
 - (a) it is distributed by means of an electronic communications network only to persons all of whom are on a single set of premises; and
 - (b) that network is wholly within those premises and is not connected to an electronic communications network any part of which is outside those premises.
- (6) For the purposes of subsection (5)—
 - (a) a set of premises is a single set of premises if, and only if, the same person is the occupier of all the premises; and
 - (b) two or more vehicles are capable of constituting a single set of premises if, and only if, they are coupled together.
- (7) A service is not a radio licensable content service if it is provided for the purpose only of being received by persons who have qualified as users of the service by reason of being—
 - (a) persons who have a business interest in the programmes included in the service; or
 - (b) persons who are to receive the programmes for the purpose only of allowing them to be listened to by persons falling within sub-paragraph (a) or by persons all of whom are on the business premises of the person receiving them.

Changes to legislation: Communications Act 2003, Cross Heading: Radio licensable content services is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (8) For the purposes of subsection (7) a person has a business interest in programmes if he has an interest in receiving or listening to them—
- (a) for the purposes of a business carried on by him; or
 - (b) for the purposes of his employment.
- (9) In this section—
- “business premises”, in relation to a person, means premises at or from which any business of that person is carried on;
 - “multiplex service” means a television multiplex service, a radio multiplex service or a general multiplex service;
 - “premises” includes a vehicle;
 - “vehicle” includes a vessel, aircraft or hovercraft.
- (10) References in this section, in relation to a person, to a business include references to—
- (a) any business or other activities carried on by a body of which he is a member and the affairs of which are managed by its members; and
 - (b) the carrying out of any functions conferred on that person, or on any such body, by or under any enactment.

Commencement Information

I2 S. 248 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

249 Modification of ss. 247 and 248

- (1) The Secretary of State may by order modify any of the provisions of section 247 or 248 if it appears to him appropriate to do so having regard to any one or more of the following—
- (a) the protection which is expected by members of the public as respects the contents of sound programmes;
 - (b) the practicability of applying different levels of regulation in relation to different services;
 - (c) the financial impact for providers of particular services of any modification of the provisions of that section; and
 - (d) technological developments that have occurred or are likely to occur.
- (2) The Secretary of State may also by order provide, in cases where it otherwise appears to him appropriate to do so, that a description of service specified in the order is not to be treated as a radio licensable content service for the purposes of the provisions of this Act that are so specified.
- (3) No order is to be made containing provision authorised by this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

Commencement Information

I3 S. 249 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Changes to legislation: Communications Act 2003, Cross Heading: Radio licensable content services is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

250 Licensing of radio licensable content services

- (1) The licence that is required for the purposes of section 97 of the 1990 Act in respect of a radio licensable content service is a licence granted under Part 3 of that Act on an application complying with this section.
- (2) An application for a licence under Part 3 of the 1990 Act to provide a radio licensable content service—
 - (a) must be made in such manner,
 - (b) must contain such information about the applicant, his business and the service he proposes to provide, and
 - (c) must be accompanied by such fee (if any),
 as OFCOM may determine.
- (3) Sections 109 to [F1 111B] of the 1990 Act (enforcement of licences) apply in relation to licences for radio licensable content services as they apply in relation to licences under Chapter 2 of Part 3 of the 1990 Act but with—
 - (a) the substitution of the word “ or ” for paragraph (b) of subsection (1) of section 110 (power to shorten licence period); and
 - (b) the omission of “(b)” in subsection (4) of that section and of subsection (5) of that section (which refer to the power disapplied by paragraph (a) of this subsection).

Textual Amendments

F1 Word in s. 250(3) substituted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), ss. **91(3)**, 118(2)

Commencement Information

I4 S. 250 in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

251 Abolition of separate licences for certain sound services

- (1) The authorisations that are to be capable of being granted on or after the radio transfer date by or under a licence under Part 3 of the 1990 Act do not include the authorisation of the provision, as such, of—
 - (a) any satellite service (as defined, disregarding its repeal by this Act, in section 84(2)(b) of the 1990 Act); or
 - (b) any licensable sound programme service (as defined, disregarding its repeal by this Act, in section 112(1) of that Act).
- (2) Subsection (1) does not affect OFCOM’s power, by means of a licence authorising the provision of a service falling within section 245(1), to authorise the provision of so much of any formerly regulated radio service as is comprised in the licensed service.
- (3) So much of any relevant existing licence as authorises the provision of a service which consists in or includes a radio licensable content service—
 - (a) shall have effect, on and after the radio transfer date, as a licence under Part 3 of the 1990 Act authorising the provision of the radio licensable content service comprised in the licensed service;
 - (b) shall so have effect as a licence which, notwithstanding its terms and conditions, is to continue in force until such time as it is surrendered or is revoked in accordance with provisions of the 1990 Act; and

Changes to legislation: *Communications Act 2003, Cross Heading: Radio licensable content services is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (c) shall otherwise have effect as a licence on the same terms and conditions as those on which it had effect immediately before the radio transfer date.
- (4) It shall be the duty of OFCOM to exercise their power under section 86 of the 1990 Act to make such variations of any licence having effect in accordance with subsection (3) of this section as (after complying with subsection (5)(b) of that section) they consider appropriate for the purpose of performing their duty under section 263 of this Act.
- (5) In this section—
- “formerly regulated radio service” means a service mentioned in subsection (1); and
- “relevant existing licence” means any licence which—
- (a) was granted by the Radio Authority under Part 3 of the 1990 Act before the radio transfer date; and
- (b) is in force immediately before the radio transfer date as a licence authorising the provision of a formerly regulated service.

Commencement Information

I5 S. 251 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

Changes to legislation:

Communications Act 2003, Cross Heading: Radio licensable content services is up to date with all changes known to be in force on or before 16 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

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\(1\)](#)