



# Digital Economy Act 2017

## 2017 CHAPTER 30

### PART 6

#### MISCELLANEOUS

##### *Regulation and functions of BBC*

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

- (1) The Communications Act is amended as follows.
- (2) Section 198 (functions of OFCOM in relation to the BBC) is amended as follows.
- (3) In subsection (1) for the words after paragraph (b) substitute—

“to regulate the BBC.”
- (4) After subsection (2) insert—

“(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).”
- (5) Omit subsection (9).
- (6) After section 198 insert—

#### **“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
  - (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).”
- (7) The following cease to have effect—
  - (a) in Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership), the entry relating to a chairman, vice-chairman or ordinary member of the BBC Trust);
  - (b) section 90A of the Scotland Act 1998 (BBC Trust member for Scotland);
  - (c) section 16 of the Scotland Act 2012 (which inserts section 90A of the 1998 Act);
  - (d) in section 77(2)(d) of the Deregulation Act 2015 (review of sanctions in relation to TV licensing), “and be presented to the BBC Trust”.

## **89 TV licence fee concessions by reference to age**

- (1) The Communications Act 2003 is amended as follows.
- (2) Section 365 (TV licence fees) is amended as follows.
- (3) After subsection (1) insert—
  - “(1A) Liability to pay a sum under regulations under subsection (1) is subject to any concession applying in accordance with a determination by the BBC under section 365A.”
- (4) In subsection (4)(a) after “concession” insert “provided for by the regulations”.
- (5) In subsection (5) for “The reference to a concession in subsection (4)” substitute “A reference in this section or section 365A to a concession”.
- (6) After subsection (5) insert—

“(5A) Regulations under this section may not provide for a concession that requires the person to whom the TV licence is issued, or another person, to be of or above a specified age, unless—

- (a) the age specified is below 65, and
- (b) the requirement is not satisfied if the person concerned is 65 or over at the end of the month in which the licence is issued.

(5B) Subsection (5A) does not apply to—

- (a) the concession provided for by regulation 3(d) of and Schedule 4 to the Communications (Television Licensing) Regulations 2004 (S.I. 2004/692) (accommodation for residential care), or
- (b) a concession in substantially the same form.”

(7) After section 365 insert—

**“365A TV licence fee concessions by reference to age**

- (1) For the purposes of section 365(1A) the BBC may determine that a concession in specified terms is to apply.
- (2) Any concession under this section must include a requirement that the person to whom the TV licence is issued, or another person, is of or above a specified age, which must be 65 or higher, at or before the end of the month in which the licence is issued.
- (3) A determination under this section—
  - (a) may in particular provide for a concession to apply, subject to subsection (2), in circumstances where a concession has ceased to have effect by virtue of section 365(5A), but
  - (b) may not provide for a concession to apply in the same circumstances as a concession within section 365(5B).
- (4) A determination under this section may include provision for the means by which an entitlement to a concession must be established.
- (5) A determination under this section—
  - (a) may make different provision for different cases (including different provision in respect of different areas);
  - (b) may include transitional provision.
- (6) A determination under this section—
  - (a) must be in writing;
  - (b) must be published in whatever way the BBC considers appropriate.
- (7) The BBC—
  - (a) may vary a determination by a further determination under this section;
  - (b) may determine that a concession is to cease to apply (and accordingly revoke a determination under this section).
- (8) Before making, varying or revoking a determination the BBC must consult any persons it considers appropriate.”