
STATUTORY INSTRUMENTS

1998 No. 3196

BROADCASTING

The Television Broadcasting Regulations 1998

<i>Made</i>	- - - -	<i>18th December 1998</i>
<i>Laid</i>	- - - -	<i>21st December 1998</i>
<i>Coming into force</i>	- -	<i>30th December 1998</i>

Whereas the Secretary of State is a Minister designated(1) for the purposes of section 2(2) of the European Communities Act 1972(2) with regard to measures relating to television broadcasting.

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by section 2(2) of the European Communities Act 1972 and all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

- 1.—(1) These Regulations may be cited as the Television Broadcasting Regulations 1998.
- (2) These Regulations shall come into force on 30th December 1998.

Amendments to the Broadcasting Act 1990 and the Broadcasting Act 1996

2. The Broadcasting Act 1990(3) and the Broadcasting Act 1996(4) are amended in accordance with the Schedule to these Regulations.

Modification of licence conditions

3.—(1) In any licence to provide a multiplex service (within the meaning of Part I of the Broadcasting Act 1996) granted before the commencement of these Regulations—

(1) S.I.1997/1174.
(2) 1972 c. 68; by virtue of the amendment of section 1(2) of the European Communities Act 1972 by section 1 of the European Economic Area Act 1993 (c. 51) regulations may be made under section 2(2) of the European Communities Act to implement obligations of the United Kingdom created by or arising under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm. 2073) and the Protocol adjusting that Agreement signed at Brussels on 17th March 1993 (Cm. 2183).
(3) 1990 c. 42; section 2 of the Broadcasting Act 1990 was amended by paragraph 1 of Part I and paragraph 12 of Part II of Schedule 10 to the Broadcasting Act 1996 (c. 55) and by the Satellite Television Regulations 1997 (S.I. 1997/1682); section 46 of the Broadcasting Act 1990 was amended by paragraph 16 of Schedule 10 to the Broadcasting Act 1996 and by the Satellite Television Service Regulations 1997; section 202 of the Broadcasting Act 1990 was amended by paragraph 21 of Part II of Schedule 10 to the Broadcasting Act 1996 and by the Satellite Television Service
(4) 1996 c. 55.

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- (a) any condition that all digital programme services broadcast under that licence are provided by the holder of a licence under section 18 of the Broadcasting Act 1996 shall be taken to be a condition that all digital programme services broadcast under the licence are provided either by the holder of such a licence or by an EEA broadcaster, and
 - (b) any condition that all digital additional services broadcast under that licence are provided by the holder of a licence under section 25 of the Broadcasting Act 1996 shall be taken to be a condition that all digital additional services broadcast under the licence are provided either by the holder of such a licence or by an EEA broadcaster.
- (2) In this regulation “EEA broadcaster” has the meaning given by section 12(3A) of the Broadcasting Act 1996.

Revocations

4. In the Schedule to the Satellite Television Service Regulations 1997⁽⁵⁾, paragraphs 1(2)(a), 3 and 14(3) are hereby revoked.

18th December 1998

Chris Smith
Secretary of State for Culture, Media and Sport

(5) S.I. 1997/1682.

SCHEDULE

Regulation 2

Amendments to the Broadcasting Act 1990 and the Broadcasting Act 1996

1.—(1) Section 2 of the Broadcasting Act 1990 (regulation by the Commission of provision of television services) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), for “(other than satellite television services)” there is substituted “(other than satellite television services and digital programme services)”;

(b) before the word “and” at the end of paragraph (c) there is inserted—

“(cc) digital programme services (as defined by section 1(4) of the Broadcasting Act 1996) provided by persons who for the purposes of Council Directive [89/552/EEC](#) are under the jurisdiction of the United Kingdom, other than the BBC and the Welsh Authority;; and”

(c) for paragraph (d) there is substituted—

“(d) digital additional services (as defined by section 24(1) of the Broadcasting Act 1996) provided by persons who for the purposes of Council Directive [89/552/EEC](#) are under the jurisdiction of the United Kingdom, other than the BBC.”

2. For section 43 of the Broadcasting Act 1990 (satellite television services) there is substituted—

“43 Satellite television services.

(1) In this Part “satellite television service” means a service which—

(a) consists in the transmission for general reception of television programmes by satellite; and

(b) is provided by a person who for the purposes of Council Directive [89/552/EEC](#) is under the jurisdiction of the United Kingdom.

(2) For the purposes of this Act any satellite television service which is composed by, and transmitted for, a BBC company, a Channel 4 company or an S4C company shall be regarded as provided by that company and not by the relevant broadcasting body (even if the relevant broadcasting body is in a position to determine what is to be included in the service).

(3) In this section “relevant broadcasting body” means—

(a) in relation to a BBC company, the BBC,

(b) in relation to a Channel 4 company, the Channel Four Television Corporation, and

(c) in relation to an S4C company, the Welsh Authority.”

3. In section 46 of the Broadcasting Act 1990 (licensable programme services), for subsection (6) (b) there is substituted—

“(b) is provided by a person who for the purposes of Council Directive [89/552/EEC](#) is under the jurisdiction of an EEA State other than the United Kingdom.”

4. In section 79 of the Broadcasting Act 1990 (regulation of delivery of programmes provided by licence holder and foreign satellite programmes) for subsection (5)(a)(ii) there is substituted—

“(ii) a service provided by a person who for the purposes of Council Directive [89/552/EEC](#) is under the jurisdiction of an EEA State other than the United Kingdom, or”

5. In section 177 of the Broadcasting Act 1990 (orders proscribing unacceptable foreign satellite services), for the definition of “foreign satellite service” in subsection (6) there is substituted—

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““foreign satellite service” means—

- (a) a service which is provided by a person who is not for the purposes of Council Directive [89/552/EEC](#) 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;”

6.—(1) Section 202 of the Broadcasting Act 1990 (general interpretation) is amended as follows.

(2) After subsection (4) there is inserted—

“(4A) Any reference in this Act to Council Directive [89/552/EEC](#) is a reference to that Directive as amended by Directive [97/36/EC](#) of the European Parliament and the Council.”

(3) Subsection (5A) is omitted.

7.—(1) Part III of Schedule 2 to the Broadcasting Act 1990 (restrictions to prevent accumulation of interests in licensed services) is amended as follows.

(2) In paragraph 2 (general limit on the holding of licences to provide television services or interests in bodies corporate holding such licences)—

(a) in sub-paragraph (2)(a) and (b), for “1(2)(a), (d), (e) or (h)” there is substituted “1(2)(a), (d) or (e)”;

(b) after sub-paragraph (2)(a) there is inserted—

“(aa) the audience time attributable in respect of that period to any relevant service falling within paragraph 1(2)(h) which is provided by him by means of a television multiplex service licensed under Part I of the Broadcasting Act 1996; and”

(c) before the word “and” at the end of sub-paragraph (2)(b) there is inserted—

“(bb) one half of the audience time attributable in respect of that period to any relevant service falling within paragraph 1(2)(h) which is provided—

(i) by means of a television multiplex service licensed under Part I of the Broadcasting Act 1996, and

(ii) by a body corporate which he does not control, but in which he is at any relevant time a participant with a qualifying interest.”

(3) Paragraph 7 (limit in relation to provision of digital programme services) is amended as follows—

(a) in sub-paragraph (5) for “by any one holder of a licence to provide digital programme services” there is substituted “by any one person by means of television multiplex services licensed under Part I of the Broadcasting Act 1996”;

(b) in sub-paragraph (7) for “by the holders of licences to provide such services” there is substituted “by means of television multiplex services licensed under Part I of the Broadcasting Act 1996”; and

(c) for sub-paragraph (8) there is substituted—

“(8) For the purposes of this paragraph a person who holds a licence to provide digital programme services and is a participant with more than a 20 per cent. interest in—

(a) a body corporate which also holds such a licence, or

(b) a body corporate which—

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- (i) for the purposes of Council Directive [89/552/EEC](#) is under the jurisdiction of an EEA State other than the United Kingdom, and
 - (ii) provides digital programme services by means of a television multiplex service licensed under Part I of the Broadcasting Act 1996,
- but who does not control that body, shall be taken to provide any digital programme services provided by that body.”

8.—(1) Section 1 of the Broadcasting Act 1996 (multiplex services and digital programme services) is amended as follows.

(2) After subsection (1) there is inserted—

“(1A) In subsection (1) “for general reception” means for general reception in, or in any area in, the United Kingdom.”

(3) After subsection (4) there is inserted—

“(4A) In subsection (4) “for general reception” means for general reception in, or in any area in, the United Kingdom or any other EEA State.”

(4) In subsection (7) the definition of “for general reception” and the word “and” immediately preceding it are omitted.

9.—(1) Section 12 of the Broadcasting Act 1996 (conditions attached to multiplex licence) is amended as follows.

(2) In subsection (1)(c), after “section 18” there is inserted “or by an EEA broadcaster”.

(3) In subsection (1)(d), after “section 25” there is inserted “or by an EEA broadcaster”.

(4) After subsection (3) there is inserted—

“(3A) In subsection (1)(c) and (d) “EEA broadcaster” means a person who for the purposes of Council Directive [89/552/EEC](#) is under the jurisdiction of an EEA State other than the United Kingdom.”

10. In section 24 of the Broadcasting Act 1996 (digital additional services) for subsection (1)(a) there is substituted—

“(a) is provided by any person with a view to its being broadcast in digital form (whether by him or by some other person)—

(i) by means of a multiplex service; or

(ii) for general reception in, or in any area in, an EEA State other than the United Kingdom, but”

11. In section 25 of the Broadcasting Act 1996 (licensing of digital additional services), in subsection (5) after “United Kingdom” there is inserted “or any other EEA State”.

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EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations under section 2(2) of the European Communities Act 1972 give effect in the United Kingdom to Article 2 and Article 2a(1) of Council Directive [89/552/EEC](#) on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, as inserted by Council Directive [97/36/EC](#) amending Council Directive [89/552/EEC](#) on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities.

Paragraph 1 of the Schedule inserts a new subsection (1)(cc) into, and substitutes subsection (1)(d) of, section 2 of the Broadcasting Act 1990, so as to provide that it shall be the function of the Independent Television Commission to regulate the provision of; digital programme services provided by persons who for the purposes of Council Directive [89/552/EEC](#) are under the jurisdiction of the United Kingdom other than the BBC and the Welsh Authority; and digital additional services provided by persons, who for the purposes of Council Directive [89/552/EEC](#) are under the jurisdiction of the United Kingdom, other than the BBC.

Paragraphs 2 to 6 of the Schedule amend sections 43, 46, 79, 177 and 202 of the Broadcasting Act 1990 so as to provide that a satellite television service means a service which consists in the transmission for general reception of television programmes by satellite and is provided by a person who for the purposes of Council Directive [89/552/EEC](#) is under the jurisdiction of the United Kingdom.

Paragraph 6 of the Schedule further inserts, into section 202 of the Broadcasting Act 1990, a new subsection (4A), so as to provide that any reference in the Broadcasting Act 1990 to Council Directive [89/552/EEC](#) is a reference to that Directive as amended by Directive [97/36/EC](#) of the European Parliament and Council. By virtue of section 147(2) of the Broadcasting Act 1996, this provision will also apply to references being inserted in Part I of that Act.

Paragraph 7 of the Schedule amends Part III of Schedule 2 to the Broadcasting Act 1990, so as to provide that, in relation to applying the general limit on the holding of licences to provide television services or interests in bodies corporate (paragraph 2 of Part III of Schedule 2) and the limit in relation to provision of digital programme services (paragraph 7 of Part III of Schedule 2), the provision of all digital programme services provided by means of a television multiplex service licensed under Part I of the Broadcasting Act 1996 shall be taken into account.

Paragraph 8 of the Schedule amends section 1 of the Broadcasting Act 1996 by inserting a new subsection (1A) and a new subsection (4A), so as to define separately what is meant by “for general reception” for the purposes of subsection (1) (multiplex services) and subsection (4) (digital programme services) and by omitting the definition of “general reception” in subsection (7).

Paragraph 9 of the Schedule amends subsections (1)(c) and (1)(d) of section 12 of the Broadcasting Act 1996 (the conditions attached to a multiplex licence), so as to provide that an EEA broadcaster (as defined for the purposes of that section) can provide digital programme services broadcast under a multiplex licence without being the holder of a licence under section 18 of the Broadcasting Act 1996 (a digital programme licence) and an EEA broadcaster can provide digital additional services broadcast under a multiplex licence without being the holder of a licence under section 25 of the Broadcasting Act 1996 (a digital additional licence) respectively. An EEA broadcaster means a person who, for the purposes of Council Directive [89/552/EEC](#), is under the jurisdiction of an EEA State other than the United Kingdom.

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Paragraph 10 of the Schedule amends section 24 of the Broadcasting Act 1996, so as to provide that a digital additional service means any service which is provided by any person with a view to its being broadcast in digital form (whether by him or by some other person) by means of a multiplex service; or for general reception in, or in any area in an EEA State other than the United Kingdom, but is not a digital programme service, a qualifying service, an ancillary service or a technical service.

Paragraph 11 of the Schedule amends section 25 of the Broadcasting Act 1996, so as to provide that, subject to subsection (6) of section 25, sections 6 to 12 of the Broadcasting Act 1990 (general provisions relating to services licensed under Part I of that Act) shall apply in relation to any digital additional service which is licensed under Part I of the Broadcasting Act 1996 and is broadcast for general reception in or in any area in, the United Kingdom or in any other EEA State as they apply in relation to services licensed under Part I of the Broadcasting Act 1990.