
S T A T U T O R Y I N S T R U M E N T S

2000 No. 54**BROADCASTING****The Television Broadcasting Regulations 2000**

<i>Made</i> - - - - -	<i>14th January 2000</i>
<i>Laid before Parliament</i>	<i>14th January 2000</i>
<i>Coming into force</i> - -	<i>19th January 2000</i>

Whereas the Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) 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 2000.
- (2) These Regulations shall come into force on 19th January 2000.

Amendment of s. 13 of Broadcasting Act 1990

2. In section 13 of the Broadcasting Act 1990(c) (prohibition on providing television services without a licence), in subsection (1), for “(b), (c) or (d)” there is substituted “(b), (c), (cc), or (d)”(d).

Amendments of Broadcasting Act 1996

3. Part IV of the Broadcasting Act 1996(e) (sporting and other events of national interest) is amended in accordance with the Schedule to these Regulations.

Savings

- 4.—(1) Subsection (1) of section 100 of the Broadcasting Act 1996(f) (contract for televising listed event must specify category of service) does not apply to any contract which—
 - (a) was entered into before the commencement of these Regulations, and

(a) S.I.1997/1174.

(b) 1972 c. 68; by virtue of the amendment of section 1(2) of the European Communities Act 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).

(c) 1990 c. 42; section 13 of the Broadcasting Act 1990 was amended by paragraph 2 of Schedule 10 to the Broadcasting Act 1996 (c. 55) and by paragraph 2 of the Schedule to the Satellite Television Service Regulations 1997 (S.I. 1997/1682).

(d) Section 2(1)(cc) was inserted by the Television Broadcasting Regulations 1998 (S.I. 1998/3196).

(e) 1996 c. 55.

(f) 1996 c. 55.

(b) would have complied with subsection (2) of that section but for the amendment of section 98 of that Act made by the Schedule to these Regulations.

(2) The amendments of section 98 and 101 of the Broadcasting Act 1996 do not affect the application of section 101 of that Act in any case where the television programme provider providing the first service is exercising rights acquired before the commencement of these Regulations.

(3) In paragraph (2) “television programme provider” and “the first service” have the same meaning as in section 101 of the Broadcasting Act 1996.

14th January 2000

Chris Smith
Secretary of State for Culture, Media and Sport

SCHEDULE

Regulation 3

AMENDMENTS OF BROADCASTING ACT 1996: SPORTING AND OTHER EVENTS OF NATIONAL INTEREST

1. For section 98 there is substituted—

“Categories of service. **98.**—(1) For the purposes of this Part, television programme services and EEA satellite services shall be divided into two categories as follows—

- (a) those television programme services and EEA satellite services which for the time being satisfy the qualifying conditions, and
- (b) all other television programme services and EEA satellite services.

(2) In this section “the qualifying conditions”, in relation to a service, means the conditions—

- (a) that the service is provided without any consideration being required for reception of the service, and
- (b) that the service is received by at least 95 per cent. of the population of the United Kingdom.

(3) There shall be disregarded for the purposes of subsection (2)(a) any fee payable in respect of a television licence, as defined by section 1(7) of the Wireless Telegraphy Act 1949.

(4) The condition in subsection (2)(b)

- (a) is to be taken to be satisfied in relation to a regional Channel 3 service if it is satisfied in relation to Channel 3 as a whole, and
- (b) is to be taken to be satisfied in relation to Channel 4 if it is satisfied in relation to Channel 4 and S4C taken together.

(5) The Commission shall from time to time publish a list of the television programme services and EEA satellite services which appear to them to satisfy the qualifying conditions.

(6) In this section “EEA satellite service” means any 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 an EEA State other than the United Kingdom.”

2. In subsection (3) of section 99 (contract for exclusive right to televise listed event to be void) for paragraph (a) there is substituted—

“(a) has not granted any right to televise the whole or, as the case may be, that part of the event live for reception in that area to any other television programme provider nor to any broadcaster who for the purposes of Council Directive 89/552/EEC is under the jurisdiction of an EEA State other than the United Kingdom, and”.

3. In section 101 (restriction on televising of listed event), in subsection (1), for “person”, in the first place where it occurs, there is substituted “television programme provider”.

4. After section 101 there is inserted—

“Designated events in relation to other EEA States.

101A. For the purposes of this Part, a sporting or other event is a designated event, in relation to an EEA State other than the United Kingdom, if—

- (a) that State has designated the event in accordance with Article 3a(1) of Council Directive 89/552/EEC as being of major importance to its society, and
- (b) the designation forms part of measures—
 - (i) which have been notified by that State to the European Commission for the purposes of Article 3a(2) of that Directive, and
 - (ii) notice of which has been published by the European Commission in the Official Journal of the Communities.

Restriction on televising of an event designated by other EEA State.

101B.—(1) A television programme provider shall not, without the previous consent of the Commission, exercise rights to televise the whole or part of an event which is a designated event, in relation to an EEA State other than the United Kingdom, for reception in that EEA State or any area of that EEA State, where a substantial proportion of the public in that EEA State is deprived of the possibility of following that event by live or deferred coverage on free television as determined by that State in accordance with Article 3a(1) of Council Directive 89/552/EEC.

(2) The Commission may revoke any consent given by them under subsection (1).

(3) Failure to comply with subsection (1) shall not affect the validity of any contract.

(4) Subsection (1) shall not have effect where the rights were acquired before the day on which the event became a designated event.”

5.—(1) Section 102 (power of Commission to impose penalty) is amended as follows.

(2) In subsection (1)(a) after “subsection (1) of section 101” there is inserted “or subsection (1) of section 101B”.

(3) In subsection (2) after “subsection (1) of section 101” there is inserted “or subsection (1) of section 101B”.

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

“(2A) Before requiring any person to pay a financial penalty under subsection (1) on the ground that he has failed to comply with subsection (1) of section 101B, the Commission shall consult such persons (who may include competent authorities in other EEA States) as appear to the Commission to be appropriate.”

6.—(1) Section 103 (report to Secretary of State) is amended as follows.

(2) In subsection (1)(a) after “subsection (1) of section 101” there is inserted “or subsection (1) of section 101B”.

(3) In subsection (2) after “subsection (1) of section 101” there is inserted “or subsection (1) of section 101B”.

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

“(2A) Before reporting to the Secretary of State that a broadcasting body has failed to comply with subsection (1) of section 101B, the Commission shall consult such persons (who may include competent authorities in other EEA States) as appear to the Commission to be appropriate.”

7. In section 104(1) (code of guidance)—

(a) in paragraph (a) for “this Part” there is substituted “sections 99, 100 and 101”.

(b) in paragraph (b)—

(i) in sub-paragraph (i), after “section 101(1)” there is inserted “or section 101B(1); and

(ii) in sub-paragraph (ii), after “section 101(1)” there is inserted “or section 101B(1)”.

8. After section 104 there is inserted—

“Provision of information.

104A.—(1) A television programme provider shall, at the request of the Commission, provide them with such information as the Commission consider appropriate regarding any contract which he has entered into which relates to an event which, in relation to an EEA State other than the United Kingdom, is a designated event.

(2) If so requested by a competent authority in an EEA State other than the United Kingdom, the Commission shall provide the authority with such information relating to rights to televise listed events or designated events as the Commission consider it appropriate to provide.”

9. In section 105(1) (interpretation of Part IV)—

(a) after the definition of “the Commission” there is inserted—

““designated event”, in relation to an EEA State other than the United Kingdom, has the meaning given by section 101A;”,

(b) in the definition of “live”, before “shall” there is inserted “in relation to the televising of a listed event,”, and

(c) after the definition of “national Channel 3 service” and “regional Channel 3 service” there is inserted—

““S4C” has the same meaning as in Part I of the 1990 Act;”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations under section 2(2) of the European Communities Act 1972 give effect in the United Kingdom to provisions of Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, as amended by Council Directive 97/36/EC amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities.

Regulation 2 makes an amendment to section 13 of the Broadcasting Act 1990 which is consequential on amendments made by the Television Broadcasting Regulations 1998 (S.I. 1998/3196) for the purpose of implementing Article 2 of Council Directive 89/552/EEC. Regulation 3 and the Schedule implement Article 3a of the Directive.

Paragraph 1 of the Schedule replaces section 98 of the Broadcasting Act 1996 (categories of service) so as to redefine the two categories of television programme services previously specified. For the purposes of Part IV of the Broadcasting Act 1996 television programme services and EEA satellite services are to be divided into two categories; those which for the time being satisfy the qualifying conditions and all other television programme services and EEA satellite services. The Independent Television Commission are from time to time to publish a list of the television programme services and EEA satellite services which appear to them to satisfy the “qualifying conditions”. The qualifying conditions in relation to a service means the conditions that the service is provided without any consideration being required for the reception of the service and that the service is received by 95 per cent. of the population of the United Kingdom.

Paragraph 2 of the Schedule replaces paragraph (a) of section 99(3) of the Broadcasting Act 1996 (contract for exclusive right to televise listed event to be void) so as to provide that for the purposes of section 99 rights to televise the whole or any part of an event live for reception in any area granted to a television programme provider (as defined in section 99(2)) are to be taken to be granted exclusively only if the person granting them has not granted any right to televise the whole or part of a listed event live for reception in that area to any other television programme provider nor to any broadcaster who is under the jurisdiction of an EEA State other than the United Kingdom and is precluded by the terms of the contract from doing so.

Paragraph 3 of the Schedule amends section 101 of the Broadcasting Act 1996 (restriction on televising of listed event) by replacing “person” in the first place which it occurs with the words “television programme provider”.

Paragraph 4 of the Schedule inserts two new sections into Part IV of the Broadcasting Act 1996—section 101A (designated events in relation to other EEA States) and section 101B (restriction on the televising of an event designated by other EEA State). The new section 101A defines a designated event in relation to an EEA State other than the United Kingdom. An event is a designated event if an EEA State other than the United Kingdom has designated the event in accordance with Article 3a(1) of Council Directive 89/552/EEC as being of major importance for society and that designation forms part of measures which have been notified by that State to the European Commission for the purposes of Article 3a(2) of that Directive and notice of which has been published in the Official Journal of the Communities. Section 101B introduces a restriction on televising of an event designated by an EEA State other than the United Kingdom. It provides that a television programme provider shall not, without the previous consent of the Independent Television Commission, exercise rights to televise the whole or part of an event which is a designated event in relation to an EEA State other than the United Kingdom, for reception in that EEA State or any area of that EEA State, where a substantial proportion of the public in that EEA State is deprived of the possibility of following that event by live or deferred coverage on free television. The restriction does not apply where the rights were acquired before the day on which the event became a designated event.

Paragraph 5 of the Schedule amends section 102 of the Broadcasting Act 1996 (power of Independent Television Commission to impose penalty) so as to enable the Commission, if they are satisfied that the holder of a licence under Part I of the Broadcasting Act 1990 or a digital programme licence under Part I of the Broadcasting Act 1996 has failed to comply with subsection (1) of the new section 101B of the Broadcasting Act 1996, to impose a penalty.

Paragraph 6 of the Schedule amends section 103 of the Broadcasting Act 1996 (report to Secretary of State), so as to require the Independent Television Commission, if they are satisfied that the BBC or the Welsh Authority has failed to comply with subsection (1) of the new section 101B, to make a report of the matter to the Secretary of State.

Paragraph 7 of the Schedule extends the duty of the Independent Television Commission to draw up guidance under section 104 of the Broadcasting Act 1996 so as to include guidance as to the matters which they will take into account in determining whether to give or revoke their consent under the new section 101B(1) and in determining for the purposes of section 102(1) or 103(1) whether in all the circumstances it is unreasonable to expect a television programme provider to comply with the new section 101B(1).

Paragraph 8 of the Schedule inserts a new section 104A (provision of information) into Part IV of the Broadcasting Act 1996. The new section 104A provides that a television programme provider shall, at the request of the Independent Television Commission, provide them with such information as the Commission consider appropriate regarding any contract which he has entered into which relates to a designated event. Section 104A further provides that the Independent Television Commission shall, if so requested by a competent authority in an EEA State other than the United Kingdom, provide the authority with such information relating to rights to televise listed events or designated events as the Commission considers appropriate.

Paragraph 9 of the Schedule makes a number of consequential amendments to section 105(1) of the Broadcasting Act 1996 (interpretation of Part IV).

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