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STATUTORY INSTRUMENTS

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**2010 No. 419**

**The Audiovisual Media Services Regulations 2010**

**Amendments of Part 4A(1) of the Communications Act 2003: on-demand programme services**

4. After section 368B (the appropriate regulatory authority) insert—

*“Notification by providers*

**368BA Advance notification to appropriate regulatory authority**

(1) A person must not provide an on-demand programme service unless, before beginning to provide it, that person has given a notification to the appropriate regulatory authority of the person’s intention to provide that service.

(2) A person who has given a notification for the purposes of subsection (1) must, before—

- (a) providing the notified service with any significant differences; or
- (b) ceasing to provide it,

give a notification to the appropriate regulatory authority of the differences or (as the case may be) of an intention to cease to provide the service.

(3) A notification for the purposes of this section must—

- (a) be sent to the appropriate regulatory authority in such manner as the authority may require; and
- (b) contain all such information as the authority may require.

**368BB Enforcement of section 368BA**

(1) Where the appropriate regulatory authority determine that the provider of an on-demand programme service has contravened section 368BA, they may do one or both of the following—

- (a) give the provider an enforcement notification under this section;
- (b) impose a penalty on the provider in accordance with section 368J.

(2) The appropriate regulatory authority must not make a determination as mentioned in subsection (1) unless there are reasonable grounds for believing that a contravention of section 368BA has occurred and they have allowed the provider an opportunity to make representations about that apparent contravention.

(3) An enforcement notification under this section is a notification which specifies the determination made as mentioned in subsection (1) and imposes a requirement on the provider to take all such steps for remedying the contravention of section 368BA as may be specified in the notification.

- (4) An enforcement notification must—
  - (a) include reasons for the appropriate regulatory authority’s decision to give the enforcement notification, and
  - (b) fix a reasonable period for taking the steps required by the notification.
- (5) It is the duty of a person to whom an enforcement notification has been given to comply with it.
- (6) That duty is enforceable in civil proceedings by the appropriate regulatory authority—
  - (a) for an injunction;
  - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988; or
  - (c) for any other appropriate remedy or relief.”