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STATUTORY INSTRUMENTS

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**2003 No. 3142**

**The Office of Communications Act 2002  
(Commencement No. 3) and Communications  
Act 2003 (Commencement No. 2) Order 2003**

**Citation, interpretation and revocation**

1.—(1) This Order may be cited as the Office of Communications Act 2002 (Commencement No. 3) and Communications Act 2003 (Commencement No. 2) Order 2003.

(2) In this Order—

“the 1949 Act” means the Wireless Telegraphy Act 1949(1);

“the 1990 Act” means the Broadcasting Act 1990(2);

“the 1996 Act” means the Broadcasting Act 1996(3);

“BSC” means the Broadcasting Standards Commission;

“the first commencement order” means the Communications Act 2003 (Commencement No. 1) Order 2003(4);

“ITC” means the Independent Television Commission;

“the principal Act” means the Communications Act 2003;

“television licence” and “television receiver” have the meanings provided by section 1(7) of the 1949 Act; and

“the transitionally commenced provisions” has the same meaning as in the first commencement order.

(3) Article 3(2) of the first commencement order is revoked.

**Commencement on 12th December 2003**

2. Section 282 of and paragraphs 10 and 17 of Schedule 14 to the principal Act shall come into force on 12th December 2003.

**Commencement on 29th December 2003**

3.—(1) Paragraph 12 of the Schedule to the Office of Communications Act 2002 and the provisions of the principal Act set out in Schedule 1 hereto shall, subject to the exceptions set out therein and to paragraph (3) below, come into force on 29th December 2003.

(2) The transitionally commenced provisions are brought into force by this Order on 29th December 2003 for the purpose of conferring the networks and services functions and the spectrum functions on OFCOM.

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(1) 1949 c. 54: sections 1, 2, 15 and 19 were amended in respect of television licences and television receivers by 1990 c. 42, section 180(1) and Schedule 18, Part 1.

(2) 1990 c. 42.

(3) 1996 c. 55.

(4) S.I.2003/1900 (C. 77).

(3) Section 2 of, and paragraph 1(1)(a) of Schedule 1 and paragraphs 6 and 15 of Schedule 17 to, the principal Act shall not come into force on 29th December 2003 to the extent that the 1949 Act applies in respect of television licences and television receivers; and until those provisions are further brought into force by article 4 below on 1st April 2004—

- (a) the 1949 Act shall continue to apply in respect of television licences and television receivers as it applies immediately before 29th December 2003,
- (b) the reference to section 1(7) of the 1949 Act in section 1(1) of the Wireless Telegraphy Act 1998<sup>(5)</sup> shall be construed accordingly,
- (c) the reference to the enactments relating to the management of the radio spectrum in section 394(2)(c) of the principal Act shall be construed in respect of television licences and television receivers as a reference to those enactments as they apply immediately before 29th December 2003, and
- (d) section 15 of the 1949 Act shall apply in respect of television licences and television receivers as if references therein to the Secretary of State included references to OFCOM, save that in respect of television licences and television receivers, OFCOM may do under the said section 15 only those things which they will be able to do under section 366 of the principal Act when it comes into force on 1st April 2004.

#### **Subsequent commencement**

4.—(1) Section 253 of the principal Act shall come into force on 2nd January 2004.

(2) The provisions of the principal Act set out in Schedule 2 hereto shall come into force on 1st April 2004.

(3) Sections 299 (so far as not already in force) and 300 of the principal Act shall come into force on 30th June 2004.

#### **Transitional provision: advisory bodies under Telecommunications Act 1984, section 54**

5. If, upon the repeal of section 54 of the Telecommunications Act 1984<sup>(6)</sup> on 29th December 2003, any of the advisory bodies established thereunder has not ceased to exist by virtue of an order under section 31(5) of the principal Act, subsections (7) and (8) of the said section 54 shall continue to have effect in respect of that body until it ceases to exist as if the reference to the Director<sup>(7)</sup> in subsection (7) were a reference to OFCOM and the reference thereto in subsection (8) were omitted.

#### **Transitional provisions: Independent Television Commission, Radio Authority and Broadcasting Standards Commission**

6.—(1) In any period between the repeal of section 1 of and Schedule 1 to the 1990 Act on 29th December 2003 and the day on which the ITC ceases to exist by virtue of an order under section 31(4) of the principal Act—

- (a) the ITC—
  - (i) shall continue in existence only for one or more of the purposes specified in this paragraph or for any purpose connected with the making or coming into force of a scheme under section 30 of the principal Act, and
  - (ii) in that period shall consist of a chairman appointed by the Secretary of State and, if the Secretary of State thinks fit, such one or more other persons as he may appoint as members of the ITC;

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(5) 1998 c. 6.

(6) 1984 c. 12.

(7) The Director General of Telecommunications, appointed under 1984 c. 12, section 1.

- (b) the said section 1 (except for subsection (2)(b)) and, subject to the following subparagraphs, Schedule 1 (except for paragraph 2(3) and in paragraph 9(1) the words “shall appoint a secretary and” and “other”) and any definitions relevant to their interpretation the repeal of which is brought into force on 29th December 2003 shall continue to have effect during that period for those purposes;
  - (c) the ITC shall prepare a statement of accounts and annual report for the period beginning on 1st January 2003 and ending with 28th December 2003;
  - (d) Schedule 1 to the 1990 Act shall have effect for the purposes of the accounts and report referred to in subparagraph (c) above as if any reference to “financial year” or “year” were a reference to the period referred to in that subparagraph;
  - (e) the ITC shall prepare a statement of accounts in respect of the period of twelve months beginning on 29th December in any year; and
  - (f) Schedule 1 to the 1990 Act shall have effect for the purposes of any accounts referred to in subparagraph (e) above as if any reference to the “financial year” or “year” were a reference to the period referred to in that subparagraph.
- (2) In any period between the repeal of section 83 of and Schedule 8 to the 1990 Act on 29th December 2003 and the day on which the Radio Authority ceases to exist by virtue of an order under section 31(4) of the principal Act—
- (a) the Authority—
    - (i) shall continue in existence only for one or more of the purposes specified in this paragraph or for any purpose connected with the making or coming into force of a scheme under section 30 of the principal Act, and
    - (ii) in that period shall consist of a chairman appointed by the Secretary of State and, if the Secretary of State thinks fit, such one or more other persons as he may appoint as members of the Authority;
  - (b) the said section 83 (except for subsection (2)(b)) and, subject to the following subparagraphs, Schedule 8 (except for the words “shall appoint a secretary and” and “other” in paragraph 9(1)) and any definitions relevant to their interpretation the repeal of which is brought into force on 29th December 2003 shall continue to have effect during that period for those purposes;
  - (c) the Authority shall prepare a statement of accounts and annual report for the period beginning on 1st January 2003 and ending with 28th December 2003;
  - (d) Schedule 8 to the 1990 Act shall have effect for the purposes of the accounts and report referred to in subparagraph (c) above as if any reference to “financial year” or “year” were a reference to the period referred to in that subparagraph;
  - (e) the Authority shall prepare a statement of accounts in respect of the period of twelve months beginning on 29th December in any year; and
  - (f) Schedule 8 to the 1990 Act shall have effect for the purposes of any accounts referred to in subparagraph (e) above as if any reference to the “financial year” or “year” were a reference to the period referred to in that subparagraph.
- (3) In any period between the repeal of sections 106, 121 and 125 of and Schedule 3 to the 1996 Act on 29th December 2003 and the day on which the BSC ceases to exist by virtue of an order under section 31(4) of the principal Act—
- (a) the BSC—
    - (i) shall continue in existence only for one or more of the purposes specified in this paragraph or for any purpose connected with the making or coming into force of a scheme under section 30 of the principal Act, and

- (ii) in that period shall consist of a chairman appointed by the Secretary of State and, if the Secretary of State thinks fit, such one or more other persons as he may appoint as members of the BSC;
- (b) the said sections 106 (except for the words from “or” in subsection (2)(b) to the end of subsection (2)), 121 and, subject to the following subparagraphs, 125 and Schedule 3 and any definitions relevant to their interpretation the repeal of which is brought into force on 29th December 2003 shall continue to have effect during that period for those purposes;
- (c) the BSC shall prepare a statement of accounts and annual report for the period beginning on 1st April 2003 and ending with 28th December 2003;
- (d) section 125 of and Schedule 3 to the 1996 Act shall have effect for the purposes of the accounts and report referred to in subparagraph (c) above as if—
  - (i) any reference to “financial year” or “year” were a reference to the period referred to in that subparagraph, and
  - (ii) any reference to a person providing a licensed service were a reference to a person providing such a service immediately before 29th December 2003;
- (e) the BSC shall prepare a statement of accounts in respect of the period of twelve months beginning on 29th December in any year; and
- (f) section 125 of and Schedule 3 to the 1996 Act shall have effect for the purposes of any accounts referred to in subparagraph (e) above as if—
  - (i) any reference to the “financial year” or “year” were a reference to the period referred to in that subparagraph, and
  - (ii) any reference to a person providing a licensed service were a reference to a person providing such a service immediately before 29th December 2003.

**Transitional provision: section 199 of the principal Act**

7. In relation to any period between the commencement of section 199 of the principal Act and the commencement of section 265 of that Act, the reference in subsection (2)(b) of section 199 to “the public service remit for that Channel under section 265” shall have effect, notwithstanding any repeal brought into force by this Order, as if the public service remit for Channel Four consisted of the requirements to be complied with by that Channel which are specified in subsection (1) and paragraphs (a) and (b) of subsection (2) of section 25 of the 1990 Act.

**Transitional provisions: section 221 of the principal Act**

8.—(1) Sections 219, 220 and 298 of and Schedule 10 to the principal Act shall not apply in relation to the existing licence referred to in section 221(1) thereof.

(2) Sections 276 and 308 of and paragraph 21(4) of Schedule 15 to the principal Act shall not apply in relation to the existing service as defined in section 221(11) thereof.

**Transitional provision: section 237 of the principal Act**

9. Section 237 of the principal Act applies in relation to a contravention of a condition of a licence or a failure to comply with a direction only if it is one occurring after the commencement of that section.

### **Transitional provisions: existing legislation**

**10.**—(1) The repeal of sections 45(5) to (6A) and 47(8) to (9A) of the 1990 Act shall not affect the operation of section 41 of that Act, as applied by those provisions, in relation to any matter arising before the coming into force of those repeals.

(2) In the period beginning with the transfer of functions from the ITC to OFCOM on 29th December 2003 in accordance with the provisions of the principal Act brought into force by this Order and ending immediately before section 299(1) of the principal Act is brought into force by this Order on 30th June 2004, for the reference to “the Commission” in section 97(2)(c) of the 1996 Act there shall be substituted a reference to “OFCOM”.

(3) In relation to any time between the commencement of the repeal of section 2 of the 1990 Act on 29th December 2003 and the commencement of the repeal of section 181 of that Act on 1st April 2004, section 181 shall have effect as if the definition of “television broadcasting service” in subsection (4) were—

““television broadcasting service” means a television broadcasting service within the meaning of Part 3 of the Communications Act 2003, whether provided by the holder of a licence under Part 1 of this Act or by the BBC or the Welsh Authority.”

(4) In relation to any time between the commencement of the repeal of section 2 of the 1990 Act on 29th December 2003 and the coming into force of any revocation of regulation 3 of the Wireless Telegraphy (Television Licence Fees) Regulations 1997<sup>(8)</sup>, the reference in that regulation to “television programme services” as defined by section 2(4) of the 1990 Act shall be read as if it were a reference to such services as defined by section 362 of the principal Act.

### **Transitional provision: complaints to Broadcasting Standards Commission**

**11.**—(1) This article shall apply to a standards complaint made to, but not disposed of by, the BSC before the transfer to OFCOM on 29th December 2003, in accordance with the provisions of the principal Act brought into force by this Order, of the functions of the BSC under Part 5 of the 1996 Act.

(2) The standards complaint shall be treated as if—

- (a) anything done, or treated as done, by or in relation to the BSC for the purposes of, or in connection with, that complaint had been done by or in relation to OFCOM; and
- (b) those functions had been functions of OFCOM at the time when it was done.

(3) The procedure for the handling and resolution of complaints established by OFCOM under section 325 of the principal Act shall apply in relation to anything remaining to be done for the purposes of, or in connection with, the complaint.

(4) In exercising their functions in relation to the complaint, OFCOM shall apply any relevant provisions of the code maintained by the BSC under section 108 of the 1996 Act immediately before 29th December 2003.

(5) In this article, “standards complaint” has the same meaning as in Part 5 of the 1996 Act, notwithstanding any repeal brought into force by this Order.

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<sup>(8)</sup> *SI 1997/290*, which set the level of the television licence fee. Regulation 3 provides the definition of “television receiver” for the purposes of *1949 c. 54*.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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8th December 2003

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Postal Services,  
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