



Broadcasting Act 1990

1990 CHAPTER 42

PART X

MISCELLANEOUS AND GENERAL

General

195 Offences by bodies corporate

- (1) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, then he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

196 Entry and search of premises

- (1) If a justice of the peace is satisfied by information on oath—
 - (a) that there is reasonable ground for suspecting that an offence under section 13, 82 or 97 has been or is being committed on any premises specified in the information, and
 - (b) that evidence of the commission of the offence is to be found on those premises,he may grant a search warrant conferring power on any person or persons authorised in that behalf by the relevant authority to enter and search the premises specified in the information at any time within one month from the date of the warrant.

- (2) In subsection (1) “the relevant authority”—

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- (a) in relation to an offence under section 13 or 82, means the Independent Television Commission; and
 - (b) in relation to an offence under section 97, means the Radio Authority.
- (3) A person who intentionally obstructs a person in the exercise of powers conferred on him under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fifth level on the standard scale.
- (4) A person who discloses, otherwise than for the purposes of any legal proceedings or of a report of any such proceedings, any information obtained by means of an exercise of powers conferred by this section shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (5) In the application of this section to Scotland, for the reference to a justice of the peace there shall be substituted a reference to the sheriff and for any reference to information on oath there shall be substituted a reference to evidence on oath.
- (6) In the application of this section to Northern Ireland, for the reference to a justice of the peace there shall be substituted a reference to a resident magistrate and for any reference to information on oath there shall be substituted a reference to a complaint on oath.

197 Restriction on disclosure of information

- (1) Subject to subsections (2) to (4), no information with respect to any particular business which has been obtained under or by virtue of this Act shall, so long as that business continues to be carried on, be disclosed without the consent of the person for the time being carrying on that business.
- (2) Subsection (1) does not apply to any disclosure of information which is made—
- (a) for the purpose of facilitating the performance of—
 - (i) any functions of the Independent Television Commission, the Welsh Authority or the Radio Authority under this Act or the 1988 Regulations, or
 - (ii) any functions of the Director General of Fair Trading, the Secretary of State or the Monopolies and Mergers Commission under the Fair Trading Act 1973 (excluding Parts II, III and XI of that Act), the Restrictive Trade Practices Act 1976, the Competition Act 1980 or this Act or the 1988 Regulations;
 - (b) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings or a report of any such proceedings;
 - (c) for the purposes of any civil proceedings brought under or by virtue of the Fair Trading Act 1973 (excluding Part III), the Restrictive Trade Practices Act 1976 or this Act or the 1988 Regulations, or for the purposes of a report of any such proceedings; or
 - (d) in pursuance of any Community obligation.
- (3) Nothing in subsection (1) shall be construed—
- (a) as limiting the matters which may be included in, or be made public as part of, a report under section 186 above or under Schedule 4 to this Act, or

- (b) as applying to any information which has been made public as part of such a report.
- (4) Subsection (1) does not apply to any information obtained as mentioned in section 196(4) above.
- (5) The following provisions, namely—
 - (a) section 133(1) of the Fair Trading Act 1973,
 - (b) section 41(1) of the Restrictive Trade Practices Act 1976, and
 - (c) section 19(1) of the Competition Act 1980,shall not apply to any disclosure of information which is made for the purpose of facilitating the performance of any functions of the Independent Television Commission, the Welsh Authority or the Radio Authority under this Act or the 1988 Regulations.
- (6) Any person who discloses any information in contravention of subsection (1) shall be guilty of an offence and liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (7) In this section “the 1988 Regulations” means the Control of Misleading Advertisements Regulations 1988.

198 Financial provisions

- (1) There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under any other Act.
- (2) Any sums received by the Secretary of State by virtue of this Act shall be paid into the Consolidated Fund.

199 Notices

- (1) Subsections (2) to (4) below have effect in relation to any notice required or authorised by or under this Act to be served on or given to any person other than the Secretary of State.
- (2) Any such notice shall be in writing and may be served on or given to the person in question—
 - (a) by delivering it to him,
 - (b) by leaving it at his proper address, or
 - (c) by sending it by post to him at that address.
- (3) Any such notice may—
 - (a) in the case of a body corporate, be served on or given to the secretary or clerk of that body;
 - (b) in the case of a partnership, be served on or given to any partner or any person having the control or management of the partnership business;
 - (c) in the case of an unincorporated association other than a partnership, be served on or given to any member of the governing body of the association.

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- (4) For the purposes of this section and section 7 of the Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of any person on or to whom a notice is to be served or given shall be his last known address, except that—
- (a) where it is to be served on or given to a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of the body; and
 - (b) where it is to be served on or given to a partnership or a partner or a person having the control or management of a partnership business, it shall be the address of the principal office of the partnership;
- and, in relation to a company registered outside the United Kingdom or a partnership carrying on business outside the United Kingdom, the reference in paragraph (a) or (b) to its principal office includes a reference to its principal office within the United Kingdom (if any).
- (5) Any notice served—
- (a) by the Independent Television Commission under section 21, 41, 42 or 55, or
 - (b) by the Radio Authority under section 103, 109, 110, 111, or 120,
- shall be published in such manner as that body consider appropriate, and shall be so published as soon as reasonably practicable after it is served.
- (6) In this section (except in subsection (5)) “notice” includes any notification.

200 Regulations and orders

- (1) Any power of the Secretary of State to make regulations or an order under this Act shall be exercisable by statutory instrument.
- (2) Any regulations or order made by the Secretary of State under this Act may make—
- (a) different provision for different cases; and
 - (b) such supplemental, incidental, consequential or transitional provision or savings as the Secretary of State considers appropriate.

201 Programme services

- (1) In this Act “programme service” means any of the following services (whether or not it is, or it requires to be, licensed under this Act), namely—
- (a) any television broadcasting service or other television programme service (within the meaning of Part I of this Act);
 - (b) any sound broadcasting service or licensable sound programme service (within the meaning of Part III of this Act);
 - (c) any other service which consists in the sending, by means of a telecommunication system, of sounds or visual images or both either—
 - (i) for reception at two or more places in the United Kingdom (whether they are so sent for simultaneous reception or at different times in response to requests made by different users of the service); or
 - (ii) for reception at a place in the United Kingdom for the purpose of being presented there to members of the public or to any group of persons.
- (2) Subsection (1)(c) does not apply to—
- (a) a local delivery service (within the meaning of Part II of this Act);

- (b) a service where the running of the telecommunication system does not require to be licensed under Part II of the Telecommunications Act 1984; or
- (c) a two-way service (as defined by section 46(2)(c)).

202 General interpretation

- (1) In this Act (unless the context otherwise requires)—
- “advertising agent” shall be construed in accordance with subsection (7);
 - “the BBC” means the British Broadcasting Corporation;
 - “body”, without more, means a body of persons whether incorporated or not, and includes a partnership;
 - “broadcast” means broadcast by wireless telegraphy;
 - “connected”, in relation to any licence, shall be construed in accordance with paragraph 3 in Part I of Schedule 2;
 - “control”, in relation to a body, has the meaning given by paragraph 1(1) in that Part of that Schedule;
 - “dwelling-house” includes a hotel, inn, boarding-house or other similar establishment;
 - “financial year” shall be construed in accordance with subsection (2);
 - “frequency” includes frequency band;
 - “modifications” includes additions, alterations and omissions;
 - “pension scheme” means a scheme for the payment of pensions, allowances or gratuities;
 - “programme” includes an advertisement and, in relation to any service, includes any item included in that service;
 - “telecommunication system” has the same meaning as in the Telecommunications Act 1984;
 - “the Welsh Authority” means the authority renamed Sianel Pedwar Cymru by section 56(1);
 - “wireless telegraphy” and “station for wireless telegraphy” have the same meaning as in the Wireless Telegraphy Act 1949.
- (2) In any provision of—
- (a) section 148 or 160, or
 - (b) Schedule 1, 2, 3, 6, 8, 13, 14 or 19,
- “financial year” means a financial year of the body with which that provision is concerned; and in any other provision of this Act “financial year” means the twelve months ending with 31st March.
- (3) In this Act—
- (a) references to pensions, allowances or gratuities include references to like benefits to be given on death or retirement; and
 - (b) any reference to the payment of pensions, allowances or gratuities to or in respect of any persons includes a reference to the making of payments towards provision for the payment of pensions, allowances or gratuities to or in respect of those persons.
- (4) Any reference in this Act (however expressed) to a licence under this Act being in force is a reference to its being in force so as to authorise the provision under the licence of the licensed service; and any such reference shall accordingly not be construed as

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prejudicing the operation of any provisions of such a licence which are intended to have effect otherwise than at a time when the licensed service is authorised to be so provided.

- (5) It is hereby declared that, for the purpose of determining for the purposes of any provision of this Act whether a service is—
- (a) for general reception, or capable of being received, within the United Kingdom or elsewhere, or
 - (b) for reception at any place or places, or in any area, in the United Kingdom, the fact that the service has been encrypted to any extent shall be disregarded.
- (6) Any reference in this Act, in relation to a service consisting of programmes transmitted by satellite—
- (a) to a person by whom the programmes are transmitted, or
 - (b) to a place from which the programmes are transmitted,
- is a reference to a person by whom, or a place from which, the programmes are transmitted to the satellite by means of which the service is provided.
- (7) For the purposes of this Act—
- (a) a person shall not be regarded as carrying on business as an advertising agent, or as acting as such an agent, unless he carries on a business involving the selection and purchase of advertising time or space for persons wishing to advertise;
 - (b) a person who carries on such a business shall be regarded as carrying on business as an advertising agent irrespective of whether in law he is the agent of those for whom he acts;
 - (c) a person who is the proprietor of a newspaper shall not be regarded as carrying on business as an advertising agent by reason only that he makes arrangements on behalf of advertisers whereby advertisements appearing in the newspaper are also to appear in one or more other newspapers;
 - (d) a company or other body corporate shall not be regarded as carrying on business as an advertising agent by reason only that its objects or powers include or authorise that activity.

203 Consequential and transitional provisions

- (1) The enactments mentioned in Schedule 20 to this Act shall have effect subject to the amendments there specified (being minor amendments or amendments consequential on the provisions of this Act).
- (2) Unless the context otherwise requires, in any enactment amended by this Act—
- “programme”, in relation to a programme service, includes any item included in that service; and
 - “television programme” includes a teletext transmission.
- (3) The enactments mentioned in Schedule 21 to this Act (which include certain spent provisions) are hereby repealed to the extent specified in the third column of that Schedule.
- (4) The transitional provisions and savings contained in Schedule 22 to this Act shall have effect.

204 Short title, commencement and extent

- (1) This Act may be cited as the Broadcasting Act 1990.
- (2) This Act shall come into force on such day as the Secretary of State may by order appoint; and different days may be so appointed for different provisions or for different purposes.
- (3) Subject to subsections (4) and (5), this Act extends to the whole of the United Kingdom.
- (4) In Part VII—
 - (a) section 162 and Schedule 15 extend to England and Wales only;
 - (b) section 163 extends to Scotland only;
 - (c) section 164 extends to England and Wales and Scotland; and
 - (d) section 165 extends to Northern Ireland only.
- (5) The amendments and repeals in Schedules 20 and 21 have the same extent as the enactments to which they refer.
- (6) Her Majesty may by Order in Council direct that any of the provisions of this Act shall extend to the Isle of Man or any of the Channel Islands with such modifications, if any, as appear to Her Majesty to be appropriate.