



# Broadcasting Act 1996

## 1996 CHAPTER 55

### PART V

#### THE BROADCASTING STANDARDS COMMISSION

##### *Establishment of Broadcasting Standards Commission*

#### **106 The Broadcasting Standards Commission**

- (1) There shall be a commission, to be known as the Broadcasting Standards Commission (in this Part referred to as “the BSC”).
- (2) The BSC shall consist of—
  - (a) a chairman appointed by the Secretary of State,
  - (b) a deputy chairman or two deputy chairmen so appointed, and
  - (c) such number of other members appointed by the Secretary of State as he may from time to time determine,but so that the total number of members does not exceed fifteen.
- (3) Schedule 3 shall have effect with respect to the BSC.

##### *Unjust or unfair treatment or unwarranted infringement of privacy*

#### **107 Preparation by BSC of code relating to avoidance of unjust or unfair treatment or interference with privacy**

- (1) It shall be the duty of the BSC to draw up, and from time to time review, a code giving guidance as to principles to be observed, and practices to be followed, in connection with the avoidance of—
  - (a) unjust or unfair treatment in programmes to which this section applies, or
  - (b) unwarranted infringement of privacy in, or in connection with the obtaining of material included in, such programmes.

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- (2) It shall be the duty of each broadcasting or regulatory body, when drawing up or revising any code relating to principles and practice in connection with programmes, or in connection with the obtaining of material to be included in programmes, to reflect the general effect of so much of the code referred to in subsection (1) (as for the time being in force) as is relevant to the programmes in question.
- (3) The BSC shall from time to time publish the code (as for the time being in force).
- (4) Before drawing up or revising the code, the BSC shall consult—
  - (a) each broadcasting or regulatory body, and
  - (b) such other persons as appear to the BSC to be appropriate.
- (5) This section applies to—
  - (a) any programme broadcast by the BBC,
  - (b) any programme broadcast by the Welsh Authority or included in the service referred to in section 57(1A)(a) of the 1990 Act, and
  - (c) any programme included in a licensed service.

*Portrayal of violence or sexual conduct etc.*

## **108 Preparation by BSC of code relating to broadcasting standards generally**

- (1) It shall be the duty of the BSC to draw up, and from time to time review, a code giving guidance as to—
  - (a) practices to be followed in connection with the portrayal of violence in programmes to which this section applies,
  - (b) practices to be followed in connection with the portrayal of sexual conduct in such programmes, and
  - (c) standards of taste and decency for such programmes generally.
- (2) It shall be the duty of each broadcasting or regulatory body, when drawing up or revising any code relating to standards and practice for programmes, to reflect the general effect of so much of the code referred to in subsection (1) (as for the time being in force) as is relevant to the programmes in question.
- (3) The BSC shall from time to time publish the code referred to in subsection (1) (as for the time being in force).
- (4) Before drawing up or revising the code the BSC shall consult—
  - (a) each broadcasting or regulatory body, and
  - (b) such other persons as appear to the BSC to be appropriate.
- (5) This section applies to—
  - (a) any programme broadcast by the BBC,
  - (b) any programme broadcast by the Welsh Authority or included in the service referred to in section 57(1A)(a) of the 1990 Act,
  - (c) any programme included in a licensed service, and
  - (d) any programme included in so much of a local delivery service licensed under Part II of the 1990 Act as is, by virtue of section 79(2) or (4) of that Act, treated for certain purposes as the provision of a service licensed under Part I of that Act.

- (6) The code drawn up by the Broadcasting Standards Council under section 152 of the 1990 Act, as that code is in force immediately before the commencement of this section, shall be taken to have been drawn up by the BSC under this section.

### **109 Monitoring by BSC of broadcasting standards**

- (1) It shall be the duty of the BSC to monitor programmes to which section 108 applies with a view to enabling the BSC to make reports on the portrayal of violence and sexual conduct in, and the standards of taste and decency attained by, such programmes generally.
- (2) Subject to section 125(2), the BSC may make reports on the matters specified in subsection (1) on such occasions as they think fit; and any such report may include an assessment of either or both of the following, namely—
- (a) the attitudes of the public at large towards the portrayal of violence or sexual conduct in, or towards the standards of taste and decency attained by, programmes to which section 108 applies, and
  - (b) any effects or potential effects on the attitudes or behaviour of particular categories of persons of the portrayal of violence or sexual conduct in such programmes or of any failure on the part of such programmes to attain standards of taste and decency.
- (3) The BSC may publish any report made by them in pursuance of subsection (1).
- (4) The BSC shall have the further duty of monitoring, so far as is reasonably practicable, all television and sound programmes which are transmitted or sent from outside the United Kingdom but are capable of being received there, with a view to ascertaining—
- (a) how violence and sexual conduct are portrayed in those programmes, and
  - (b) the extent to which those programmes meet standards of taste and decency.

### *Complaints*

### **110 General functions of BSC in relation to complaints**

- (1) Subject to the provisions of this Part, it shall be the duty of the BSC to consider and adjudicate on complaints which are made to them in accordance with sections 111 and 114 and relate—
- (a) to unjust or unfair treatment in programmes to which section 107 applies, or
  - (b) to unwarranted infringement of privacy in, or in connection with the obtaining of material included in, such programmes.
- (2) Subject to those provisions, it shall also be the duty of the BSC to consider, and make findings on, complaints which are made to them in accordance with sections 113 and 114 and relate—
- (a) to the portrayal of violence or sexual conduct in programmes to which section 108 applies, or
  - (b) to alleged failures on the part of such programmes to attain standards of taste and decency.
- (3) In exercising their functions under subsection (1), the BSC shall take into account any relevant provisions of the code maintained by them under section 107; and in

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exercising their functions under subsection (2) they shall take into account any relevant provisions of the code maintained by them under section 108.

(4) In this Part—

“a fairness complaint” means a complaint to the BSC in respect of any of the matters referred to in subsection (1)(a) and (b), and

“a standards complaint” means a complaint to the BSC in respect of any of the matters referred to in subsection (2)(a) and (b).

## **111 Complaints of unfair treatment etc**

- (1) A fairness complaint may be made by an individual or by a body of persons, whether incorporated or not, but, subject to subsection (2), shall not be entertained by the BSC unless made by the person affected or by a person authorised by him to make the complaint for him.
- (2) Where the person affected is an individual who has died, a fairness complaint may be made by his personal representative or by a member of the family of the person affected, or by some other person or body closely connected with him (whether as his employer, or as a body of which he was at his death a member, or in any other way).
- (3) Where the person affected is an individual who is for any reason both unable to make a complaint himself and unable to authorise another person to do so for him, a fairness complaint may be made by a member of the family of the person affected, or by some other person or body closely connected with him (whether as his employer, or as a body of which he is a member, or in any other way).
- (4) The BSC shall not entertain, or proceed with the consideration of, a fairness complaint if it appears to them that the complaint relates to the broadcasting of the relevant programme, or to its inclusion in a licensed service, on an occasion more than five years after the death of the person affected, unless it appears to them that in the particular circumstances it is appropriate to do so.
- (5) The BSC may refuse to entertain a fairness complaint if it appears to them not to have been made within a reasonable time after the last occasion on which the relevant programme was broadcast or, as the case may be, included in a licensed service.
- (6) Where, in the case of a fairness complaint, the relevant programme was broadcast or included in a licensed service after the death of the person affected, subsection (5) shall apply as if at the end there were added “within five years (or such longer period as may be allowed by the BSC in the particular case under subsection (4)) after the death of the person affected”.
- (7) The BSC may refuse to entertain—
  - (a) a fairness complaint which is a complaint of unjust or unfair treatment if the person named as the person affected was not himself the subject of the treatment complained of and it appears to the BSC that he did not have a sufficiently direct interest in the subject-matter of that treatment to justify the making of a complaint with him as the person affected, or
  - (b) a complaint made under subsection (2) or (3) by a person other than the person affected or a person authorised by him, if it appears to the BSC that the complainant’s connection with the person affected is not sufficiently close to justify the making of the complaint by him.

## **112 Committee to consider fairness complaints**

The BSC shall appoint a committee, consisting of members of the BSC, to discharge the functions of the BSC in relation to the consideration of fairness complaints.

## **113 Complaints relating to taste and decency, etc**

- (1) The BSC shall not entertain a standards complaint which is made—
  - (a) where the relevant programme is a television programme, more than two months after the relevant date, or
  - (b) where the relevant programme is a sound programme, more than three weeks after that date,unless it appears to them that in the particular circumstances it is appropriate for them to do so.
- (2) In subsection (1) “the relevant date” means—
  - (a) the date on which the relevant programme was broadcast by a broadcasting body or included in a licensed service, or
  - (b) where it has been so broadcast or included on more than one occasion, the date on which it was last so broadcast or included.
- (3) Where, apart from this subsection, there would fall to be considered by the BSC two or more standards complaints which appear to them to raise the same, or substantially the same, issue or issues in relation to a particular programme, the BSC may determine that those complaints shall be treated for the purposes of this Part as constituting a single complaint.

## **114 Supplementary provisions as to making of complaints of either kind**

- (1) A fairness complaint or a standards complaint must be in writing, or in such other form as the BSC may allow, and must give particulars of the matters complained of.
- (2) The BSC shall not entertain, or proceed with the consideration of, a fairness complaint or a standards complaint if it appears to them—
  - (a) that the matter complained of is the subject of proceedings in a court of law in the United Kingdom, or
  - (b) that the matter complained of is a matter in respect of which the complainant or, in the case of a fairness complaint, the person affected has a remedy by way of proceedings in a court of law in the United Kingdom, and that in the particular circumstances it is not appropriate for the BSC to consider a complaint about it, or
  - (c) that the complaint is frivolous, or
  - (d) that for any other reason it is inappropriate for them to entertain, or proceed with the consideration of, the complaint.

## **115 Consideration of fairness complaints**

- (1) Subject to the provisions of sections 111 and 114, every fairness complaint made to the BSC shall be considered by them either at a hearing or, if they think fit, without a hearing.

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- (2) Hearings under this section shall be held in private; and where such a hearing is held in respect of a fairness complaint, each of the following persons shall be given an opportunity to attend and be heard, namely—
- (a) the complainant,
  - (b) the relevant person,
  - (c) where the relevant programme was included in a licensed service, the appropriate regulatory body,
  - (d) any person not falling within any of paragraphs (a) to (c) who appears to the BSC to have been responsible for the making or provision of that programme, and
  - (e) any other person who the BSC consider might be able to assist at the hearing.
- (3) Before the BSC proceed to consider a fairness complaint they shall send a copy of it—
- (a) to the relevant person, and
  - (b) where the relevant programme was included in a licensed service, to the appropriate regulatory body.
- (4) Where the relevant person receives from the BSC a copy of the complaint, it shall be the duty of that person, if so required by the BSC—
- (a) to provide the BSC with a visual or sound recording of the relevant programme or of any specified part of it, if and so far as the relevant person has such a recording in his possession;
  - (b) to make suitable arrangements for enabling the complainant to view or hear the relevant programme, or any specified part of it, if and so far as the relevant person has in his possession a visual or sound recording of it;
  - (c) to provide the BSC and the complainant with a transcript of so much of the relevant programme, or of any specified part of it, as consisted of speech, if and so far as the relevant person is able to do so;
  - (d) to provide the BSC and the complainant with copies of any documents in the possession of the relevant person, being the originals or copies of any correspondence between that person and the person affected or the complainant in connection with the complaint;
  - (e) to furnish to the BSC and the complainant a written statement in answer to the complaint.
- (5) Where the relevant person receives from the BSC a copy of a fairness complaint, it shall also be the duty of that person, if so required by the BSC—
- (a) where the relevant person is a broadcasting body, to arrange for one or more of the governors, members or employees of the body to attend the BSC and assist them in their consideration of the complaint, or
  - (b) where the relevant person is a body other than a broadcasting body, to arrange for one or more of the following, namely—
    - (i) the persons who take part in the management or control of the body, or
    - (ii) the employees of the body,to attend the BSC and assist them in their consideration of the complaint, or
  - (c) where the relevant person is an individual, to attend, or to arrange for one or more of his employees to attend, the BSC and assist them in their consideration of the complaint.

- (6) Where the relevant person receives from the BSC a copy of a fairness complaint and, in connection with the complaint, the BSC make to any other person a request to which this subsection applies, it shall be the duty of the relevant person to take such steps as he reasonably can to ensure that the request is complied with.
- (7) Subsection (6) applies to the following requests by the BSC to any such other person as is there mentioned, namely—
- (a) a request to make suitable arrangements for enabling the complainant and any member or employee of the BSC to view or hear the relevant programme, or any specified part of it, if and so far as the person requested has in his possession a visual or sound recording of it;
  - (b) a request to provide the BSC and the complainant with a transcript of so much of the relevant programme, or of any specified part of it, as consisted of speech, if and so far as the person requested is able to do so;
  - (c) a request to provide the BSC and the complainant with copies of any documents in the possession of the person requested, being the originals or copies of any correspondence between that person and the person affected or the complainant in connection with the complaint;
  - (d) a request to furnish to the BSC and the complainant a written statement in answer to the complaint;
  - (e) a request to attend, or (where the person requested is not an individual) to arrange for a representative to attend, the BSC and assist them in their consideration of the complaint.
- (8) Where the BSC have adjudicated on a fairness complaint, they shall send a statement of their findings to the complainant.
- (9) In this section “the relevant person” means—
- (a) in a case where the relevant programme was broadcast by a broadcasting body, that body, and
  - (b) in a case where the relevant programme was included in a licensed service, the licence holder providing the service.

## **116 Consideration of standards complaints**

- (1) Subject to the provisions of sections 113 and 114, every standards complaint made to the BSC shall be considered by them either without a hearing or, if they think fit, at a hearing (and any such hearing shall be held in private unless the BSC decide otherwise).
- (2) Where a hearing is held in respect of a standards complaint, each of the following persons shall be given an opportunity to attend and be heard, namely—
- (a) the complainant,
  - (b) the relevant person,
  - (c) where the relevant programme was included in a licensed service, the appropriate regulatory body,
  - (d) any person not within any of paragraphs (a) to (c) who appears to the BSC to have been responsible for the making or provision of that programme, and
  - (e) any other person who the BSC consider might be able to assist at the hearing.

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- (3) In a case where the BSC have made a determination in respect of any complaints under subsection (3) of section 113, subsection (2)(a) shall be construed as referring to such one or more of the persons who made those complaints as the BSC may determine.
- (4) Before the BSC proceed to consider a standards complaint they shall send a copy of it—
- (a) to the relevant person, and
  - (b) where the relevant programme was included in a licensed service, to the appropriate regulatory body.
- (5) Where the relevant person receives from the BSC a copy of the complaint, it shall be the duty of that person, if so required by the BSC—
- (a) to provide the BSC with a visual or sound recording of the relevant programme or any specified part of it, if and so far as he has such a recording in his possession;
  - (b) to provide the BSC with a transcript of so much of the relevant programme, or of any specified part of it, as consisted of speech, if and so far as he is able to do so;
  - (c) to provide the BSC with copies of any documents in his possession, being the originals or copies of any correspondence between him and the complainant in connection with the complaint;
  - (d) to furnish to the BSC a written statement in answer to the complaint.
- (6) In this section—
- “licensed service” includes so much of a local delivery service licensed under Part II of the 1990 Act as is, by virtue of section 79(2) or (4) of that Act, treated for certain purposes as the provision of a service licensed under Part I of that Act, and
- “the relevant person” means—
- (a) in a case where the relevant programme was broadcast by a broadcasting body, that body, and
  - (b) in a case where the relevant programme was included in a licensed service, the licence holder providing that service.

### **117 Duty to retain recordings**

For the purposes of sections 115 and 116 of this Act and of section 167 of the 1990 Act (power to make copies of recordings in connection with certain offences) it shall be the duty of each broadcasting body to retain a recording of every television or sound programme which is broadcast by that body—

- (a) where it is of a television programme, during the period of 90 days beginning with the day of the broadcast, and
- (b) where it is of a sound programme, during the period of 42 days beginning with the day of the broadcast.

### **118 Power to pay allowances to persons attending hearings**

The BSC may, if they think fit, make to any person who attends them in connection with a fairness complaint or a standards complaint such payments as they think fit by way of travelling allowance or subsistence allowance where expenditure on travelling



or, as the case may be, on subsistence is necessarily incurred by him for the purpose of enabling him so to attend.

## **119 Publication of BSC's findings**

- (1) Where the BSC have—
  - (a) considered and adjudicated upon a fairness complaint, or
  - (b) considered and made their findings on a standards complaint,they may give directions of the kind specified in subsection (2).
- (2) Those directions are—
  - (a) where the relevant programme was broadcast by a broadcasting body, directions requiring that body to publish the matters mentioned in subsection (3) in such manner, and within such period, as may be specified in the directions, and
  - (b) where the relevant programme was included in a licensed service, directions requiring the appropriate regulatory body to direct the licence holder to publish those matters in such manner, and within such period, as may be so specified.
- (3) Those matters are—
  - (a) a summary of the complaint;
  - (b) the BSC's findings on the complaint or a summary of them;
  - (c) in the case of a standards complaint, any observations by the BSC on the complaint or a summary of any such observations.
- (4) References in subsection (2) to the publication of any matter are references to the publication of that matter without its being accompanied by any observations made by a person other than the BSC and relating to the complaint.
- (5) The form and content of any such summary as is mentioned in subsection (3)(a), (b) or (c) shall be such as may be approved by the BSC.
- (6) A broadcasting or regulatory body shall comply with any directions given to them under this section.
- (7) Any licence to provide a licensed service which is granted by a regulatory body under this Act shall include conditions requiring the licence holder to comply with such directions as may be given to him by that body for the purpose of enabling them to comply with any directions given to them under this section.
- (8) The BSC shall publish, monthly or at such other intervals as they think fit and in such manner as they think fit, reports each containing, as regards every fairness complaint or standards complaint which falls within this subsection and has been dealt with by them in the period covered by the report—
  - (a) a summary of the complaint and the action taken by them on it,
  - (b) where they have adjudicated on it, a summary of—
    - (i) their findings,
    - (ii) any direction given under subsection (1), or other action taken by them, in relation to the complaint, and
  - (c) where a direction has been given under subsection (1) in relation to the complaint, a summary of any action taken by a broadcasting body, a regulatory

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body or the holder of a licence to provide a licensed service in pursuance of the direction.

- (9) A fairness complaint or standards complaint made to the BSC falls within subsection (8) unless it is one which under section 111(1), (4) or (5), 113(1) or 114(2) they have refused to entertain.
- (10) The BSC may, if they think fit, omit from any summary which is included in a report under subsection (8) and relates to a fairness complaint any information which could lead to the disclosure of the identity of any person connected with the complaint in question other than—
  - (a) a broadcasting or regulatory body, or
  - (b) a person providing a licensed service.
- (11) The references in subsections (3)(b) and (8)(b) to the BSC’s findings on a complaint shall be construed, in relation to a fairness complaint which has been considered by them in two or more parts, as references to their findings on each part of the complaint.
- (12) In this section “licensed service”, in relation to a programme to which a standards complaint relates, has the extended meaning given by section 116(6).

## **120 Reports on action taken voluntarily in response to findings on complaints**

- (1) This section applies where the BSC have given a direction under section 119(1) in relation to a fairness complaint or a standards complaint.
- (2) Where the relevant programme was included in a licensed service, the appropriate regulatory body shall send to the BSC a report of any supplementary action taken by—
  - (a) the regulatory body,
  - (b) the licence holder, or
  - (c) any other person appearing to the regulatory body to be responsible for the making or provision of the relevant programme.
- (3) Where the relevant programme was broadcast by a broadcasting body, that body shall send to the BSC a report of any supplementary action taken by—
  - (a) the broadcasting body, or
  - (b) any other person appearing to that body to be responsible for the making or provision of the relevant programme.
- (4) The BSC may include, in any report under section 119(8), a summary of any report received by them under subsection (2) or (3) in relation to the complaint.
- (5) In this section “supplementary action”, in relation to a complaint, means action which, although not taken in pursuance of a direction under section 119(1), is taken in consequence of the findings of the BSC on the complaint.

## **121 Certain statements etc. protected by qualified privilege for purposes of defamation**

- (1) For the purposes of the law relating to defamation—
  - (a) publication of any statement in the course of the consideration by the BSC of, and their adjudication on, a fairness complaint,
  - (b) publication by the BSC of directions under section 119(1) relating to a fairness complaint, or

- (c) publication of a report of the BSC, so far as the report relates to fairness complaints,  
is privileged unless the publication is shown to be made with malice.
- (2) Nothing in subsection (1) shall be construed as limiting any privilege subsisting apart from that subsection.

*Miscellaneous and general*

**122 Power of BSC to commission research**

- (1) The BSC may make arrangements for the undertaking of research into matters related to or connected with—
  - (a) the avoidance of unjust or unfair treatment in programmes to which section 107 applies and of unwarranted infringement of privacy in, or in connection with the obtaining of material included in, such programmes,
  - (b) the portrayal of violence or sexual conduct in programmes to which section 108 applies, or
  - (c) standards of taste and decency for such programmes generally.
- (2) The matters into which research may be undertaken in pursuance of subsection (1) include, in particular, matters falling within section 109(2)(a) and (b).
- (3) Arrangements made under subsection (1) shall secure that, so far as is reasonably practicable, any research undertaken in pursuance of the arrangements is undertaken by persons who are neither members nor employees of the BSC.
- (4) The BSC may publish the results of any research undertaken in pursuance of subsection (1).

**123 International representation by BSC of Government interests**

The functions of the BSC shall include representing Her Majesty's Government in the United Kingdom, at the request of the Secretary of State, on international bodies concerned with setting standards for television programmes.

**124 Duty to publicise BSC**

- (1) It shall be the duty of each broadcasting or regulatory body to arrange for the publication (by means of broadcasts or otherwise) of regular announcements publicising the BSC.
- (2) Any such announcements may contain a statement of the difference between fairness complaints and standards complaints.
- (3) Any licence to provide a licensed service which is granted by a regulatory body under the 1990 Act or under this Act shall include conditions requiring the licence holder to comply with such directions as may be given to him by that body in connection with the performance by them of their duty under subsection (1).
- (4) In this section “licensed service” has the extended meaning given by section 116(6).

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## **125 Annual reports**

- (1) As soon as possible after the end of every financial year the BSC shall prepare a report of their proceedings during that year, and transmit it to the Secretary of State who shall lay copies of it before each House of Parliament.
- (2) The report shall include a report by the BSC on the matters specified in section 109(1).
- (3) If the Secretary of State so directs, the report shall also include such further information relating to the BSC as he may specify in the direction.
- (4) The report may also include a report on any issues of the kind referred to in section 126.
- (5) The BSC shall send a copy of the report, together with a copy of the statement of accounts for the year and of the report of the Comptroller and Auditor General on that statement—
  - (a) to each broadcasting or regulatory body, and
  - (b) if so requested by any person providing a licensed service, to that person.
- (6) In this section “licensed service” has the extended meaning given by section 116(6).

## **126 Reports to Secretary of State**

The BSC may from time to time make a report to the Secretary of State on any issues identified by them in the course of carrying out their functions under this Part and appearing to them to raise questions of general broadcasting policy.

## **127 Contributions towards cost of BSC**

- (1) For the financial year which includes the commencement of this section and each subsequent financial year the Secretary of State shall, subject to subsection (2), notify—
  - (a) to each regulatory body the sum which he considers to be the appropriate contribution of that body, in respect of persons providing licensed services under licences granted by that body, towards the expenses of the BSC; and
  - (b) to the Welsh Authority the sum which he considers to be the appropriate contribution of that body towards such expenses.
- (2) The total of the sums notified under subsection (1) for any financial year must be such that the aggregate of—
  - (a) that total, and
  - (b) the amount of any contribution towards the expenses of the BSC for that year which is received, or to be received, by the Secretary of State from the BBC, represents one half of those expenses.
- (3) Each regulatory body and the Welsh Authority shall pay to the Secretary of State any sum notified to them under subsection (1).

## **128 Transfer of assets of Broadcasting Complaints Commission and Broadcasting Standards Council to BSC and dissolution of those bodies**

- (1) In this section “the existing boards” means the Broadcasting Complaints Commission and the Broadcasting Standards Council.

- (2) On such day as the Secretary of State may by order appoint as the transfer date all the property, rights and liabilities to which either of the existing boards were entitled or subject immediately before that date shall become property, rights and liabilities of the BSC; and Schedule 4 shall have effect for the purpose of supplementing this and the following provisions of this section.
- (3) Each of the existing boards shall continue in existence after the transfer date until such time as they are respectively dissolved by order made by the Secretary of State.
- (4) On the transfer date the chairman and members of the existing boards shall cease to hold office; and as from that date each of the existing boards—
  - (a) shall consist only of a chairman appointed by the Secretary of State and, if the Secretary of State thinks fit, such one or more other persons as the Secretary of State may appoint as members, and
  - (b) shall have only the functions which fall to be carried out by them under or by virtue of Schedule 4.
- (5) If requested to do so by the chairman appointed under subsection (4)(a) to either of the existing boards, the BSC shall furnish that existing board with any assistance required by them for the purposes of carrying out any of those functions.
- (6) The Secretary of State shall not make an order under subsection (3) in relation to either of the existing boards unless he is satisfied, after consultation with that existing board and the BSC, that nothing further remains to be done by that existing board under or by virtue of Schedule 4.
- (7) References in this section and Schedule 4 to property, rights and liabilities of either of the existing boards include references to property, rights and liabilities which are not capable of being transferred or assigned by them.

## **129 Transitional provisions relating to complaints**

- (1) This Part shall have effect in relation to—
  - (a) any complaint to the Broadcasting Complaints Commission under section 144 of the 1990 Act made but not disposed of by them before the transfer date, or
  - (b) any complaint to the Broadcasting Standards Council under section 154 of that Act made but not disposed of by them before that date,as if the complaint had been made to the BSC under this Part, and anything done by the Broadcasting Complaints Commission or, as the case requires, the Broadcasting Standards Council in relation to the complaint before the transfer date had been done by the BSC.
- (2) In subsection (1) “the transfer date” means the date appointed under section 128(2).

## **130 Interpretation of Part V**

- (1) In this Part (unless the context otherwise requires)—
  - “the appropriate regulatory body”, in relation to a programme included in a licensed service, means the regulatory body by whom that service is licensed;
  - “broadcasting body” means the BBC or the Welsh Authority;
  - “the BSC” means the Broadcasting Standards Commission;
  - “fairness complaint” has the meaning given by section 110(4);

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*Status: This is the original version (as it was originally enacted).*

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“financial year” means the twelve months ending with 31st March;

“licensed service” means, subject to sections 116(6), 119(12), 124(4) and 125(6),—

- (a) any television programme service (within the meaning of Part I of the 1990 Act) which is licensed under that Part,
- (b) any independent radio service (within the meaning of Part III of the 1990 Act) which is licensed under that Part,
- (c) any additional service (within the meaning of Part I or III of the 1990 Act) which is licensed under that Part and is for general reception in, or in any area in, the United Kingdom,
- (d) any digital programme service (within the meaning of Part I of this Act) which is licensed under that Part,
- (e) any qualifying service (within the meaning of Part I of this Act) provided by a person other than the Welsh Authority,
- (f) any digital sound programme service (within the meaning of Part II of this Act) which is licensed under that Part,
- (g) any simulcast radio service (within the meaning of Part II of this Act), and
- (h) any digital additional service (within the meaning of Part I or II of this Act) which is licensed under that Part;

“local delivery service” has the meaning given by section 72 of the 1990 Act;

“participant”, in relation to a programme, means a person who appeared, or whose voice was heard, in the programme;

“the person affected”—

- (a) in relation to any such unjust or unfair treatment as is mentioned in section 110(1), means a participant in the programme in question who was the subject of that treatment or a person who, whether such a participant or not, had a direct interest in the subject-matter of that treatment, and
- (b) in relation to any such unwarranted infringement of privacy as is so mentioned, means a person whose privacy was infringed;

“programme” includes an advertisement and a teletext transmission and, in relation to a service, includes any item included in that service;

“regulatory body” means the Independent Television Commission or the Radio Authority;

“the relevant programme”, in relation to a complaint, means the programme to which the complaint relates;

“sexual conduct” means any form of sexual activity or other sexual behaviour;

“standards complaint” has the meaning given by section 110(4);

“unjust or unfair treatment” includes treatment which is unjust or unfair because of the way in which material included in a programme has been selected or arranged.

(2) In this Part—

- (a) any reference to programmes to which section 107 applies shall be construed in accordance with section 107(5), and

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*Status: This is the original version (as it was originally enacted).*

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- (b) any reference to programmes to which section 108 applies shall be construed in accordance with section 108(5).