

*Changes to legislation: Broadcasting Act 1996, Part I is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

# SCHEDULES

## SCHEDULE 2

### AMENDMENTS OF BROADCASTING ACT 1990 RELATING TO RESTRICTIONS ON HOLDING OF LICENCES

#### PART I

##### AMENDMENTS OF PART I OF SCHEDULE 2

1 (1) In Part I of Schedule 2, paragraph 1 (which contains interpretative provisions) is amended as follows.

(2) In sub-paragraph (1)—

(a) before the definition of “advertising agency” there is inserted—

““the 1996 Act” means the Broadcasting Act 1996;”,

(b) for paragraph (a) of the definition of “associate” there is substituted—

“in relation to a body corporate, shall be construed in accordance with paragraph (1A), and”,

(c) in paragraph (b) of the definition of “control” for “by virtue of the rules regulating that or any other body” there is substituted “by whatever means and whether directly or indirectly”,

<sup>F1</sup>(d) .....

<sup>F1</sup>(e) .....

<sup>F1</sup>(f) .....

(3) After sub-paragraph (1) there is inserted—

“(1A) For the purpose of determining the persons who are the associates of a body corporate for the purposes of this Schedule—

(a) an individual shall be regarded as an associate of a body corporate if he is a director of that body corporate, and

(b) a body corporate and another body corporate shall be regarded as associates of each other if one controls the other or if the same person controls both.”

(4) For sub-paragraph (3) there is substituted—

“(3) For the purposes of this Schedule a person controls a body corporate if—

(a) he holds, or is beneficially entitled to, more than 50 per cent. of the equity share capital in the body, or possesses more than 50 per cent. of the voting power in it, or

(b) although he does not have such an interest in the body, it is reasonable, having regard to all the circumstances, to expect that he will be able, by whatever means and whether directly or indirectly,

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to achieve the result that the affairs of the body are conducted in accordance with his wishes; or

- (c) he holds, or is beneficially entitled to, 50 per cent. of the equity share capital in that body, or possesses 50 per cent. of the voting power in it, and an arrangement exists between him and any other participant in the body as to the manner in which any voting power in the body possessed by either of them is to be exercised, or as to the omission by either of them to exercise such voting power.

(3A) For the purposes of sub-paragraph (3)(c)—

- (a) “arrangement” includes any agreement or arrangement, whether or not it is, or is intended to be, legally enforceable, and
- (b) a person shall be treated—
- (i) as holding, or being beneficially entitled to, any equity share capital which is held by a body corporate which he controls or to which such a body corporate is beneficially entitled, and
- (ii) as possessing any voting power possessed by such a body corporate.”

(5) Sub-paragraph (4) is omitted.

(6) For sub-paragraph (6) there is substituted—

“(6) In this Schedule any reference to a participant with more than a 20 per cent. interest in a body corporate is a reference to a person who—

- (a) holds or is beneficially entitled to more than 20 per cent. of the shares in that body, or
- (b) possesses more than 20 per cent. of the voting power in that body.

(7) Sub-paragraph (6) shall have effect subject to the necessary modifications in relation to other references in this Schedule—

- (a) to an interest of more than a specified percentage in a body corporate, or
- (b) to an interest of a specified percentage or more in a body corporate.

(8) Any reference in this Schedule to a person who is over a particular age is a reference to a person who has attained that age.”

#### Textual Amendments

- F1** Sch. 2 para. 1(2)(d)-(f) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

#### Commencement Information

- II** Sch. 2 para. 1 wholly in force at 1.11.1996; Sch. 2 para. 1 not in force at Royal Assent see s. 149; Sch. 2 para. 1 in force for certain purposes at 10.8.1996 and wholly in force at 1.11.1996 by [S.I. 1996/2120](#), art. 3, 4, [Sch. 1](#)

2 (1) Paragraph 2 of Part I of Schedule 2 is amended as follows.

(2) At the beginning of sub-paragraph (1) there is inserted “ Subject to sub-paragraph (1A) ”.

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(3) After sub-paragraph (1) there is inserted—

“(1A) For the purposes of this Schedule, a person’s holding of shares, or possession of voting power, in a body corporate shall be disregarded if, or to the extent that—

- (a) he holds the shares concerned—
  - (i) as a nominee,
  - (ii) as a custodian (whether under a trust or by a contract), or
  - (iii) under an arrangement pursuant to which he has issued, or is to issue, depositary receipts, as defined by section 220(1) of the Companies Act 1985, in respect of the shares concerned, and
- (b) he is not entitled to exercise or control the exercise of voting rights in respect of the shares concerned.

(1B) For the purposes of sub-paragraph (1A)(b)—

- (a) a person is not entitled to exercise or control the exercise of voting rights in respect of shares if he is bound (whether by contract or otherwise) not to exercise the voting rights, or not to exercise them otherwise than in accordance with the instructions of another, and
- (b) voting rights which a person is entitled to exercise or of which he is entitled to control the exercise only in certain circumstances shall be taken into account only when those circumstances have arisen and for as long as they continue to obtain.”

#### Commencement Information

**I2** Sch. 2 para. 2 wholly in force at 1.11.1996; Sch. 2 para. 2 not in force at Royal Assent see s. 149; Sch. 2 para. 2 in force for certain purposes at 10.8.1996 and wholly in force at 1.11.1996 by S.I. 1996/2120, art. 3, 4, Sch. 1

3 For paragraph 3 of Part I of Schedule 2 there is substituted—

“3 For the purposes of this Schedule the following persons shall be treated as connected with a particular person—

- (a) a person who controls that person,
- (b) an associate of that person or of a person falling within paragraph (a), and
- (c) a body which is controlled by that person or by an associate of that person.”

#### Commencement Information

**I3** Sch. 2 para. 3 wholly in force at 1.11.1996; Sch. 2 para. 3 not in force at Royal Assent see s. 149; Sch. 2 para. 3 in force for certain purposes at 10.8.1996 and wholly in force at 1.11.1996 by S.I. 1996/2120, art. 3, 4, Sch. 1

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**Textual Amendments**

**F2** Sch. 2 para. 4 repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 19(1) Note 1 (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**F3**5 .....

**Textual Amendments**

**F3** Sch. 2 para. 5 repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 19(1) Note 1 (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2003/3142 art. 4 Sch. 2 by [S.I. 2004/545 art. 2](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 97(1)-(2A) substituted for s. 97(1)(2) by [2003 c. 21 s. 299\(1\)](#) (Ss. 299(1)(3)(4), 300 were due to be commenced on 30.6.2004 by S.I. 2003/3142, art. 4(3), but that commencing provision was omitted (8.6.2004) by virtue of S.I. 2004/1492, art. 2)
- s. 97(5A)(5B) inserted by [2003 c. 21 s. 299\(4\)](#) (Ss. 299(1)(3)(4), 300 were due to be commenced on 30.6.2004 by S.I. 2003/3142, art. 4(3), but that commencing provision was omitted (8.6.2004) by virtue of S.I. 2004/1492, art. 2)
- s. 101(1)-(1D) substituted for s. 101(1) by [2003 c. 21 s. 300\(2\)](#) (Ss. 299(1)(3)(4), 300 were due to be commenced on 30.6.2004 by S.I. 2003/3142, art. 4(3), but that commencing provision was omitted (8.6.2004) by virtue of S.I. 2004/1492, art. 2)
- s. 101(5) inserted by [2003 c. 21 s. 300\(4\)](#) (Ss. 299(1)(3)(4), 300 were due to be commenced on 30.6.2004 by S.I. 2003/3142, art. 4(3), but that commencing provision was omitted (8.6.2004) by virtue of S.I. 2004/1492, art. 2)