



Digital Economy Act 2017

2017 CHAPTER 30

PART 6

MISCELLANEOUS

Regulation and functions of BBC

88 Functions of OFCOM in relation to the BBC

- (1) The Communications Act is amended as follows.
- (2) Section 198 (functions of OFCOM in relation to the BBC) is amended as follows.
- (3) In subsection (1) for the words after paragraph (b) substitute—

“to regulate the BBC.”
- (4) After subsection (2) insert—

“(2A) The BBC Charter and Agreement may in particular confer on OFCOM, as a power they are to have by virtue of subsection (2)(a), power to require any person to provide information for the purposes of the carrying out by OFCOM of their function under subsection (1).”
- (5) Omit subsection (9).
- (6) After section 198 insert—

“198ZA Penalties for failure to provide information

- (1) This section applies if—
 - (a) under a power conferred by virtue of section 198(2A), OFCOM require a person other than the BBC to provide information, and
 - (b) OFCOM determine that there are reasonable grounds to believe the person has not provided the information.

Status: This is the original version (as it was originally enacted).

- (2) OFCOM may give the person a notice which sets out the determination and specifies—
 - (a) what information the person must provide,
 - (b) the time within which the person must provide it,
 - (c) a penalty that OFCOM may impose if the person does not provide it, and
 - (d) a period in which the person may make representations.
 - (3) OFCOM may impose a penalty on the person if they fail without reasonable excuse to provide the information in accordance with the notice.
 - (4) The penalty may include an amount for each day the person fails to provide the information after the time required by the notice.
 - (5) The penalty in respect of any notice—
 - (a) must not be more than OFCOM determine to be proportionate,
 - (b) must not be more than the penalty specified in the notice, and
 - (c) must not be more than £250,000.
 - (6) OFCOM may withdraw a notice without imposing a penalty, and that does not affect the power to issue a further notice in relation to the same information.
 - (7) OFCOM must publish and keep up to date a statement of their proposed approach to issuing notices and imposing and recovering penalties under this section (subject to the guidelines published under section 392).”
- (7) The following cease to have effect—
- (a) in Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership), the entry relating to a chairman, vice-chairman or ordinary member of the BBC Trust;
 - (b) section 90A of the Scotland Act 1998 (BBC Trust member for Scotland);
 - (c) section 16 of the Scotland Act 2012 (which inserts section 90A of the 1998 Act);
 - (d) in section 77(2)(d) of the Deregulation Act 2015 (review of sanctions in relation to TV licensing), “and be presented to the BBC Trust”.