
STATUTORY INSTRUMENTS

1995 No. 1925

BROADCASTING

The Broadcasting (Independent Productions) (Amendment) Order 1995

Made - - - - *20th July 1995*
Coming into force - - *21st July 1995*

Whereas a draft of this Order has been approved by resolution of each House of Parliament;
Now, therefore, in exercise of the powers conferred upon me by section 16(5) of the Broadcasting Act 1990⁽¹⁾ and after consultation (in accordance with section 16(7) of that Act) with the Independent Television Commission and (in accordance with section 186(2) of that Act) with the British Broadcasting Corporation, I hereby make the following Order:—

1. This Order may be cited as the Broadcasting (Independent Productions) (Amendment) Order 1995 and comes into force on the day after the day on which it is made.

2. Article 3 of the Broadcasting (Independent Productions) Order 1991⁽²⁾ is amended as follows:—

(1) in sub-paragraph (b) of paragraph (4), after “who” insert “, subject to paragraph (4A) below,” and for “15 per cent” substitute “25 per cent”;

(2) for sub-paragraph (c) of paragraph (4), substitute:—

“(c) which is not a body corporate in which any one broadcaster has a shareholding greater than 25 per cent or in which any two or more broadcasters together have an aggregate shareholding greater than 50 per cent.”;

(3) after paragraph (4), insert the following paragraph:—

“(4A) A shareholding greater than 25 per cent which a producer has in a broadcaster shall not have the effect that the producer is not an independent producer if—

- (a) the producer is incorporated under the laws of a state for the time being bound by the agreement on the European Economic Area signed at Oporto on 2 May 1992 or has his principal place of business in such a state; and
- (b) the television services which the broadcaster provides are provided exclusively for reception in states which are not for the time being bound by that agreement

(1) 1990 c. 42.
(2) S.I.1991/1408.

and are not received directly or indirectly in any state which is for the time being bound by that agreement.

In applying sub-paragraph (a) above no regard shall be had to persons connected with the producer by virtue of paragraph (5) below or to the state under the laws of which a person so connected is incorporated or the state in which a person so connected has his principal place of business.”;

(4) in paragraph (5), after “(4) above” insert “and in paragraph (4A) above except as otherwise indicated”;

(5) for paragraph (6), substitute the following paragraph:—

“(6) In paragraphs (4) and (4A) above, any reference however expressed to a person, or to two or more persons, having a shareholding in a body corporate greater than a percentage specified in that paragraph is a reference to the person or persons—

- (a) holding or being beneficially entitled to more than the specified percentage of shares in that body, or
- (b) possessing more than the specified percentage of voting power in that body.

For the purposes of this paragraph a person holds or is beneficially entitled to shares, or possesses voting power, in a body corporate whether he does so or is so entitled alone or jointly with one or more other persons and whether he does so or is so entitled directly or through one or more nominees.”;

(6) at the end of the definition of “broadcaster” in paragraph (7), insert:—

“but does not include a person who provides, in the United Kingdom or elsewhere, only a teletext service or any other service consisting wholly or mainly of visual images which are neither still pictures nor comprised within sequences of visual images capable of being seen as moving pictures, whether provided by broadcasting or by other means;”.

20th July 1995

Virginia Bottomley
Secretary of State for National Heritage

EXPLANATORY NOTE

(This note is not part of the Order)

This Order raises the maximum shareholding which a producer may hold in a broadcaster and which one broadcaster may hold in a producer from 15 per cent to 25 per cent and provides that two or more broadcasters may hold up to 50 per cent of the shares in a producer, without, in any of those cases, the producer thereby losing his status as an independent producer.

The Order enables a producer established in the European Economic Area to hold any quantity of shares in a broadcaster outside it without losing the status of being an independent producer.

The Order also excludes the providers of teletext and similar services from the definition of “broadcaster.”