

SCHEDULE

Regulation 2

Amendments of Broadcasting Act 1990

1.—(1) Section 2 (regulation by Commission of provision of television services) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), after “television programme services” there is inserted “(other than satellite television services)”, and

(b) after paragraph (a) there is inserted—

“(aa) satellite television services (as defined by section 43(1)) provided by persons other than the BBC and the Welsh Authority,”.

(3) In subsection (4), in the definition of “television programme service”, for paragraph (b) there is substituted—

“(b) a satellite television service (as defined by section 43(1));”.

(4) In subsection (5)—

(a) the words “including a domestic satellite service (as defined by section 43(1))” are omitted, and

(b) after “but not including a restricted service (as defined by section 42A)” there is inserted “, a satellite television service (as defined by section 43(1)),”.

2. In section 13 (prohibition on providing television services without a licence), in subsection (1), after “section 2(1)(a)” there is inserted “, (aa)”.

3. For section 43 (domestic and non-domestic satellite services) there is substituted—

“43 Satellite television services.

(1) In this Part “satellite television service” means a service which consists in the transmission for general reception of television programmes by satellite and which—

(a) is provided by a person who is established in the United Kingdom, or

(b) is provided, in circumstances falling within subsection (2), by a person who is not established in any EEA State.

(2) A service is provided in circumstances falling within this subsection if—

(a) it is provided by means of—

(i) an allocated frequency, or

(ii) satellite capacity granted by the United Kingdom, or

(b) it is transmitted from a place in the United Kingdom.

(3) For the purposes of this Act a service consisting in the transmission of television programmes by satellite shall, subject to subsection (4), be regarded as provided by the person who is in a position to determine what is to be included in the service.

(4) For the purposes of this Act any satellite television service which is composed by, and transmitted for, a BBC company, a Channel 4 company or an S4C company shall be regarded as provided by that company and not by the relevant broadcasting body (even if the relevant broadcasting body is in a position to determine what is to be included in the service).

(5) In this section—

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“allocated frequency” means a frequency allocated to the United Kingdom for broadcasting by satellite;

“relevant broadcasting body” means—

- (a) in relation to a BBC company, the BBC,
- (b) in relation to a Channel 4 company, the Channel Four Television Corporation, and
- (c) in relation to an S4C company, the Welsh Authority.”

4. Section 44 (licensing etc. of domestic satellite services) is hereby repealed.

5.—(1) Section 45 (licensing etc. of non-domestic satellite services) is amended as follows.

(2) For “non-domestic satellite” in the sidenote and in subsections (1), (4) and (6) there is substituted “satellite television”.

(3) For subsection (3) there is substituted—

“(3) Without prejudice to the generality of section 3(2), a licence to provide a satellite television service may authorise the provision of a service which to any extent consists in the simultaneous transmission of different programmes on different frequencies.”

6. In section 45A (power of Commission to suspend licence to provide non-domestic satellite service), in the sidenote and in subsection (1)(a) for “non-domestic satellite” there is substituted “satellite television”.

7.—(1) Section 46 (licensable programme services) is amended as follows.

(2) In subsection (2)(a), for “or a non-domestic satellite service” there is substituted “, a satellite television service or an EEA satellite service”.

(3) After subsection (5) there is inserted—

“(6) In this section “EEA satellite service” means any service which—

- (a) consists in the transmission of television programmes by satellite, and
- (b) is provided by a person established in an EEA State other than the United Kingdom.”

8. In section 53 (duration of additional services licences, and renewal of licences for provision of such services on assigned frequencies), subsection (3) is hereby repealed.

9. In section 66A (enforcement of licences held by BBC companies), in subsection (2)—

- (a) paragraph (b) is omitted, and
- (b) in paragraph (c), for “non-domestic satellite” there is substituted “satellite television”.

10. In section 71 (interpretation of Part I), in subsection (1)—

- (a) the definitions of “domestic satellite service” and “non-domestic satellite service” are omitted, and
- (b) after the definition of “S4C” there is inserted—

““satellite television service” has the meaning given by section 43(1);”.

11. In section 72 (local delivery services), in subsection (2)(b) for “non-domestic satellite service” there is substituted “satellite television service”.

12. In section 79 (regulation of delivery of programmes provided by licence holder and foreign satellite programmes) for subsection (5) there is substituted—

“(5) In subsection (2) “foreign satellite programme” means—

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- (a) a television programme transmitted by satellite otherwise than as part of—
 - (i) a satellite television service (within the meaning of Part I),
 - (ii) a service provided by a person established in an EEA State other than the United Kingdom, or
 - (iii) a service not falling within sub-paragraph (i) or (ii) and transmitted from within any country or territory specified in an order made by the Secretary of State for the purposes of this sub-paragraph, or
- (b) a sound programme transmitted by satellite from a place outside the United Kingdom, other than a programme so transmitted from within any country specified in an order made by the Secretary of State for the purposes of this paragraph.”

13. In section 177 (orders proscribing unacceptable foreign satellite services), for subsection (6) there is substituted—

“(6) In this section and section 178—

“foreign satellite service” means—

- (a) a service which is provided by a person who is not established in the United Kingdom and which consists wholly or mainly in the transmission by satellite of television programmes which are capable of being received in the United Kingdom, or
- (b) a service which consists wholly or mainly in the transmission by satellite from a place outside the United Kingdom of sound programmes which are capable of being received in the United Kingdom;

“relevant foreign satellite service” means—

- (a) in relation to the Independent Television Commission, a foreign satellite service falling within paragraph (a) of the definition above, and
- (b) in relation to the Radio Authority, a foreign satellite service falling within paragraph (b) of that definition.”

14.—(1) Section 202 (general interpretation) is amended as follows.

(2) In subsection (1), after the definition of “dwelling-house” there is inserted—

““EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

“EEA State” means a State which is a contracting party to the EEA Agreement;”.

(3) After subsection (5) there is inserted—

“(5A) For the purposes of this Act a person is not to be regarded at any time as being established both in the United Kingdom and in another EEA State.”

15. In Part II of Schedule 2 (restrictions on the holding of licences), in paragraphs 1(2)(b) and 2(2)(a)(i), for “non-domestic satellite” there is substituted “satellite television”.

16.—(1) Part III of Schedule 2 (restrictions to prevent accumulations of interests in licensed services) is amended as follows.

(2) In paragraph 1—

(a) in sub-paragraph (1) for “seventeen” there is substituted “sixteen”, and

(b) in sub-paragraph (2) for paragraphs (c) and (d) there is substituted—

“(d) satellite television services.”

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(3) In paragraph 2 (general limit on holding of licences to provide television services or interests in bodies corporate holding such licences)—

(a) in sub-paragraphs (1)(a) and (2)(a) and (b), for “1(2)(a), (c), (d), (e) or (h)” there is substituted “1(2)(a), (d), (e) or (h)”, and

(b) in sub-paragraph (3) for “non-domestic satellite” there is substituted “satellite television”.

(4) In paragraph 16 (power to impose additional limits in relation to licences to provide television or radio services)—

(a) in sub-paragraph (1), for “1(2)(b), (c), (d) or (f)” there is substituted “paragraph 1(2)(b), (d) or (f)”,

(b) in sub-paragraph (4)—

(i) paragraph (a) is omitted,

(ii) in paragraph (b) for “non-domestic satellite” there is substituted “satellite television”,

(iii) the words “44(2)” are omitted, and

(iv) for “domestic satellite services, non-domestic satellite services” there is substituted “satellite television services”, and

(c) in sub-paragraph (6), for “(4)(a), (b) or (c)” there is substituted “(4)(b) or (c)”.

17. In Part III of Schedule 12 (provisions relating to licences in force under or by virtue of that Schedule), in paragraph 3—

(a) in sub-paragraph (6)(c) the words “a domestic satellite service” are omitted, and

(b) in sub-paragraph (8)(d) for “to Channel 4 or 5 or to a domestic satellite service” there is substituted “or to Channel 4 or 5”.