



Broadcasting Act 1990

1990 CHAPTER 42

PART X

MISCELLANEOUS AND GENERAL

General

195 Offences by bodies corporate.

- (1) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, then he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

196 Entry and search of premises.

- (1) If a justice of the peace is satisfied by information on oath—
 - (a) that there is reasonable ground for suspecting that an offence under section 13^{F1}... or 97 has been or is being committed on any premises specified in the information, and
 - (b) that evidence of the commission of the offence is to be found on those premises,he may grant a search warrant conferring power on any person or persons authorised in that behalf by [^{F2}OFCOM] to enter and search the premises specified in the information at any time within one month from the date of the warrant.

^{F3}(2)

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- (3) A person who intentionally obstructs a person in the exercise of powers conferred on him under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fifth level on the standard scale.
- (4) A person who discloses, otherwise than for the purposes of any legal proceedings or of a report of any such proceedings, any information obtained by means of an exercise of powers conferred by this section shall be guilty of an offence and liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (5) In the application of this section to Scotland, for the reference to a justice of the peace there shall be substituted a reference to the sheriff and for any reference to information on oath there shall be substituted a reference to evidence on oath.
- (6) In the application of this section to Northern Ireland, for the reference to a justice of the peace there shall be substituted a reference to a resident magistrate and for any reference to information on oath there shall be substituted a reference to a complaint on oath.

Textual Amendments

- F1** Words in s. 196(1)(a) 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)
- F2** Words in s. 196(1) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 66\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F3** S. 196(2) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 66\(3\)](#), [Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

Modifications etc. (not altering text)

- C1** S. 196(1): transfer of functions (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 1 para. 9](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

^{F4}197 Restriction on disclosure of information.

.....

Textual Amendments

- F4** [S. 197](#) 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)

198 Financial provisions.

- (1) There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under any other Act.
- (2) Any sums received by the Secretary of State by virtue of this Act shall be paid into the Consolidated Fund.

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199 Notices.

^{F5}(1)

^{F5}(2)

^{F5}(3)

^{F5}(4)

(5) Any notice served [^{F6}by OFCOM under section 21, 41, 42, 55, [^{F7} 97B,] 103, [^{F8}105A,] 109, 110, 111 or 120] shall be published in such manner as that body consider appropriate, and shall be so published as soon as reasonably practicable after it is served.

^{F9}(6)

Textual Amendments

F5 S. 199(1)-(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)

F6 Words in s. 199(5) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 67](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

F7 Word in s. 199(5) inserted (8.4.2010) by [Digital Economy Act 2010 \(c. 24\)](#), [ss. 30\(3\)](#), 47(2)(b)

F8 Word in [s. 199\(5\)](#) inserted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), [ss. 33\(3\)](#), 47(1)

F9 S. 199(6) 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)

200 Regulations and orders.

(1) Any power of the Secretary of State to make regulations or an order under this Act shall be exercisable by statutory instrument.

(2) Any regulations or order made by the Secretary of State under this Act may make—

- (a) different provision for different cases; and
- (b) such supplemental, incidental, consequential or transitional provision or savings as the Secretary of State considers appropriate.

201 Programme services.

(1) In this Act “programme service” means any of the following services (whether or not it is, or it requires to be, licensed ^{F10}...), namely—

[^{F11}(aa) any service which is a programme service within the meaning of the [Communications Act 2003](#);

(c) any other service which consists in the sending, by means of [^{F12}an electronic communications network (within the meaning of the [Communications Act 2003](#))] , of sounds or visual images or both either—

- (i) for reception at two or more places in the United Kingdom (whether they are so sent for simultaneous reception or at different times in response to requests made by different users of the service); or
- (ii) for reception at a place in the United Kingdom for the purpose of being presented there to members of the public or to any group of persons.

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[^{F13}(2A) Subsection (1)(c) does not apply to so much of a service consisting only of sound programmes as—

- (a) is a two-way service (within the meaning of section 248(4) of the Communications Act 2003);
- (b) satisfies the conditions in section 248(5) of that Act; or
- (c) is provided for the purpose only of being received by persons who have qualified as users of the service by reason of being persons who fall within paragraph (a) or (b) of section 248(7) of that Act.

(2B) Subsection (1)(c) does not apply to so much of a service not consisting only of sound programmes as—

- (a) is a two-way service (within the meaning of section 232 of the Communications Act 2003);
- (b) satisfies the conditions in section 233(5) of that Act; or
- (c) is provided for the purpose only of being received by persons who have qualified as users of the service by reason of being persons who fall within paragraph (a) or (b) of section 233(7) of that Act.]

Textual Amendments

- F10** Words in s. 201(1) 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)
- F11** S. 201(1)(aa) substituted for s. 201(1)(a)-(bb) (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 360\(1\)\(a\)](#), [411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F12** Words in s. 201(1)(c) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 360\(1\)\(b\)](#), [411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F13** S. 201(2A)(2B) substituted for s. 201(2) (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 360\(2\)](#), [411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

202 General interpretation.

(1) In this Act (unless the context otherwise requires)—

“advertising agent” shall be construed in accordance with subsection (7);

[^{F14}“the Audiovisual Media Services Directive” means [Directive 2010/13/EU](#) of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services;]

“the BBC” means the British Broadcasting Corporation;

[^{F15}“a BBC company” means—

- (a) any body corporate which is controlled by the BBC, or
- (b) any body corporate in which the BBC or any body corporate falling within paragraph (a) above is (to any extent) a participant (as defined in paragraph 1(1) of Part I of Schedule 2);]

“body”, without more, means a body of persons whether incorporated or not, and includes a partnership;

“broadcast” means broadcast by wireless telegraphy;

[^{F16}“a Channel 4 company” means—

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(a) any body corporate which is controlled by the Channel Four Television Corporation, or

(b) any body corporate in which the Corporation or any body corporate falling within paragraph (a) above is (to any extent) a participant (as defined in paragraph 1(1) of Part I of Schedule 2);]

“connected”, in relation to any [^{F17}person], shall be construed in accordance with paragraph 3 in Part I of Schedule 2;

“control”, in relation to a body, has the meaning given by paragraph 1(1) in that Part of that Schedule;

“dwelling-house” includes a hotel, inn, boarding-house or other similar establishment;

[^{F18}“EEA Agreement” and “EEA State” have the meaning given by Schedule 1 to the Interpretation Act 1978;]

^{F18} ...

“financial year” shall be construed in accordance with subsection (2);

“frequency” includes frequency band;

“modifications” includes additions, alterations and omissions;

[^{F19}“OFCOM” means the Office of Communications;]

[^{F19}“pension scheme” means a scheme for the payment of pensions, allowances or gratuities;]

[^{F20}“product placement” has the meaning given by paragraph 1 of Schedule 11A to the Communications Act 2003;]

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

[^{F21}“an S4C company” means—

(a) any body corporate which is controlled by the Welsh Authority, or

(b) any body corporate in which the Welsh Authority or any body corporate falling within paragraph (a) above is (to any extent) a participant (as defined in paragraph 1(1) of Part I of Schedule 2);]

^{F22} ...

“the Welsh Authority” means the authority renamed Sianel Pedwar Cymru by section 56(1);

[^{F23}“wireless telegraphy” and “wireless telegraphy station” each has the same meaning as in the Wireless Telegraphy Act 2006.]

(2) In any provision of—

(a) ^{F24} . . .

(b) Schedule ^{F25} ..., 2, 3, 6, ^{F25} ..., ^{F26} . . . or 19,

“financial year” means a financial year of the body with which that provision is concerned; and in any other provision of this Act “financial year” means the twelve months ending with 31st March.

(3) In this Act—

(a) references to pensions, allowances or gratuities include references to like benefits to be given on death or retirement; and

(b) any reference to the payment of pensions, allowances or gratuities to or in respect of any persons includes a reference to the making of payments towards provision for the payment of pensions, allowances or gratuities to or in respect of those persons.

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- (4) Any reference in this Act (however expressed) to a licence under this Act being in force is a reference to its being in force so as to authorise the provision under the licence of the licensed service; and any such reference shall accordingly not be construed as prejudicing the operation of any provisions of such a licence which are intended to have effect otherwise than at a time when the licensed service is authorised to be so provided.

^{F27}(4A)

- (5) It is hereby declared that, for the purpose of determining for the purposes of any provision of this Act whether a service is—
- (a) ^{F28}... capable of being received, within the United Kingdom or elsewhere, or
 - (b) for reception at any place or places, or in any area, in the United Kingdom,
- the fact that the service has been encrypted to any extent shall be disregarded.

^{F29}(5A)

- (6) Any reference in this Act, in relation to a service consisting of programmes transmitted by satellite—
- (a) to a person by whom the programmes are transmitted, or
 - (b) to a place from which the programmes are transmitted,
- is a reference to a person by whom, or a place from which, the programmes are transmitted to the satellite by means of which the service is provided.

[^{F30}(6A) Subsections (2) and (3) of section 362 of the Communications Act 2003 (persons by whom services provided) are to apply for the purposes of this Act as they apply for the purposes of Part 3 of that Act.]

- (7) For the purposes of this Act—
- (a) a person shall not be regarded as carrying on business as an advertising agent, or as acting as such an agent, unless he carries on a business involving the selection and purchase of advertising time or space for persons wishing to advertise;
 - (b) a person who carries on such a business shall be regarded as carrying on business as an advertising agent irrespective of whether in law he is the agent of those for whom he acts;
 - (c) a person who is the proprietor of a newspaper shall not be regarded as carrying on business as an advertising agent by reason only that he makes arrangements on behalf of advertisers whereby advertisements appearing in the newspaper are also to appear in one or more other newspapers;
 - (d) a company or other body corporate shall not be regarded as carrying on business as an advertising agent by reason only that its objects or powers include or authorise that activity.

Textual Amendments

- F14** Words in s. 202(1) substituted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), 2(b)
- F15** Definition “a BBC company” inserted (24.7.1996) in s. 202(1) by 1996 c. 55, s. 136, [Sch. 8](#), para. 8 (with s. 43(1)(6))
- F16** Definition “a Channel 4 company” inserted (1.10.1996) in s. 201(1) by 1996 c. 55, s. 148(1), [Sch. 10 Pt. 1 para. 21\(a\)](#) (with s. 43(1)(6)); S.I. 1996/2120, art. 4, [Sch. 1](#)

Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1990, Cross Heading: General. (See end of Document for details)

- F17** Words in definition “connected” in s. 202(1) substituted (1.11.1996) by 1996 c. 55, s. 148(1), **Sch. 10 Pt. 1 para. 21(c)** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**
- F18** Words in s. 202(1) substituted (1.10.2013) by The Broadcasting and Communications (Amendment) Regulations 2013 (S.I. 2013/2217), regs. 1, **3**
- F19** Words in s. 202(1) inserted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 68(2)** (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)
- F20** Words in s. 202(1) inserted (16.4.2010) by The Audiovisual Media Services (Product Placement) Regulations 2010 (S.I. 2010/831), regs. 1(1), **10(2)**
- F21** Definition “an S4C company” inserted (1.10.1996) by 1996 c. 55, s. 148(1), **Sch. 10 Pt. 1 para. 21(c)** (with s. 43(1)(6)); S.I. 1996/2120, art. 4, **Sch. 1**
- F22** Words in s. 202(1) 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)
- F23** Words in s. 202(1) substituted (8.2.2007) by Wireless Telegraphy Act 2006 (c. 36), s. 126(2), **Sch. 7 para. 13**
- F24** S. 202(2)(a) repealed (1.4.1997) by 1996 c. 55, s. 148(2), **Sch. 11 Pt. 1** (with s. 43(1)(6)); S.I. 1997/1005, **art. 4**
- F25** Words in s. 202(2)(b) 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)
- F26** Words in S. 202(2)(b) repealed (1.4.1997) by 1996 c. 55, s. 148(2), **Sch. 11 Pt. 1** (with s. 43(1)(6)); S.I. 1997/1005, **art. 4**
- F27** S. 202(4A) omitted (18.8.2010) by virtue of The Audiovisual Media Services (Codification) Regulations 2010 (S.I. 2010/1883), regs. 1, **3(b)**
- F28** Words in s. 202(5)(a) 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)
- F29** S. 202(5A) omitted (30.12.1998) by virtue of S.I. 1998/3196, reg. 2, **Sch. para. 6(3)**
- F30** S. 202(6A) inserted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 68(3)** (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

203 Consequential and transitional provisions.

- (1) The enactments mentioned in Schedule 20 to this Act shall have effect subject to the amendments there specified (being minor amendments or amendments consequential on the provisions of this Act).
- (2) Unless the context otherwise requires, in any enactment amended by this Act—
 - “programme”, in relation to a programme service, includes any item included in that service; and
 - “television programme” includes a teletext transmission.
- (3) The enactments mentioned in Schedule 21 to this Act (which include certain spent provisions) are hereby repealed to the extent specified in the third column of that Schedule.
- (4) The transitional provisions and savings contained in Schedule 22 to this Act shall have effect.

204 Short title, commencement and extent.

- (1) This Act may be cited as the Broadcasting Act 1990.
- (2) This Act shall come into force on such day as the Secretary of State may by order appoint; and different days may be so appointed for different provisions or for different purposes.

*Changes to legislation: There are currently no known outstanding effects for the
Broadcasting Act 1990, Cross Heading: General. (See end of Document for details)*

- (3) Subject to subsections (4) and (5), this Act extends to the whole of the United Kingdom.
- (4) In Part VII—
 - (a) section 162 and Schedule 15 extend to England and Wales only;
 - (b) section 163 extends to Scotland only;
 - (c) section 164 extends to England and Wales and Scotland; and
 - (d) section 165 extends to Northern Ireland only.
- (5) The amendments and repeals in Schedules 20 and 21 have the same extent as the enactments to which they refer.
- (6) Her Majesty may by Order in Council direct that any of the provisions of this Act shall extend to the Isle of Man or any of the Channel Islands with such modifications, if any, as appear to Her Majesty to be appropriate.

Modifications etc. (not altering text)

C2 [S. 204\(2\)](#): Power of appointment conferred by s. 204(2) partly exercised: [S.I. 1990/2347](#)

Changes to legislation:

There are currently no known outstanding effects for the Broadcasting Act 1990, Cross Heading: General.