

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

SCHEDULES

SCHEDULE 2

RESTRICTIONS ON THE HOLDING OF LICENCES

PART I

GENERAL

Modifications etc. (not altering text)

C1 Sch. 2 Pt. I applied (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 14 para. 18](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

1 (1) In this Schedule—

[^{F1}“the 1996 Act” means the Broadcasting Act 1996;]

“advertising agency” means an individual or a body corporate who carries on business as an advertising agent (whether alone or in partnership) or has control over any body corporate which carries on business as an advertising agent, and any reference to an advertising agency includes a reference to an individual who—

- (a) is a director or officer of any body corporate which carries on such a business, or
- (b) is employed by any person who carries on such a business;
“associate”—

- (a) [^{F2}in relation to a body corporate, shall be construed in accordance with paragraph (1A), and]
- (b) in relation to an individual, shall be construed in accordance with sub-paragraph (2);

[^{F3}“Broadcasting Act licence” means a licence under Part 1 or 3 of this Act or Part 1 or 2 of the Broadcasting Act 1996;]

“control”—

- (a) in relation to a body corporate, shall be construed in accordance with sub-paragraph (3), and
- (b) in relation to any body other than a body corporate, means the power of a person to secure, [^{F4}by whatever means and whether directly or indirectly], that the affairs of the first-mentioned body are conducted in accordance with the wishes of that person;

^{F5} ...

^{F5} ...

“equity share capital” has the same meaning as in [^{F6}the Companies Acts (see section 548 of the Companies Act 2006)];

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“local authority”—

- (a) in relation to England ^{F7} . . . , means any of the following, that is to say, the council of a county, district or London borough, the Common Council of the City of London and the Council of the Isles of Scilly;
- (aa) [^{F8}in relation to Wales, means a county council or county borough council;]
- (b) in relation to Scotland, means a [^{F9}council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]; and
- (c) in relation to Northern Ireland, means a district council;

^{F5} ...

^{F5} ...

^{F5} ...

“participant”, in relation to a body corporate, means a person who holds or is beneficially entitled to shares in that body or who possesses voting power in that body.

^{F5} ...

[^{F10}(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.]

(2) For the purpose of determining the persons who are an individual’s associates for the purposes of this Schedule, the following persons shall be regarded as associates of each other, namely—

- (a) any individual and that individual’s husband or wife [^{F11}or civil partner] and any relative, or husband or wife [^{F11}or civil partner] of a relative, of that individual or of that individual’s husband or wife [^{F11}or civil partner];
- (b) any individual and any body corporate of which that individual is a director;
- (c) any person in his capacity as trustee of a settlement and the settlor or grantor and any person associated with the settlor or grantor;
- (d) persons carrying on business in partnership and the husband or wife [^{F12}or civil partner] and relatives of any of them;
- (e) any two or more persons acting together to secure or exercise control of a body corporate or other association or to secure control of any enterprise or assets;

and in this sub-paragraph “relative” means a brother, sister, uncle, aunt, nephew, niece, lineal ancestor or descendant (the stepchild or illegitimate child of any person, or anyone adopted by a person, whether legally or otherwise, as his child, being regarded as a relative or taken into account to trace a relationship in the same way as that person’s child); and references to a wife or husband shall include a former wife or husband and a reputed wife or husband [^{F13}and references to a civil partner shall include a former civil partner][^{F14}and a reputed civil partner].

[^{F15}(3) For the purposes of this Schedule a person controls a body corporate if—

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- (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 ^[F16]would (if he chose to) be able in most cases or in significant respects], by whatever means and whether directly or indirectly, to achieve the result that ^[F17]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.]

(4)

(5) For the purposes of any provision of this Schedule which refers to a body controlled by two or more persons or bodies of any description taken together, the persons or bodies in question shall not be regarded as controlling the body by virtue of paragraph (b) of sub-paragraph (3) unless they are acting together in concert.

^[F18](6) In this Schedule any reference to a participant with more than a ^[F19]5 per cent.] interest in a body corporate is a reference to a person who—

- (a) holds or is beneficially entitled to more than ^[F19]5 per cent.] of the shares in that body, or
- (b) possesses more than ^[F19]5 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.]

^{F20}(8)

Textual Amendments

- F1** Definition inserted in Sch. 2 Pt. I para. 1(1) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(2)(a)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F2** Definition in Sch. 2 Pt. I para. 1(1) substituted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1** (2)(b) (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F3** Definition inserted in Sch. 2 Pt. I. para. 1(1) (29.12.2003) by **Communications Act 2003 (c. 21)**, s. 411(2), Sch. 15 para. 69(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

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- F4** Words in Sch. 2 Pt. I para. 1(1) substituted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(2)(c)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F5** Definition in Sch. 2 Pt. I para. 1(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)
- F6** Words in Sch. 2 Pt. I para. 1(1) substituted (1.10.2009) by S.I. 2009/1941, art. 1(2), **Sch. 1 para. 119(4)** (with art. 10)
- F7** Sch. 2 Pt. I: Words in definition “local authority” in para. 1(1)(a) repealed (1.4.1996) by 1994 c. 19, ss. 66(6)(8), **Sch. 16 para. 89**, **Sch. 18**. (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F8** Sch. 2 Pt. I para. 1(1)(aa) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 89** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F9** Sch. 2 Pt. I para. 1(1)(b): Words beginning “council constituted” to “(Scotland Act 1994)” substituted (S.) (1.4.1996) for words “regional, islands or district council” by 1994 c. 39, s. 180(1), **Sch. 13 para. 166** (with s. 128(8)); S.I. 1996/323, art. 4(c)
- F10** Sch. 2 Pt. I para. 1(1A) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(3)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F11** Words in Sch. 2 Pt. I para. 1(2)(a) inserted (5.12.2005) by **Civil Partnership Act 2004** (c. 33), **Sch. 27**, para. 139(a); S.I. 2005/3175, art. 2(2)
- F12** Words in Sch. 2 Pt. I para. 1(2)(d) inserted (5.12.2005) by **Civil Partnership Act 2004** (c. 33), **Sch. 27**, para. 139(a); S.I. 2005/3175, art. 2(2)
- F13** Words in Sch. 2 Pt. I para. 1(2) inserted (5.12.2005) by **Civil Partnership Act 2004** (c. 33), **Sch. 27**, para. 139(b); S.I. 2005/3175, art. 2(2)
- F14** Words in Sch. 2 Pt. I para. 1(2) inserted (5.12.2005) by S.I. 2005/3129, art. 1, **Sch. 4 para. 10**
- F15** Sch. 2 Pt. I para. 1(3) substituted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(4)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F16** Words in Sch. 2 Pt. I para. 1(3)(b) substituted (29.12.2003) by **Communications Act 2003** (c. 21), s. 411(2), s. 357(1)(a) (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)
- F17** Words in Sch. 2 Pt. I para. 1(3)(b) substituted (29.12.2003) by **Communications Act 2003** (c. 21), s. 411(2), s. 357(1)(b) (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)
- F18** Sch. 2 Pt. I para. 1(6)(7)(8) substituted (10.8.1996 for certain purposes otherwise 1.11.1996) for subparagraph (6) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(6)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F19** Words in Sch. 2 Pt. I para. 1(6) substituted (29.12.2003) by **Communications Act 2003** (c. 21), s. 411(2), Sch. 15 para. 69(3) (with **Sch. 18**); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F20** Sch. 2 Pt. I para. 1(8) 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)

- 2 (1) [^{F21}Subject to sub-paragraph (1A)] Any reference in paragraph 1 above to a person—
- (a) holding or being entitled to shares, or any amount of the shares or equity share capital, in a body corporate, or
 - (b) possessing voting power, or any amount of the voting power, in a body corporate,
- is a reference to his doing so, or being so entitled, whether alone or jointly with one or more other persons and whether directly or through one or more nominees.
- [^{F22}(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, ^{F23}... in respect of the shares concerned, and

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- (b) he is not entitled to exercise or control the exercise of voting rights in respect of the shares concerned.

[In sub-paragraph (1A)(a)(iii), “depository receipt” means a certificate or other record
^{F24}(1AA) (whether or not in the form of a document)—

- (a) which is issued by or on behalf of a person who holds shares or who holds evidence of the right to receive shares, or has an interest in shares, in a particular body corporate; and
- (b) which evidences or acknowledges that another person is entitled to rights in relation to those shares or shares of the same kind, which shall include the right to receive such shares (or evidence of the right to receive such shares) from the person mentioned in paragraph (a).]

(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.]

^{F25}(2)

^{F26}(3)

Textual Amendments

- F21** Words in Sch. 2 Pt. I para. 2(1) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 2(2)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F22** Sch. 2 Pt. I para. 2(1A)(1B) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 2(3)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F23** Words in Sch. 2 Pt. I para. 2(1A)(a)(iii) repealed (6.4.2008) by S.I. 2008/948, art. 2(2), **Sch. 1 para. 176(2)** (with arts. 6, 11, 12)
- F24** Sch. 2 Pt. I para. 2(1AA) inserted (6.4.2008) by S.I. 2008/948, art. 2(2), **Sch. 1 para. 176(3)** (with arts. 6, 11, 12)
- F25** Sch. 2 Pt. I para. 2(2) repealed (1.11.1996) by 1996 c. 55, s. 148(2), **Sch. 11 Pt. I** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**
- F26** Sch. 2 Pt. I para. 2(3) repealed (1.11.1996) by 1996 c. 55, s. 148(2), **Sch. 11 Pt. I** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**

^{F27}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.]

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Textual Amendments

F27 Sch. 2 Pt. I para. 3 substituted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, Sch. 2 Pt. I para. 3 (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, Sch. 2

^{F28}3A

Textual Amendments

F28 Sch. 2 para. 3A 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}3B

Textual Amendments

F29 Sch. 2 para. 3B 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)

^{F30}4

Textual Amendments

F30 Sch. 2 Pt. I 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)

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