



Broadcasting Act 1990

1990 CHAPTER 42

PART X

MISCELLANEOUS AND GENERAL

General

202 General interpretation.

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

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

[^{F1}“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;

[^{F2}“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;

[^{F3}“a Channel 4 company” means—

- (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);]

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“connected”, in relation to any [^{F4}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;

[^{F5}“EEA Agreement” and “EEA State” have the meaning given by Schedule 1 to the Interpretation Act 1978;]

^{F5} ...

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

“frequency” includes frequency band;

“modifications” includes additions, alterations and omissions;

[^{F6}“OFCOM” means the Office of Communications;]

[^{F6}“pension scheme” means a scheme for the payment of pensions, allowances or gratuities;]

[^{F7}“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;

[^{F8}“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);]

^{F9} ...

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

[^{F10}“wireless telegraphy” and “wireless telegraphy station” each has the same meaning as in the Wireless Telegraphy Act 2006.]

(2) In any provision of—

(a) ^{F11} ...

(b) Schedule ^{F12} ..., 2, 3, 6, ^{F12} ..., ^{F13} ... 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.

(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

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have effect otherwise than at a time when the licensed service is authorised to be so provided.

^{F14}(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) ^{F15}... 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.

^{F16}(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.

[^{F17}(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

- F1** 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)**
- F2** 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))
- F3** Definition “a Channel 4 company” inserted (1.10.1996) in s. 201(1) by 1996 c. 55, s. 148(1), **Sch. 10 Pt. I para. 21(a)** (with s. 43(1)(6)); S.I. 1996/2120, art. 4, **Sch. 1**
- F4** Words in definition “connected” in s. 202(1) substituted (1.11.1996) by 1996 c. 55, s. 148(1), **Sch. 10 Pt. I para. 21(c)** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**
- F5** Words in s. 202(1) substituted (1.10.2013) by [The Broadcasting and Communications \(Amendment\) Regulations 2013 \(S.I. 2013/2217\)](#), regs. 1, **3**

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- F6** 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)
- F7** 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)**
- F8** Definition “an S4C company” inserted (1.10.1996) by [1996 c. 55](#), s. 148(1), **Sch. 10 Pt. I para. 21(c)** (with s. 43(1)(6)); [S.I. 1996/2120](#), art. 4, **Sch. 1**
- F9** 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)
- F10** Words in s. 202(1) substituted (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\)](#), s. 126(2), **Sch. 7 para. 13**
- F11** S. 202(2)(a) repealed (1.4.1997) by [1996 c. 55](#), s. 148(2), **Sch. 11 Pt. I** (with s. 43(1)(6)); [S.I. 1997/1005](#), **art. 4**
- F12** 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)
- F13** Words in S. 202(2)(b) repealed (1.4.1997) by [1996 c. 55](#), s. 148(2), **Sch. 11 Pt. I** (with s. 43(1)(6)); [S.I. 1997/1005](#), **art. 4**
- F14** 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)**
- F15** 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)
- F16** S. 202(5A) omitted (30.12.1998) by virtue of [S.I. 1998/3196](#), reg. 2, **Sch. para. 6(3)**
- F17** 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)

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