

2014 No. 3137

BROADCASTING

**The Broadcasting (Independent Productions) (Amendment)
Order 2014**

Made - - - - *24th November 2014*

Coming into force in accordance with article 1

The Secretary of State makes the following Order, in exercise of the powers conferred by sections 277(2)(b) and 309(2)(b) of, and paragraphs 1(2)(b) and 7(2)(b) of Schedule 12 to, the Communications Act 2003(a).

In accordance with sections 277(11) and 309(4) of, and paragraphs 1(12) and 7(10) of Schedule 12 to, that Act, the Secretary of State has consulted OFCOM, the BBC and the Welsh Authority.

In accordance with sections 277(12) and 309(5) of, and paragraphs 1(13) and 7(11) of Schedule 12 to, that Act, the draft of this Order was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Broadcasting (Independent Productions) (Amendment) Order 2014 and comes into force on the day after the day on which it is made.

Amendment of the Broadcasting (Independent Productions) Order 1991

2. Article 3 of the Broadcasting (Independent Productions) Order 1991(b) (meaning of “independent productions”) is amended as follows.

3. In paragraph (4)—

- (a) in sub-paragraph (b) for “paragraphs (4A) and (4B)” substitute “paragraph (4B)”;
- (b) in sub-paragraph (c) omit “UK” both times it occurs.

4. Omit paragraph (4A).

5. In paragraph (5)—

- (a) omit “and in paragraph (4A) above except as otherwise indicated”;
- (b) after “reference to a broadcaster” omit “or producer”;

(a) 2003 c.21.

(b) S.I. 1991/1408. That Order was amended by S.I. 1995/1925, S.I. 1999/1820, S.I. 2003/1672, the Communications Act 2003, S.I. 2012/1842 and S.I. 2013/2217.

- (c) where it occurs, for “, respectively, a broadcaster or producer” substitute “a broadcaster”;
- (d) where it occurs omit “or, as the case may be, producer”;
- (e) for “has the same meaning as in” substitute “shall be construed in accordance with paragraph 1(1A) of”, and after “Schedule 2 to the 1990 Act” omit the rest of the sentence.

6. In paragraph (6) for “paragraphs (4) and (4A) above” substitute “paragraph (4)”.

7. In paragraph (7)—

- (a) in the definition of “broadcaster”—
 - (i) for the words from “providing to members of the public” to “whether in the United Kingdom or elsewhere”, substitute “which is primarily intended to be available for reception by members of the public in, or in any area in, the United Kingdom (whether or not that service is also intended for reception elsewhere);”, and
 - (ii) after “provides, in the United Kingdom” omit “or elsewhere”;
- (b) omit the definition of “UK broadcaster”.

Ed Vaizey

Minister of State

Department for Culture, Media and Sport

Department for Business, Innovation and Skills

24th November 2014

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends article 3 of the Broadcasting (Independent Productions) Order 1991 which defines “independent productions” for the purposes of the licence conditions set under sections 277 and 309 of and paragraphs 1 and 7 of Schedule 12 to the Communications Act 2003.

The amendments in this Order ensure that production companies owned by non-UK broadcasters can still qualify as independent producers for the purpose of the quotas imposed by licence condition on the UK’s public service broadcasters. The amendments also preserve independent status for producers who are connected to a person who owns, or is owned by, a broadcaster which does not aim its services primarily at the UK.

No impact assessment has been produced for this Order as this Order will have no impact on businesses, charities or the public sector.

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