



Communications Act 2003

2003 CHAPTER 21

PART 3

TELEVISION AND RADIO SERVICES [^{F1}ETC]

CHAPTER 1

THE BBC, C4C THE WELSH AUTHORITY AND THE GAELIC MEDIA SERVICE

The BBC

198 Functions of OFCOM in relation to the BBC

- (1) It shall be a function of OFCOM, to the extent that provision for them to do so is contained in—
 - (a) the BBC Charter and Agreement, and
 - (b) the provisions of this Act and of Part 5 of the 1996 Act,
[^{F1}to regulate the BBC.]
- (2) For the purposes of the carrying out of that function OFCOM—
 - (a) are to have such powers and duties as may be conferred on them by or under the BBC Charter and Agreement; and
 - (b) are entitled, to the extent that they are authorised to do so by the Secretary of State or under the terms of that Charter and Agreement, to act on his behalf in relation to that Charter and Agreement.
- [^{F2}(2A) The BBC Charter and Agreement may in particular confer on OFCOM, as a power they are to have by virtue of subsection (2)(a), power to require any person to provide information for the purposes of the carrying out by OFCOM of their function under subsection (1).]
- (3) The BBC must pay OFCOM such penalties in respect of contraventions by the BBC of provision made by or under—

Changes to legislation: Communications Act 2003, Cross Heading: The BBC is up to date with all changes known to be in force on or before 11 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) this Part,
^{F3}(aa) Part 4A,] or
 (b) the BBC Charter and Agreement,
 as are imposed by OFCOM in exercise of powers conferred on them by that Charter and Agreement.
- (4) The BBC are also to be liable to pay OFCOM such sums in respect of the carrying out by OFCOM of their functions in relation to the BBC as may be—
 (a) agreed from time to time between the BBC and OFCOM; or
 (b) (in default of agreement) fixed by the Secretary of State.
- (5) The maximum penalty that may be imposed on the BBC on any occasion by OFCOM in exercise of a power conferred by virtue of the BBC Charter and Agreement is £250,000.
- (6) The Secretary of State may by order substitute a different sum for the sum for the time being specified in subsection (5).
- (7) No order is to be made containing provision authorised by subsection (6) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (8) It shall be the duty of OFCOM to have regard to their functions under this section when carrying out their functions under the 1990 Act, the 1996 Act and this Part in relation to services provided by persons other than the BBC.
- ^{F4}(9)

Textual Amendments

- F1** Words in s. 198(1) substituted (27.4.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 88(3)**, 118(1)
F2 S. 198(2A) inserted (27.4.2017) by [Digital Economy Act 2017 \(c. 30\)](#), **ss. 88(4)**, 118(1)
F3 S. 198(3)(aa) inserted (19.12.2009) by [Audiovisual Media Services Regulations 2009 \(S.I. 2009/2979\)](#), [regs. 1\(1\)](#), **3(1)(a)**
F4 S. 198(9) omitted (27.4.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), **ss. 88(5)**, 118(1)

Modifications etc. (not altering text)

- C1** S. 198(1) amendment by 2017 c. 30, s. 88(3) extended to Isle of Man (1.3.2020) by [The Communications \(Isle of Man\) Order 2020 \(S.I. 2020/149\)](#), [arts. 1\(2\)](#), **2**
C2 S. 198(2A) amendment by 2017 c. 30, s. 88(4) extended to Isle of Man (1.3.2020) by [The Communications \(Isle of Man\) Order 2020 \(S.I. 2020/149\)](#), [arts. 1\(2\)](#), **2**
C3 S. 198(9) amendment by 2017 c. 30, s. 88(5) extended to Isle of Man (1.3.2020) by [The Communications \(Isle of Man\) Order 2020 \(S.I. 2020/149\)](#), [arts. 1\(2\)](#), **2**

Commencement Information

- I1** S. 198 in force at 29.12.2003 by [S.I. 2003/3142](#), [art. 3\(1\)](#), **Sch. 1** (with [art. 11](#))

^{F5}198ZA Penalties for failure to provide information

- (1) This section applies if—
 (a) under a power conferred by virtue of section 198(2A), OFCOM require a person other than the BBC to provide information, and

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- (b) OFCOM determine that there are reasonable grounds to believe the person has not provided the information.
- (2) OFCOM may give the person a notice which sets out the determination and specifies—
 - (a) what information the person must provide,
 - (b) the time within which the person must provide it,
 - (c) a penalty that OFCOM may impose if the person does not provide it, and
 - (d) a period in which the person may make representations.
- (3) OFCOM may impose a penalty on the person if they fail without reasonable excuse to provide the information in accordance with the notice.
- (4) The penalty may include an amount for each day the person fails to provide the information after the time required by the notice.
- (5) The penalty in respect of any notice—
 - (a) must not be more than OFCOM determine to be proportionate,
 - (b) must not be more than the penalty specified in the notice, and
 - (c) must not be more than £250,000.
- (6) OFCOM may withdraw a notice without imposing a penalty, and that does not affect the power to issue a further notice in relation to the same information.
- (7) OFCOM must publish and keep up to date a statement of their proposed approach to issuing notices and imposing and recovering penalties under this section (subject to the guidelines published under section 392).]

Textual Amendments

F5 S. 198ZA inserted (27.4.2017) by [Digital Economy Act 2017 \(c. 30\)](#), ss. **88(6)**, 118(1)

Modifications etc. (not altering text)

C4 S. 198ZA amendment by 2017 c. 30, s. 88(6) extended to Isle of Man (1.3.2020) by [The Communications \(Isle of Man\) Order 2020 \(S.I. 2020/149\)](#), arts. 1(2), 2

Changes to legislation:

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2003/1900, art. 3(2) by [S.I. 2003/3142 art. 1\(3\)](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 by [S.I. 2004/1492 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 by [S.I. 2004/697 art. 2](#)
- specified provision(s) amendment to earlier commencing SI 2003/3142 art. 4 Sch. 2 by [S.I. 2004/545 art. 2](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 124Q(7)(a) words substituted by [2013 c. 22 Sch. 9 para. 52](#)
- s. 148A and cross-heading inserted by [2022 c. 46 s. 73\(2\)](#)
- s. 368E(5)(d)(e) inserted by [2017 c. 30 s. 94\(3\)](#)
- s. 402(2A)(za)(zb) inserted by [2022 c. 46 Sch. para. 2](#)
- Sch. 3A para. 21(6) inserted by [2022 c. 46 Sch. para. 3\(5\)\(b\)](#)
- Sch. 3A para. 37(3)(aza) inserted by [2022 c. 46 Sch. para. 3\(9\)](#)
- Sch. 3A para. 84(1)(aza) inserted by [2022 c. 46 Sch. para. 3\(10\)](#)
- Sch. 3A para. 103(1)(ca) inserted by [2022 c. 46 s. 70](#)
- Sch. 3A para. 119A inserted by [2022 c. 46 s. 72](#)
- Sch. 3A Pt. 4ZA inserted by [2022 c. 46 s. 67\(1\)](#)