



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 Welsh Authority

203 Function of OFCOM in relation to the Welsh Authority

It shall be a function of OFCOM, to the extent that provision for them to do so is contained in this Act and Part 5 of the 1996 Act, to regulate the services provided by the Welsh Authority.

Commencement Information

II S. 203 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

204 Welsh Authority's function of providing S4C and S4C Digital

- (1) The Welsh Authority shall continue in existence with the substitution of the following function for their functions under section 57 of the 1990 Act.
- (2) The Welsh Authority shall have the function of providing television programme services of high quality with a view to their being available for reception wholly or mainly by members of the public in Wales.

[^{F1}(3) The carrying out of that function—

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- (a) must include the continuing provision of the service provided in digital form and known as S4C Digital; and
 - (b) may include the continuing provision of the television broadcasting service known as Sianel Pedwar Cymru (“S4C”).]
- [^{F2}(4) The duty of the Welsh Authority to provide S4C Digital includes a duty to secure that arrangements are made and remain in force for it to be broadcast in digital form.]
- (5) It shall be the duty of the Welsh Authority to secure that S4C and S4C Digital each represents a public service for the dissemination of information, education and entertainment.
 - (6) The Welsh Authority may use part of the signals carrying S4C to provide—
 - (a) subtitling in relation to programmes included in the service; and
 - (b) other services which are ancillary to programmes included in S4C and which are directly related to their contents.
 - (7) In providing S4C Digital the Welsh Authority may also provide—
 - (a) assistance for disabled people in relation to programmes included in the service; and
 - (b) any other service (other than one mentioned in paragraph (a)) which is an ancillary service in relation to S4C Digital.
 - (8) The Secretary of State may by order modify this Act and such other enactments as he thinks fit for the purpose of—
 - (a) replacing the requirement of the Welsh Authority to provide S4C with a requirement to provide a service in digital form;
 - (b) requiring the Welsh Authority to secure that arrangements are made for that service and S4C Digital to be merged and provided as one service (also to be known as “S4C Digital”); and
 - (c) applying enactments relating to the provision of S4C or S4C Digital to the provision of the merged service.
 - (9) An order under subsection (8) may require the Welsh Authority to ensure that, from the coming into force of a requirement to provide a merged service in digital form until a time determined in the manner described in the order, the whole or a part of the merged service is also to be provided for broadcasting in analogue form.
 - (10) In this section “programme” does not include an advertisement.

Textual Amendments

- F1** S. 204(3) substituted (12.8.2009) by [Welsh Authority \(Digital Switchover\) Order 2009 \(S.I. 2009/1968\)](#), arts. 1, **2(2)**
- F2** S. 204(4) substituted (12.8.2009) by [Welsh Authority \(Digital Switchover\) Order 2009 \(S.I. 2009/1968\)](#), arts. 1, **2(3)**

Commencement Information

- I2** S. 204 in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

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205 Powers to provide other services

- (1) The Welsh Authority are not, in the carrying out of their function under section 204, to provide any television programme service (apart from S4C and S4C Digital) unless—
 - (a) the service appears to them to satisfy the requirements of subsection (3); and
 - (b) the provision by them of the service has been approved by an order made by the Secretary of State.
- (2) The functions of the Welsh Authority include the provision of services that are neither television programme services nor sound services but—
 - (a) are provided with a view to being made available for reception wholly or mainly by members of the public in Wales or otherwise to be received or used by persons in Wales;
 - (b) are services appearing to them to satisfy the requirements of subsection (3); and
 - (c) are services the provision of which by the Authority has been approved by an order made by the Secretary of State.
- (3) A service provided under this section must be a public service of high quality for the dissemination of information, education or entertainment (or a combination of them) wholly or mainly to members of the public in Wales.
- (4) The Welsh Authority are not to provide a television programme service under this section unless it is one the provision of which by them broadens the range of television programme services available for reception by members of the public in Wales.
- (5) The Welsh Authority must ensure, in the case of every television programme service provided with the approval of the Secretary of State under this section, that a substantial proportion of the programmes included in the service consists of programmes in Welsh.
- (6) An order under this section approving the provision of a service must set out—
 - (a) the nature and other characteristics of the service that is approved; and
 - (b) in the case of a service that is a television programme service, a public service remit for that service.
- (7) In providing a service approved under this section the Welsh Authority may also provide—
 - (a) assistance for disabled people in relation to programmes included in the service;
 - (b) other services which are ancillary to programmes included in the service and which are directly related to their contents; and
 - (c) any other service (other than one mentioned in paragraph (a) or (b)) which is an ancillary service in relation to so much of the service as is provided in digital form.
- (8) A television programme service provided under this section in digital form is a qualifying service for the purposes of the 1996 Act.
- (9) In this section “sound service” means a service which would fall to be regulated under section 245 if provided by an S4C company.

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Commencement Information

I3 S. 205 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

206 Other activities of Welsh Authority

- (1) The activities that the Welsh Authority are able to carry on include activities which appear to them—
 - (a) to be activities that it is appropriate for them to carry on in association with the carrying out of their function of providing S4C, S4C Digital or a service the provision of which is approved under section 205; and
 - (b) to be connected, otherwise than merely in financial terms, with activities undertaken by them for the carrying out of that function.
- (2) The approval of the Secretary of State is required for the carrying on by the Welsh Authority of activities authorised only by subsection (1).
- (3) The approval of the Secretary of State—
 - (a) must be contained in an order made by him; and
 - (b) may be a general approval in relation to a description of activities or a specific approval in relation to particular activities.
- (4) The activities capable of being authorised under subsection (1)—
 - (a) do not include the provision of a licensable service; but
 - (b) do include activities for securing the provision of such a service by an S4C company and other activities connected with the provision of such a service by such a company.
- (5) The activities referred to in subsection (4)(b) include—
 - (a) the formation of a company to provide a programme service;
 - (b) the taking of steps by means of which a company that is providing such a service becomes an S4C company.
- (6) For sub-paragraphs (2) and (3) of paragraph 1 of Schedule 6 to the 1990 Act (power of Welsh Authority to do things incidental or conducive to the carrying out of their functions) there shall be substituted—
 - “(2) The Authority may do anything which appears to them to be incidental or conducive to the carrying out of their functions.
 - (3) The powers of the Authority under sub-paragraph (2) include power, to the extent that it appears to them incidental or conducive to the carrying out of their functions to do so—
 - (a) to carry on activities (other than those comprised in their duty to carry out their functions under section 204 of the Communications Act 2003) through S4C companies; and
 - (b) to participate with others in the carrying on of any such activities.”
- (7) In this section “licensable service” means a service that would fall to be regulated under section 211 or 245 if provided by an S4C company.
- (8) Section 57(1A)(b) and (1B) of the 1990 Act (power of Welsh Authority to establish, acquire an interest in or assist a qualifying company) shall cease to have effect.

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Commencement Information

I4 S. 206 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

207 Welsh Authority finances

- (1) The Welsh Authority must not, whether directly or indirectly, impose charges on persons—
 - (a) in respect of their reception or use in Wales of any of the Authority’s public services;
 - (b) in respect of their reception in Wales of any service consisting in the provision of assistance for disabled people in relation to programmes included in any one or more of those services; or
 - (c) in respect of their reception in Wales of any service (other than one mentioned in paragraph (b)) which is an ancillary service in relation to any of the Authority’s public services provided in digital form.
- (2) It shall be unlawful to impose a charge in contravention of subsection (1).
- (3) The power of the Welsh Authority to do anything that appears to them to be conducive or incidental to the carrying out of their functions includes power, subject to subsection (4), to borrow money.
- (4) The Welsh Authority are not to borrow money except with the approval of the Secretary of State.
- (5) The consent of the Treasury is to be required for the giving of an approval for the purposes of subsection (4).
- (6) The Welsh Authority are to be liable to pay OFCOM such sums in respect of the carrying out by OFCOM of their functions in relation to the Authority as may be—
 - (a) agreed from time to time between the Authority and OFCOM; or
 - (b) (in default of agreement) fixed by the Secretary of State.
- (7) In section 61(4) of the 1990 Act (power of Secretary of State to increase amount of grant to the Welsh Authority), for “transmitting S4C and the service referred to in section 57(1A)(a), by order” there shall be substituted—
 - “(a) providing services that are public services of the Authority (within the meaning of section 207 of the Communications Act 2003), and
 - (b) arranging for the broadcasting or distribution of those services,

by order”.
- (8) In section 61A of the 1990 Act (the public service fund)—
 - (a) in subsection (2) (application of fund), for “their functions under section 57(1) or (1A)(a)” there shall be substituted “ their functions in relation to the provision of the services that are public services of the Authority (within the meaning of section 207 of the Communications Act 2003). ”; and
 - (b) in subsection (4) (programmes to be broadcast first on S4C or S4C Digital), for the words from “on S4C” onwards there shall be substituted “ on a television programme service that is one of their public services (within the meaning of section 207 of the Communications Act 2003) ”.

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- (9) In this section references to the Welsh Authority’s public services are references to the following—
- (a) S4C;
 - (b) S4C Digital; and
 - (c) the services the provision of which by the Authority is authorised by or under section 205.

Commencement Information

I5 S. 207 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

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\(1\)](#)