



Communications Act 2003

2003 CHAPTER 21

PART 3

TELEVISION AND RADIO SERVICES [F1ETC]

^{F1F1}CHAPTER 4

REGULATORY PROVISIONS

Enforcement against the Welsh Authority

339 Review of fulfilment by Welsh Authority of public service remits

- (1) The Secretary of State may carry out a review of the performance by the Welsh Authority of their duty to secure that each of the following public service remits—
 - (a) that for S4C;
 - (b) that for S4C Digital; and
 - (c) that for each of the television programme services provided by them with the approval of the Secretary of State under section 205,is fulfilled in relation the services to which it applies.
- (2) The first review carried out under this section—
 - (a) shall be a review relating to the period since the passing of this Act; and
 - (b) must not be carried out before the end of the period of five years beginning with the day of the passing of this Act.
- (3) A subsequent review—
 - (a) shall be a review relating to the period since the end of the period to which the previous review related; and
 - (b) must not be carried out less than five years after the day of the publication of the report of the previous review.

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- (4) On a review under this section the Secretary of State—
- (a) shall consult the National Assembly for Wales and the Welsh Authority on the matters under review; and
 - (b) shall have regard to their opinions when reaching his conclusions.
- (5) The Secretary of State shall also consult such other persons as he considers are likely to be affected by whether, and in what manner, the Welsh Authority perform the duty mentioned in subsection (1).
- (6) As soon as practicable after the conclusion of a review under this section the Secretary of State must publish a report of his conclusions.

Commencement Information

I1 S. 339 in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

340 Directions to Welsh Authority to take remedial action

- (1) This section applies if the Secretary of State's conclusions on a review under section 339 include a finding—
- (a) that the Welsh Authority has failed in any respect to perform their duty to secure that the public service remit for a service mentioned in that section is fulfilled; and
 - (b) that there is no reasonable excuse for the failure.
- (2) The Secretary of State may give the Welsh Authority general or specific directions requiring them to take the steps that he considers will ensure that the Authority perform their duty properly in future.
- (3) The Secretary of State is not to give a direction under this section unless a draft of the proposed direction has been laid before Parliament and approved by a resolution of each House.
- (4) Before laying a proposed direction before Parliament, the Secretary of State must consult the Welsh Authority.
- (5) It shall be the duty of the Welsh Authority to comply with every direction under this section.

Commencement Information

I2 S. 340 in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

341 Imposition of penalties on the Welsh Authority

- (1) This section applies to the following requirements so far as they are imposed on the Welsh Authority in relation to services provided by them—
- (a) the requirements imposed by or under paragraphs 7 and 8 of Schedule 12 (programme quotas);
 - (b) the requirements imposed by paragraph 9(1) and (3) of that Schedule (news and current affairs);

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- (c) the requirements imposed by paragraph 10 of that Schedule (code relating to programme commissioning) or by a direction under sub-paragraph (3)(d) of that paragraph;
 - (d) the requirement imposed by virtue of paragraph 12 of that Schedule to comply with standards set under section 319, so far as that requirement relates to standards set otherwise than for the purpose of securing the objectives set out in subsection (2)(c) or (d) of that section;
 - (e) the requirements imposed by paragraphs 14 and 16 of that Schedule (advertising or sponsorship) to comply with a direction under those paragraphs;
 - (f) the requirement imposed by paragraph 17 of that Schedule (observance of the fairness code);
 - (g) the requirement imposed by paragraph 19 of that Schedule (publicising complaints procedure);
 - (h) the requirement imposed by paragraph 20 of that Schedule (monitoring of programmes);
 - (i) the requirement imposed by paragraph 21 of that Schedule (international obligations) to comply with a direction under that paragraph;
 - (j) the requirement under paragraph 22 of that Schedule (assistance for disabled people) to comply with the code for the time being in force under section 303;
 - [^{F1}(ja) the requirement imposed by paragraph 23A of that Schedule (complaints procedures for on-demand programme services) to comply with a direction under that paragraph;
 - [^{F2}(jb) the requirements imposed by section 368CB, section 368D and section 368E(4) (on-demand programme services), except—
 - (i) the requirements imposed by section 368D(1) and section 368E(4) so far as they relate to advertising, and
 - (ii) the requirement imposed by section 368D(3)(za);]
 - (k) the requirement to comply with a direction under section 119(1) of the 1996 Act (directions in respect of fairness matters).
- (2) If OFCOM are satisfied that there has been a contravention of a requirement to which this section applies, they may serve on the Welsh Authority a notice requiring the Authority, within the specified period, to pay OFCOM a specified penalty.
- (3) The amount of the penalty must not exceed £250,000.
- (4) OFCOM are not to serve a notice on the Welsh Authority under this section unless they have given them a reasonable opportunity of making representations to OFCOM about the matters appearing to OFCOM to provide grounds for the service of the notice.
- (5) An exercise by OFCOM of their powers under this section does not preclude any exercise by them of their powers under paragraph 15 of Schedule 12 in respect of the same contravention.
- (6) The Secretary of State may by order substitute a different sum for the sum for the time being specified in subsection (3).
- (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.]

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Textual Amendments

- F1** S. 341(1)(ja)(jb) inserted (19.12.2009) by [Audiovisual Media Services Regulations 2009 \(S.I. 2009/2979\)](#), regs. 1(1), **5**
- F2** S. 341(1)(jb) substituted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **21** (with Pt. 7)

Modifications etc. (not altering text)

- C1** S. 341(2) modified (20.7.2004) by [Contracting Out \(Functions relating to Broadcast Advertising\) and Specification of Relevant Functions Order 2004 \(S.I. 2004/1975\)](#), art. 1, **Sch. para. 5** (with art. 5)

Commencement Information

- I3** S. 341 in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), **Sch. 1** (with art. 11)

342 Contraventions recorded in Welsh Authority’s annual report

In paragraph 13 of Schedule 6 to the 1990 Act (annual report of the Welsh Authority)—

- (a) in sub-paragraph (2), the words from “and shall include” onwards shall be omitted; and
- (b) after that sub-paragraph there shall be inserted—

“(3) The report shall also—

- (a) set out every contravention notification given by OFCOM to the Authority during the year; and
- (b) include such other information (including information relating to the Authority’s financial position) as the Secretary of State may from time to time direct.

(4) In sub-paragraph (3), “contravention notification” means a notification of a determination by OFCOM of a contravention by the Authority of any obligation imposed by or under this Act, the 1996 Act or Part 3 of the Communications Act 2003.”

Commencement Information

- I4** S. 342 in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), **Sch. 1** (with art. 11)

343 Provision of information by Welsh Authority

- (1) It shall be the duty of the Welsh Authority to comply with every direction given to them by OFCOM to provide OFCOM with information falling within subsection (2).
- (2) The information that the Welsh Authority may be directed to provide is any information which OFCOM may reasonably require for the purposes of carrying out their functions in relation to the Welsh Authority under this Act, the 1990 Act or the 1996 Act.
- (3) Information that is required to be provided by a direction under this section must be provided in such manner and at such times as may be required by the direction.

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Modifications etc. (not altering text)

- C2** S. 343 modified (20.7.2004) by [Contracting Out \(Functions relating to Broadcast Advertising\) and Specification of Relevant Functions Order 2004 \(S.I. 2004/1975\)](#), arts. 1, **10(1)(b)** (with art. 5)
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Commencement Information

- I5** S. 343 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\(1\)](#)