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SCHEDULES

SCHEDULE 12

Section 338

CORRESPONDING OBLIGATIONS OF THE BBC AND WELSH AUTHORITY

PART 1

THE BBC

Quotas for independent productions

- 1 (1) It shall be the duty of the BBC to secure that, in each year, not less than 25 per cent. of the total amount of time allocated to the broadcasting of qualifying programmes included in the television broadcasting services provided by the BBC is allocated to the broadcasting of a range and diversity of independent productions.
- (2) In this paragraph—
- (a) a reference to qualifying programmes is a reference to programmes of such description as the Secretary of State may by order specify as describing the programmes that are to be qualifying programmes for the purposes of this paragraph;
 - (b) a reference to independent productions is a reference to programmes of such description as the Secretary of State may by order specify as describing the programmes that are to be independent productions for the purposes of this paragraph; and
 - (c) a reference to a range of independent productions is a reference to a range of such productions in terms of cost of acquisition as well as in terms of the types of programme involved.
- (3) The Secretary of State may by order amend sub-paragraph (1) by substituting a different percentage for the percentage for the time being specified in that sub-paragraph.
- (4) The Secretary of State may also by order provide for the BBC to have the duty set out in sub-paragraph (5), either instead of or as well as the one set out in sub-paragraph (1).
- (5) That duty is a duty to secure that, in each year, not less than the percentage specified in the order of the programming budget for that year for the television broadcasting services provided by the BBC is applied in the acquisition of independent productions.
- (6) The power to make an order under sub-paragraph (4) includes power to provide that the BBC are again to be subject to a duty to which they have previously ceased to be subject by virtue of such an order, in addition to or instead of the duty to which they are subject (apart from the exercise of that power) by virtue of this paragraph.

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- (7) The Secretary of State is not to make an order for the BBC to be or to cease to be subject to the duty mentioned in sub-paragraph (1) or (5) unless—
- (a) OFCOM have made a recommendation to him that the BBC should be subject to that duty, or should cease to be subject to it; and
 - (b) the order gives effect to that recommendation.
- (8) Where television broadcasting services are designated by or under the BBC Charter and Agreement—
- (a) as services that must be treated separately for the purposes of the duty imposed by sub-paragraph (1) or a duty imposed under sub-paragraph (4), or
 - (b) as services that must be included in a group of services that must be taken together for the purposes of such a duty,
- that duty is to have effect in accordance with sub-paragraph (9).
- (9) A duty having effect in accordance with this sub-paragraph is to have effect as if (instead of applying to all the television broadcasting services provided by the BBC, taken together) it applied separately—
- (a) in relation to each service that is required to be treated separately; and
 - (b) in relation to each group of services that are required to be taken together.
- (10) The BBC must comply with directions given to them by OFCOM for the purpose of—
- (a) carrying forward to one or more subsequent years determined in accordance with the direction any shortfall for any year in their compliance with the duties imposed by virtue of sub-paragraph (1) or (4); and
 - (b) thereby increasing the percentage applicable for the purposes of those duties to the subsequent year or years.
- (11) For the purposes of this paragraph—
- (a) the amount of the programming budget for a year, and
 - (b) the means of determining the amount of that budget that is applied for any purpose,
- are to be computed in accordance with such provision as may be set out in an order made by the Secretary of State, or as may be determined by OFCOM in accordance with such an order.
- (12) Before making an order under this paragraph the Secretary of State must consult OFCOM and the BBC.
- (13) No order is to be made containing provision authorised by this paragraph unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (14) In this paragraph—
- “acquisition”, in relation to a programme, includes commissioning and acquiring a right to include it in a service or to have it broadcast; and
- “programming budget” means the budget for the production and acquisition of qualifying programmes.

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Commencement Information

- I1** Sch. 12 para. 1 in force at 29.12.2003 by [S.I. 2003/3142](#), [art. 3\(1\)](#), [Sch. 1](#) (with [art. 11](#))

Duty to publicise complaints procedures etc.

- 2 (1) It shall be the duty of the BBC to make arrangements for securing that the matters mentioned in sub-paragraph (2) are brought to the attention of the public (whether by means of broadcasts or otherwise).
- (2) Those matters are—
- (a) OFCOM’s functions under Part 5 of the 1996 Act in relation to services provided by the BBC; and
 - (b) any procedures established by OFCOM or the BBC for the handling and resolution of complaints about the observance by the BBC of standards set under section 319 [^{F1}or about compliance by the BBC with the requirements imposed by section 368D][^{F2}and section 368E(4)].

Textual Amendments

- F1** Words in Sch. 12 para. 2(2)(b) inserted (19.12.2009) by [Audiovisual Media Services Regulations 2009 \(S.I. 2009/2979\)](#), [regs. 1\(1\)](#), [3\(2\)](#)
- F2** Words in [Sch. 12 para. 2\(2\)\(b\)](#) inserted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), [regs. 1\(2\)](#), [45\(a\)](#) (with [Pt. 7](#))

Commencement Information

- I2** Sch. 12 para. 2 in force at 29.12.2003 by [S.I. 2003/3142](#), [art. 3\(1\)](#), [Sch. 1](#) (with [art. 11](#))

PART 2

THE WELSH AUTHORITY

Public service remits of the Welsh Authority services

- 3 (1) It shall be the duty of the Welsh Authority to secure that the public service remits for each of their public television services is fulfilled.
- (2) The public service remit for S4C is the provision of a broad range of high quality and diverse programming in a service in which—
- (a) a substantial proportion of the programmes consists of programmes in Welsh;
 - (b) the programmes broadcast for viewing between 6:30 PM and 10:00 PM on every day of the week consist mainly of programmes in Welsh; and
 - (c) the programmes that are not in Welsh are normally programmes which are being, have been or are to be broadcast on Channel 4.
- (3) The public service remit for S4C Digital is the provision of a broad range of high quality and diverse programming in a service in which a substantial proportion of the programmes consists of programmes in Welsh.

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- (4) The public service remit for a television programme service provided by the Welsh Authority with the approval of the Secretary of State under section 205 is the remit set out in the order approving the provision of the service.
- (5) The Secretary of State may by order modify sub-paragraphs (2) and (3).
- (6) Before making an order specifying or modifying the public service remit for any of the Welsh Authority's public television services, the Secretary of State must consult—
 - (a) the Authority; and
 - (b) where the order relates to the inclusion in any service of programmes that are not in Welsh, C4C.
- (7) An order modifying the public service remit for S4C or S4C Digital must not contain provision inconsistent with a requirement that each service must—
 - (a) represent a public service for the dissemination of information, education and entertainment; and
 - (b) include programmes a substantial proportion of which consists of programmes in Welsh.
- (8) No order is to be made containing provision authorised by sub-paragraph (5) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

Commencement Information

I3 Sch. 12 para. 3 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Statements of programme policy

- 4 (1) It shall be the duty of the Welsh Authority—
 - (a) as soon as practicable after the coming into force of this paragraph, and subsequently at annual intervals, to prepare a statement of programme policy; and
 - (b) to monitor their own performance in the carrying out of the proposals contained in statements made under this paragraph.
- (2) Every statement of programme policy prepared under this paragraph must set out the Welsh Authority's proposals for securing that, during the following year—
 - (a) the public service remit for each of their public television services to be provided during that year will be fulfilled; and
 - (b) the Welsh Authority's duties under the provisions of this Schedule will be performed.
- (3) Every such statement must contain a report on the performance of the Welsh Authority in the carrying out during the period since the previous statement of the proposals contained in that previous statement.
- (4) When preparing such a statement, the Welsh Authority must consider—
 - (a) any guidance by OFCOM that is in force for the purposes of section 266; and
 - (b) any reports previously published by OFCOM under section 264 or 358.

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- (5) Every such statement must be published by the Welsh Authority as soon as practicable after its preparation is complete.
- (6) OFCOM may direct that any statement of policy which—
 - (a) was made by the Welsh Authority before the coming into force of this paragraph, and
 - (b) is specified in the direction,is to be treated for the purposes of this Act as if it were a statement made in relation to such period as may be so specified in pursuance of this paragraph.
- (7) A direction under sub-paragraph (6) cannot contain provision the effect of which is to postpone the time at which the Welsh Authority would otherwise be required to make its first statement of programme policy.

Commencement Information

I4 Sch. 12 para. 4 in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

PROSPECTIVE

Must-offer obligations in relation to networks and satellite services

- 5 (1) It shall be the duty of the Welsh Authority to ensure that each of their public digital services is at all times offered as available (subject to the need to agree terms)—
 - (a) to be broadcast or distributed by means of every appropriate network; and
 - (b) to be broadcast by means of every satellite television service that is available for reception by members of the public in Wales.
- (2) It shall be the duty of the Welsh Authority to do their best to secure that arrangements are entered into, and kept in force, that ensure—
 - (a) that each of their public digital services is broadcast or distributed on appropriate networks; and
 - (b) that the broadcasting and distribution of each of their public digital services, in accordance with those arrangements, result in the service being available for reception, by means of appropriate networks, by as many members of its intended audience as practicable.
- (3) It shall be the duty of the Welsh Authority to do their best to secure that arrangements are entered into, and kept in force, that ensure—
 - (a) that each of their public digital services is broadcast by means of satellite television services that are broadcast so as to be available for reception by members of the public in Wales; and
 - (b) that the broadcasting, in accordance with those arrangements, of each of the Authority's public digital services by means of satellite television services results in its being available for reception in an intelligible form and by means of those services by as many members of its intended audience as practicable.
- (4) The Welsh Authority must secure that the arrangements entered into and kept in force for the purposes of sub-paragraphs (2) and (3) prohibit the imposition, for or

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in connection with the provision of an appropriate network or a satellite television service, of any charge that is attributable (whether directly or indirectly) to the conferring of an entitlement to receive each of the Authority’s public digital services in an intelligible form by means of that network or service.

(5) OFCOM may, by a direction to the Welsh Authority, require arrangements made or kept in force for the purposes of sub-paragraphs (2) or (3) to apply in the case of every service which is an ancillary service by reference to one of their public digital services as they apply to the service itself.

(6) For the purposes of this paragraph a public digital service of the Welsh Authority is to be treated, in relation to particular appropriate networks and satellite television services, as constituting such services comprised in or provided with that public digital service—

- (a) as may be determined by agreement between the Welsh Authority and OFCOM; or
- (b) in default of agreement, as may be directed by OFCOM.

(7) This paragraph—

- (a) so far as it relates to the broadcasting or distribution of any of the Welsh Authority’s public digital services by means of appropriate networks, applies only in relation to times when that service is included in the list of must-carry services in section 64; and
- (b) so far as it relates to the broadcasting of such a public digital service by means of a satellite television service, applies only in relation to times when that service is included in the list of must-provide services in section 275.

(8) In this paragraph—

“appropriate network” means an electronic communications network by means of which public electronic communications services are provided that are used by a significant number of end-users in Wales as their principal means of receiving television programmes;

“intended audience”, in relation to a public digital service of the Welsh Authority, means—

- (a) if the service is one provided only for a particular area or locality of Wales, members of the public in that area or locality;
- (b) if the service is one provided for members of a particular community, members of that community; and
- (c) in any other case, members of the public in Wales;

“public digital service”, in relation to the Welsh Authority, means any of their public television services so far as it is provided in digital form; and

“satellite television service” means a service which—

- (a) consists in or involves the broadcasting of television programme services from a satellite; and
- (b) is used by a significant number of the persons by whom the broadcasts are received in an intelligible form as their principal means of receiving television programmes.

(9) For the purposes of this paragraph an electronic communications network is not an appropriate network in relation to so much of a channel or other service as is provided only for a particular area or locality of Wales unless it is a network by means of which electronic communications services are provided to persons in that area or locality

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- (10) In sub-paragraph (8) “public electronic communications service” and “end-user” each has the same meaning as in Chapter 1 of Part 2.
- (11) An order under section 411 must not appoint a day for provisions of this paragraph to come into force that falls less than six months after the day on which the order is made.

PROSPECTIVE

Supply of services by satellite in certain areas

- 6 It shall be the duty of the Welsh Authority—
- (a) to join with the providers of other must-provide services in entering into and maintaining arrangements satisfying the requirements of section 274; and
 - (b) to comply with the requirements of any arrangements imposed by OFCOM for the purposes of conditions under subsection (2) of that section.

Programming quotas for independent productions

- 7 (1) It shall be the duty of the Welsh Authority to secure that, in each year, not less than 25 per cent. of the total amount of time allocated to the broadcasting of qualifying programmes included in their designated public services (taken together) is allocated to the broadcasting of a range and diversity of independent productions.
- (2) In this paragraph—
- (a) a reference to qualifying programmes is a reference to programmes of such description as the Secretary of State may by order specify as describing the programmes that are to be qualifying programmes for the purposes of this paragraph;
 - (b) a reference to independent productions is a reference to programmes of such description as the Secretary of State may by order specify as describing the programmes that are to be independent productions for the purposes of this paragraph; and
 - (c) a reference to a range of independent productions is a reference to a range of such productions in terms of cost of acquisition as well as in terms of the types of programme involved.
- (3) The Secretary of State may by order amend sub-paragraph (1) by substituting a different percentage for the percentage for the time being specified in that sub-paragraph.
- (4) The Secretary of State may also by order provide for the Welsh Authority to have the duty set out in sub-paragraph (5), either instead of or as well as the one set out in sub-paragraph (1).
- (5) That duty is a duty to secure that, in each year, not less than the percentage specified in the order of the programming budget for that year for the designated public services (taken together) is applied in the acquisition of independent productions.

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- (6) The power to make an order under sub-paragraph (4) includes power to provide that the Welsh Authority are again to be subject to a duty to which they have previously ceased to be subject by virtue of such an order, in addition to or instead of the duty to which they are subject (apart from the exercise of that power) by virtue of this paragraph.
- (7) The Secretary of State is not to make an order for the Welsh Authority to be or to cease to be subject to the duty mentioned in sub-paragraph (1) or (5) unless—
- (a) OFCOM have made a recommendation to him that the Authority should be subject to that duty, or should cease to be subject to it; and
 - (b) the order gives effect to that recommendation.
- (8) The Welsh Authority must comply with directions given to them by OFCOM for the purpose of—
- (a) carrying forward to one or more subsequent years determined in accordance with the direction any shortfall for any year in their compliance with the duties imposed by virtue of sub-paragraph (1) or (4); and
 - (b) thereby increasing the percentage applicable for the purposes of those duties to the subsequent year or years.
- (9) For the purposes of this paragraph—
- (a) the amount of the programming budget for a year, and
 - (b) the means of determining the amount of that budget that is applied for any purpose,
- are to be computed in accordance with such provision as may be set out in an order made by the Secretary of State, or as may be determined by OFCOM in accordance with such an order.
- (10) Before making an order under this paragraph the Secretary of State must consult OFCOM, the BBC and the Welsh Authority.
- (11) No order is to be made containing provision authorised by this paragraph unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (12) The services that are designated public services for the purposes of this paragraph are—
- (a) S4C;
 - (b) S4C Digital; and
 - (c) any of the Welsh Authority’s other public television services which is designated for the purposes of this paragraph by the order under section 205 approving its provision.
- (13) In this paragraph—
- “acquisition”, in relation to a programme, includes commissioning and acquiring a right to include it in a service or to have it broadcast;
 - “programme” does not include an advertisement; and
 - “programming budget” means the budget for the production and acquisition of qualifying programmes.

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Commencement Information

I5 Sch. 12 para. 7 in force at 29.12.2003 by [S.I. 2003/3142](#), [art. 3\(1\)](#), [Sch. 1](#) (with [art. 11](#))

Programme quotas for original productions

- 8 (1) It shall be the duty of the Welsh Authority, in relation to their designated public services (taken together) to secure—
- (a) that the time allocated, in each year, to the broadcasting of original productions included in those services is no less than the proportion fixed under sub-paragraph (2) of the total amount of time allocated to the broadcasting of all the programmes included in those services; and
 - (b) that the time allocated to the broadcasting of original productions is split in the manner so fixed between peak viewing times and other times.
- (2) The fixing for the purposes of sub-paragraph (1) of a proportion or manner of splitting allocated time is to be—
- (a) by agreement between the Welsh Authority and OFCOM; or
 - (b) in default of agreement, by a direction given by OFCOM to the Authority fixing the proportion or manner according to whatever OFCOM consider appropriate for ensuring that the service is consistently of a high quality.
- (3) The agreement or direction may, for the purposes of sub-paragraph (1)(b), fix a proportion for the purposes of sub-paragraph (1)(a) in terms of the cumulative effect of two different minimum proportions, one applying to peak viewing times and the other to other times.
- (4) The agreement or direction may provide that specified descriptions of programmes are to be excluded in determining the programmes a proportion of which is to constitute original productions.
- (5) It may also provide that, in determining whether a programme is of a description of programmes excluded by an agreement or direction by virtue of sub-paragraph (4), regard is to be had to any guidance prepared and published, and from time revised, by OFCOM.
- (6) References in this paragraph, in relation to the designated public services of the Welsh Authority, to original productions are references to programmes of such description as the Secretary of State may by order specify as describing the programmes that are to be original productions for the purposes of this paragraph.
- (7) The power to specify descriptions of programmes by order under sub-paragraph (6) includes power to confer such discretions on OFCOM as the Secretary of State thinks fit.
- (8) Before making an order under this paragraph the Secretary of State must consult OFCOM, the BBC and the Welsh Authority.
- (9) No order is to be made containing provision authorised by this paragraph unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (10) The services that are designated public services for the purposes of this paragraph are—

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- (a) S4C;
- (b) S4C Digital; and
- (c) any of the Welsh Authority’s other public television services which is designated for the purposes of this paragraph by the order under section 205 approving its provision.

(11) In this paragraph—

“peak viewing time”, in relation to the designated public services of the Welsh Authority, means a time that is determined in accordance with sub-paragraph (12) to be a peak viewing time for one or more of those services; and

“programme” does not include an advertisement.

(12) The determination for the purposes of this paragraph of peak viewing times is to be—

- (a) by agreement between the Welsh Authority and OFCOM; or
- (b) in default of agreement, by a direction given by OFCOM to the Authority determining those times.

Commencement Information

I6 Sch. 12 para. 8 in force at 1.7.2004 by [S.I. 2003/3142](#), [art. 4\(4\)\(c\)](#) (with [art. 11](#)) (as amended (4.3.2004) by [S.I. 2004/545](#), art. 2(2)(3)(c))

News and current affairs programmes

- 9 (1) It shall be the duty of the Welsh Authority, in relation to their designated public services, to secure—
- (a) that the programmes included in each service include news programmes and current affairs programmes;
 - (b) that the news programmes and current affairs programmes included in each service deal with both national and international matters; and
 - (c) that the news programmes so included are broadcast for viewing at intervals throughout the period for which the service is provided.
- (2) It shall be the duty of the Welsh Authority, in relation to each of their designated public services, to ensure that the news programmes and current affairs programmes included in each service are of high quality.
- (3) It shall also be the duty of the Welsh Authority, in relation to each of their designated public services, to secure that in each year—
- (a) the time allocated to the broadcasting of news programmes included in the service, and
 - (b) the time allocated to the broadcasting of current affairs programmes so included,
- each constitutes no less than the proportion fixed under sub-paragraph (5) of the time allocated to the broadcasting of all the programmes included in the service.
- (4) It is the further duty of the Welsh Authority, in relation to each of their designated public services, to secure that the time allocated—
- (a) to the broadcasting of news programmes included in the service, and
 - (b) to the broadcasting of current affairs programmes so included,

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is, in each case, split, in the manner fixed under sub-paragraph (5), between peak viewing times and other times.

- (5) The fixing for the purposes of sub-paragraph (3) or (4) of a proportion or manner of splitting allocated time is to be—
- (a) by agreement between the Welsh Authority and OFCOM; or
 - (b) in default of agreement, by a direction given by OFCOM to the Authority fixing the proportion or manner according to whatever OFCOM consider appropriate.
- (6) The agreement or direction may, for the purposes of sub-paragraph (4), fix a proportion for the purposes of sub-paragraph (3) in terms of the cumulative effect of two different minimum proportions, one applying to peak viewing times and the other to other times.
- (7) The services that are designated public services for the purposes of this paragraph are—
- (a) S4C;
 - (b) S4C Digital; and
 - (c) any of the Welsh Authority’s other public television services which is designated for the purposes of this paragraph by the order under section 205 approving its provision.
- (8) In this paragraph “peak viewing time”, in relation to a service, means a time that is determined in accordance with sub-paragraph (9) to be a peak viewing time for that service.
- (9) The determination for the purposes of this paragraph of a peak viewing time is to be—
- (a) by agreement between the Welsh Authority and OFCOM; or
 - (b) in default of agreement, by a direction given by OFCOM to the Authority determining that time.

Commencement Information

I7 Sch. 12 para. 9 in force at 29.12.2003 by [S.I. 2003/3142](#), [art. 3\(1\)](#), [Sch. 1](#) (with [art. 11](#))

Code relating to programme commissioning

- 10 (1) It shall be the duty of the Welsh Authority to draw up and from time to time revise a code of practice setting out the principles that are to be applied when they or an S4C company are for a relevant purpose agreeing terms for the commissioning of independent productions.
- (2) A relevant purpose is a purpose connected with the provision by the Welsh Authority or an S4C company of a programme service.
- (3) It shall also be the duty of the Welsh Authority—
- (a) at all times to comply with the code of practice which is for the time being in force under this paragraph;
 - (b) to take all reasonable steps for securing that the code is complied with by S4C companies;

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- (c) to exercise their power to revise that code to take account of revisions from time to time of the guidance issued by OFCOM for the purposes of this paragraph; and
 - (d) to comply with such directions as may be given to the Authority by OFCOM for securing that they properly perform their duties under paragraphs (a) and (b).
- (4) The code for the time being in force under this paragraph must be such as to secure, in the manner described in guidance issued by OFCOM—
- (a) that a reasonable timetable is applied to negotiations for the commissioning of an independent production and for the conclusion of a binding agreement;
 - (b) that there is sufficient clarity when an independent production is commissioned about the different categories of rights to broadcast or otherwise to make use of or exploit the commissioned production that are being disposed of;
 - (c) that there is sufficient transparency about the amounts to be paid in respect of each category of rights;
 - (d) that satisfactory arrangements are made about the duration and exclusivity of those rights;
 - (e) that procedures exist for reviewing the arrangements adopted in accordance with the code and for demonstrating compliance with it;
 - (f) that those procedures include requirements for the monitoring of the application of the code and for the making of reports to OFCOM;
 - (g) that provision is made for resolving disputes arising in respect of the provisions of the code (by independent arbitration or otherwise) in a manner that appears to OFCOM to be appropriate.
- (5) The Welsh Authority must also ensure that the drawing up or revision of a code by virtue of this paragraph is in accordance with guidance issued by OFCOM as to—
- (a) the times when the code is to be drawn up or reviewed with a view to revision;
 - (b) the consultation to be undertaken before a code is drawn up or revised;
 - (c) the publication of every code or revised code.
- (6) The Welsh Authority must submit to OFCOM for approval a draft of—
- (a) every code that is required to be drawn up under this paragraph; and
 - (b) every revision made by that Authority of such a code.
- (7) A code drawn up by the Welsh Authority or a revision of such a code —
- (a) is to have effect for the purposes of this paragraph only if approved by OFCOM; and
 - (b) if approved by OFCOM subject to modifications, is to have effect with those modifications.
- (8) OFCOM—
- (a) must issue and may from time to time revise guidance for the purposes of this paragraph;
 - (b) must ensure that there is always guidance for those purposes in force;
 - (c) must, before issuing their guidance or revised guidance, consult the providers of licensed public service channels, persons who make

Status: This version of this schedule contains provisions that are prospective.

Changes to legislation: Communications Act 2003, SCHEDULE 12 is up to date with all changes known to be in force on or before 13 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

- independent productions (or persons appearing to OFCOM to represent them), the BBC and the Welsh Authority; and
- (d) must publish their guidance or revised guidance in such manner as they think appropriate.
- (9) Guidance issued by OFCOM for the purposes of this paragraph must be general guidance and is not to specify particular terms to be included in agreements to which the guidance relates.
- (10) OFCOM may by a direction to the Welsh Authority specify that a code which—
- (a) was drawn up by the Authority before the commencement of this paragraph, and
- (b) is identified in the direction,
- is to be treated as drawn up in pursuance of this paragraph and approved by OFCOM.
- (11) In this paragraph “independent production” has the same meaning as in paragraph 7.

Commencement Information

I8 Sch. 12 para. 10 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Co-operation with the public teletext provider

- 11 (1) The Welsh Authority must grant access to the public teletext provider to the facilities that are reasonably required by him for the purposes of, or in connection with, the provision of the public teletext service.
- (2) The Welsh Authority may require the public teletext provider to pay a reasonable charge in respect of facilities access to which is granted under this paragraph.
- (3) In the event of a dispute, the amount of the charge is to be determined by OFCOM.

Commencement Information

I9 Sch. 12 para. 11 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Programme standards

- 12 It shall be the duty of the Welsh Authority in relation to their public television services to observe the standards set under section 319.

Commencement Information

I10 Sch. 12 para. 12 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

- 13 It shall be the duty of the Welsh Authority to comply with a direction given to them by OFCOM with respect to the establishment of procedures for the handling and resolution of complaints about the observance by the Authority of standards set under section 319.

Status: This version of this schedule contains provisions that are prospective.

Changes to legislation: Communications Act 2003, SCHEDULE 12 is up to date with all changes known to be in force on or before 13 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

Commencement Information

I11 Sch. 12 para. 13 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

- 14 (1) It shall be the duty of the Welsh Authority to comply with directions given to them by OFCOM with respect to any of the matters mentioned in sub-paragraph (2).
- (2) Those matters are—
- (a) the exclusion from any of the Authority’s public television services of a particular advertisement, or its exclusion in particular circumstances;
 - (b) the descriptions of advertisements and methods of advertising to be excluded from the services so provided (whether generally or in particular circumstances); ^{F3}...
 - (c) the methods of sponsorship to be excluded from those services (whether generally or in particular circumstances) [^{F4}; and
 - (d) the forms and methods of product placement to be excluded from those services (including descriptions of products, services or trade marks product placement of which is to be excluded) (whether generally or in particular circumstances).]

Textual Amendments

F3 Word in Sch. 12 para. 14(2)(b) omitted (16.4.2010) by virtue of [The Audiovisual Media Services \(Product Placement\) Regulations 2010 \(S.I. 2010/831\)](#), **regs. 1(1), 10(3)(a)**

F4 Sch. 12 para. 14(2)(d) and word inserted (16.4.2010) by [The Audiovisual Media Services \(Product Placement\) Regulations 2010 \(S.I. 2010/831\)](#), **regs. 1(1), 10(3)(b)**

Modifications etc. (not altering text)

C1 Sch. 12 para. 14(1) 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. 1(d)** (with art. 5)

Commencement Information

I12 Sch. 12 para. 14 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

- 15 (1) This paragraph applies if OFCOM are satisfied—
- [^{F5}(a) that the Welsh Authority have failed in any respect to perform any of their duties under—
 - (i) paragraphs 12 to 14,
 - (ii) paragraph 23A,
 - (iii) section 368D(1) except so far as it relates to advertising,
 - (iv) section 368D(2),
 - (v) section 368D(3)(zza), (zb), (a) or (b), or
 - (vi) section 368E(4) except so far as it relates to advertising; and]
 - (b) that the failure can be appropriately remedied by the inclusion in any or all of the Authority’s public television services [^{F6}or on-demand programme services] of a correction or a statement of findings.

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- (2) OFCOM may direct the Welsh Authority to include a correction or a statement of findings (or both) in any one or more of their public television services [^{F7}or on-demand programme services] .
- (3) A direction may require the correction or statement of findings to be in such form, and to be included in programmes at such time or times, as OFCOM may determine.
- (4) OFCOM are not to give a direction under this paragraph unless they have given the Welsh Authority a reasonable opportunity of making representations to them about the matters appearing to OFCOM to provide grounds for the giving of the direction.
- (5) Where the Welsh Authority include a correction or a statement of findings in any of their public television services [^{F8}or on-demand programme services] in pursuance of a direction under this paragraph, the Authority may announce that they are doing so in pursuance of such a direction.
- (6) For the purposes of this paragraph a statement of findings, in relation to a case in which OFCOM are satisfied that the Welsh Authority have failed to perform a duty [^{F9}mentioned in sub-paragraph (1)(a)] , is a statement of OFCOM's findings in relation to that failure.

Textual Amendments

- F5** Sch. 12 para. 15(1)(a) substituted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **45(b)** (with Pt. 7)
- F6** Words in Sch. 12 para. 15(1)(b) inserted (19.12.2009) by [Audiovisual Media Services Regulations 2009 \(S.I. 2009/2979\)](#), regs. 1(1), **4(2)(b)**
- F7** Words in Sch. 12 para. 15(2) inserted (19.12.2009) by [Audiovisual Media Services Regulations 2009 \(S.I. 2009/2979\)](#), regs. 1(1), **4(2)(b)**
- F8** Words in Sch. 12 para. 15(5) inserted (19.12.2009) by [Audiovisual Media Services Regulations 2009 \(S.I. 2009/2979\)](#), regs. 1(1), **4(2)(b)**
- F9** Words in Sch. 12 para. 15(6) substituted (18.3.2010) by [The Audiovisual Media Services Regulations 2010 \(S.I. 2010/419\)](#), regs. 1(1), **14(3)**

Modifications etc. (not altering text)

- C2** Sch. 12 para. 15(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. 2(d)** (with art. 5)

Commencement Information

- I13** Sch. 12 para. 15 in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), **Sch. 1** (with art. 11)

Directions with respect to advertising

- 16 (1) The Welsh Authority must comply with directions given to them by OFCOM with respect to any of the matters mentioned in sub-paragraph (2).
- (2) Those matters are—
- (a) the maximum amount of time to be given to advertisements in any hour or other period;
 - (b) the minimum interval which must elapse between any two periods given over to advertisements;

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- (c) the number of such periods to be allowed in any programme or in any hour or day; and
 - (d) the exclusion of advertisements from a specified part of S4C or S4C Digital.
- (3) Directions under this paragraph—
- (a) may be either general or specific;
 - (b) may be qualified or unqualified; and
 - (c) may make different provision for different parts of the day, different days of the week, different types of programmes or for other differing circumstances.
- (4) In giving a direction under this paragraph, OFCOM shall take account of such of the international obligations of the United Kingdom as the Secretary of State may notify to them for the purposes of this paragraph.

Commencement Information

I14 Sch. 12 para. 16 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Fairness standards

- 17 It shall be the duty of the Welsh Authority to secure the observance—
- (a) in connection with the provision of their public television services, and
 - (b) in relation to the programmes included in those services,
- of the code for the time being in force under section 107 of the 1996 Act (the fairness code).

Commencement Information

I15 Sch. 12 para. 17 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

Party political broadcasts

- 18 (1) It shall be the duty of the Welsh Authority to include—
- (a) party political broadcasts, and
 - (b) referendum campaign broadcasts,
- in every designated public service of theirs.
- (2) The Welsh Authority must prepare, publish and from time to time review and revise their policy with respect to—
- (a) party political broadcasts and referendum campaign broadcasts; and
 - (b) the manner in which they propose to perform their duty under subparagraph (1).
- (3) The Welsh Authority’s policy may, in particular, include provision for determining—
- (a) the political parties on whose behalf party political broadcasts may be made;
 - (b) in relation to each political party on whose behalf such broadcasts may be made, the length and frequency of the broadcasts; and
 - (c) in relation to each designated organisation on whose behalf referendum campaign broadcasts are required to be broadcast, the length and frequency of such broadcasts.

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- (4) That policy is to have effect subject to sections 37 and 127 of the Political Parties, Elections and Referendums Act 2000 (c. 41) (only registered parties and designated organisations to be entitled to party political broadcasts or referendum campaign broadcasts).
- (5) In preparing or revising their policy with respect to the inclusion of party political broadcasts or referendum campaign broadcasts in their designated public services, the Welsh Authority must have regard to—
- (a) any views expressed for the purposes of this paragraph by the Electoral Commission; and
 - (b) any rules made by OFCOM under section 333.
- (6) The services that are designated public services for the purposes of this paragraph are—
- (a) S4C;
 - (b) S4C Digital; and
 - (c) any of the Welsh Authority’s other public television services which is designated for the purposes of this paragraph by the order under section 205 approving its provision.
- (7) In this paragraph—
- “designated organisation”, in relation to a referendum, means a person or body designated by the Electoral Commission under section 108 of the Political Parties, Elections and Referendums Act 2000 in respect of that referendum; and
 - “referendum campaign broadcast” has the meaning given by section 127 of that Act.

Modifications etc. (not altering text)

C3 Sch. 12 para. 18 excluded (13.2.2013) by [The Scotland Act 1998 \(Modification of Schedule 5\) Order 2013 \(S.I. 2013/242\)](#), arts. 2, **4(3)(c)**

Commencement Information

I16 Sch. 12 para. 18 in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), **Sch. 1** (with art. 11)

Duty to publicise complaints procedures etc.

- 19 (1) It shall be the duty of the Welsh Authority to make arrangements for securing that the matters mentioned in sub-paragraph (2) are brought to the attention of the public (whether by means of broadcasts or otherwise).
- (2) Those matters are—
- (a) OFCOM’s functions under Part 5 of the 1996 Act in relation to services provided by the Welsh Authority; and
 - (b) any procedures established by OFCOM or the Authority for the handling and resolution of complaints about the observance by the Authority of standards set under section 319 ^{[^{F10}}or about compliance by the Authority with the requirements imposed by section 368D ^{[^{F11}}and section 368E(4)], except the ^{[^{F12}}requirements mentioned in sub-paragraph (3)].

Status: This version of this schedule contains provisions that are prospective.

Changes to legislation: *Communications Act 2003, SCHEDULE 12 is up to date with all changes known to be in force on or before 13 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*

- [^{F13}(3) The requirements mentioned in this sub-paragraph are—
- (a) the requirements imposed by sections 368D(1) and 368E(4) so far as they relate to advertising, and
 - (b) the requirement imposed by section 368D(3)(za).]

Textual Amendments

- F10** Words in Sch. 12 para. 19(2)(b) inserted (19.12.2009) by [Audiovisual Media Services Regulations 2009 \(S.I. 2009/2979\)](#), regs. 1(1), **4(3)**
- F11** Words in Sch. 12 para. 19(2)(b) substituted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **45(c)(i)** (with Pt. 7)
- F12** Words in Sch. 12 para. 19(2)(b) substituted (18.3.2010) by virtue of [The Audiovisual Media Services Regulations 2010 \(S.I. 2010/419\)](#), regs. 1(1), **14(4)**
- F13** Sch. 12 para. 19(3) substituted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **45(c)(ii)** (with Pt. 7)

Commencement Information

- I17** Sch. 12 para. 19 in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), **Sch. 1** (with art. 11)

Monitoring of programmes

- 20 (1) It shall be the duty of the Welsh Authority—
- (a) in respect of every programme included in any of their public television services, to retain a recording of the programme in the form, and for the period, specified by OFCOM;
 - (b) to comply with any request to produce such recordings to OFCOM for examination or reproduction; and
 - (c) to comply, to the extent that they are able to do so, with any request to produce to OFCOM a script or transcript of a programme included in any of their public television services.
- (2) The period specified for the purposes of sub-paragraph (1)(a) must be a period not exceeding ninety days.

Commencement Information

- I18** Sch. 12 para. 20 in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), **Sch. 1** (with art. 11)

Compliance with international obligations

- 21 (1) OFCOM may give the Welsh Authority such directions as OFCOM consider appropriate for securing that all relevant international obligations are complied with.
- (2) It shall be the duty of the Authority to comply with a direction under this paragraph.
- (3) Before giving a direction under this paragraph, OFCOM must consult the Authority.
- (4) In this paragraph “relevant international obligations” means the international obligations of the United Kingdom which have been notified to OFCOM by the Secretary of State for the purposes of this paragraph.

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Commencement Information

I19 Sch. 12 para. 21 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

Services for ^{F14}people with disabilities

Textual Amendments

F14 Words in Sch. 12 para. 22 heading substituted (1.11.2020) by The Audiovisual Media Services Regulations 2020 (S.I. 2020/1062), regs. 1(2), **19** (with Pt. 7)

- 22 It shall be the duty of the Welsh Authority to observe the code for the time being in force under section 303 in the provision of—
- (a) S4C Digital; and
 - (b) so much of any of the Welsh Authority's other public television services as is provided in digital form.

Commencement Information

I20 Sch. 12 para. 22 in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

Equality of opportunity

- 23 (1) It shall be the duty of the Welsh Authority to make such arrangements as they consider appropriate for promoting, in relation to employment with the Authority, equality of opportunity—
- (a) between men and women; and
 - (b) between persons of different racial groups.
- (2) It shall be the duty of the Welsh Authority to make arrangements for promoting, in relation to employment with the Authority, the equalisation of opportunities for disabled persons.
- (3) The Welsh Authority shall also make such arrangements as they consider appropriate for the training and retraining of persons whom they employ in or in connection with—
- (a) the provision of one or more of their public services; or
 - (b) the making of programmes to be included in one or more of those services.
- (4) The Welsh Authority—
- (a) shall take all such steps as they consider appropriate for making persons affected by any arrangements made in pursuance of sub-paragraphs (1) to (3) aware of the arrangements (including the publication of the arrangements in such manner as they think fit);
 - (b) shall review the arrangements from time to time; and
 - (c) shall, from time to time (and at least annually), publish, in such manner as they consider appropriate, their observations on the current operation and effectiveness of the arrangements.

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- (5) Before making any arrangements in pursuance of any of sub-paragraphs (1) to (3) or determining the manner in which they will comply with sub-paragraph (4), the Welsh Authority must consult OFCOM.
- (6) In this paragraph—
 “disabled” has the same meaning as in [^{F15}the Equality Act 2010 or, in Northern Ireland,] the Disability Discrimination Act 1995 (c. 50);
 “racial group” has the same meaning as in the [^{F16}Race Relations Act 1976 (c. 74)] [^{F16}the Equality Act 2010] or, in Northern Ireland, the Race Relations (Northern Ireland) Order 1997 (S.I. 1997/869 (N.I. 6)).
- (7) The Secretary of State may by order amend sub-paragraph (1) by adding any other form of equality of opportunity that he considers appropriate to that sub-paragraph.
- (8) No order is to be made containing provision authorised by sub-paragraph (7) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

Textual Amendments

- F15** Words in Sch. 12 para. 23(6) inserted by virtue of 2010 c. 15, Sch. 26 Pt. 1 para. 56(a) (as inserted (E.W.S.) (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010](#) (S.I. 2010/2279), art. 1(2), [Sch. 1 para. 5](#)) (see S.I. 2010/2317, art. 2)
- F16** Words in Sch. 12 para. 23(6) substituted by 2010 c. 15, Sch. 26 Pt. 1 para. 56(b) (as inserted (E.W.S.) (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010](#) (S.I. 2010/2279), art. 1(2), [Sch. 1 para. 5](#)) (see S.I. 2010/2317, art. 2)

Commencement Information

- I21** Sch. 12 para. 23 in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

[^{F17}On-demand programme services

Textual Amendments

- F17** Sch. 12 para. 23A and cross-heading inserted (19.12.2009) by [Audiovisual Media Services Regulations 2009](#) (S.I. 2009/2979), regs. 1(1), [4\(4\)](#)

- 23A. (1) It is the duty of the Welsh Authority to comply with a direction given to them by OFCOM in relation to the establishment of procedures for the handling and resolution of complaints about compliance by the Authority with the requirements imposed by section 368D or [^{F18}section 368E(4)].
- [^{F19}(2) But OFCOM must not give any such direction in relation to the handling and resolution of complaints about compliance with—
- (a) the requirements imposed by section 368D(1) or 368E(4) so far as they relate to advertising, or
 - (b) the requirement imposed by section 368D(3)(za).]]

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Textual Amendments

- F18** Words in Sch. 12 para. 23A(1) substituted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **45(d)(i)** (with Pt. 7)
- F19** Sch. 12 para. 23A(2) substituted (1.11.2020) by [The Audiovisual Media Services Regulations 2020 \(S.I. 2020/1062\)](#), regs. 1(2), **45(d)(ii)** (with Pt. 7)

Meaning of Welsh Authority's public services

- 24 (1) In this Part of this Schedule, 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.
- (2) References in this Schedule to a public television service of the Welsh Authority are references to any public service of the Authority which is a television programme service.

Commencement Information

- I22** Sch. 12 para. 24 in force at 29.12.2003 by [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

Status:

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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\(1\)](#)