

Status: Point in time view as at 18/09/2003.

Changes to legislation: Broadcasting Act 1990, Part I is up to date with all changes known to be in force on or before 14 July 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)

SCHEDULES

SCHEDULE 2

RESTRICTIONS ON THE HOLDING OF LICENCES

PART I

GENERAL

1 (1) In this Schedule—

[^{F1}“the 1996 Act” means the Broadcasting Act 1996;]

“advertising agency” means an individual or a body corporate who carries on business as an advertising agent (whether alone or in partnership) or has control over any body corporate which carries on business as an advertising agent, and any reference to an advertising agency includes a reference to an individual who—

- (a) is a director or officer of any body corporate which carries on such a business, or
 - (b) is employed by any person who carries on such a business;
- “associate”—

[^{F2}(a) in relation to a body corporate, shall be construed in accordance with paragraph (1A), and]

- (b) in relation to an individual, shall be construed in accordance with subparagraph (2);
- “control”—

- (a) in relation to a body corporate, shall be construed in accordance with subparagraph (3), and
- (b) in relation to any body other than a body corporate, means the power of a person to secure, [^{F3}by whatever means and whether directly or indirectly], that the affairs of the first-mentioned body are conducted in accordance with the wishes of that person;

[^{F4}“coverage area”, in relation to a service, shall be construed in accordance with paragraph 3A;

“digital programme service” has the same meaning as in Part I of the 1996 Act;]

“equity share capital” has the same meaning as in the ^{M1}Companies Act 1985;

“local authority”—

- (a) in relation to England ^{F5}. . . , means any of the following, that is to say, the council of a county, district or London borough, the Common Council of the City of London and the Council of the Isles of Scilly;

[^{F6}(aa) in relation to Wales, means a county council or county borough council;]

Status: Point in time view as at 18/09/2003.

Changes to legislation: Broadcasting Act 1990, Part I is up to date with all changes known to be in force on or before 14 July 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)

- (b) in relation to Scotland, means a [^{F7}council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]; and
- (c) in relation to Northern Ireland, means a district council;
 - “local delivery licence” has the meaning given by section 72(5), and
 - “local delivery service” has the meaning given by section 72(1);
 - [^{F8}“local digital sound programme service” and “national digital sound programme service” have the same meaning as in Part II of the 1996 Act;
 - “local radio multiplex service” and “national radio multiplex service” have the same meaning as in Part II of the 1996 Act;]
 - “participant”, in relation to a body corporate, means a person who holds or is beneficially entitled to shares in that body or who possesses voting power in that body.
 - [^{F9}“television multiplex service” means a multiplex service within the meaning of Part I of the 1996 Act.]

[^{F10}(1A) For the purpose of determining the persons who are the associates of a body corporate for the purposes of this Schedule—

- (a) an individual shall be regarded as an associate of a body corporate if he is a director of that body corporate, and
- (b) a body corporate and another body corporate shall be regarded as associates of each other if one controls the other or if the same person controls both.]

(2) For the purpose of determining the persons who are an individual’s associates for the purposes of this Schedule, the following persons shall be regarded as associates of each other, namely—

- (a) any individual and that individual’s husband or wife and any relative, or husband or wife of a relative, of that individual or of that individual’s husband or wife;
- (b) any individual and any body corporate of which that individual is a director;
- (c) any person in his capacity as trustee of a settlement and the settlor or grantor and any person associated with the settlor or grantor;
- (d) persons carrying on business in partnership and the husband or wife and relatives of any of them;
- (e) any two or more persons acting together to secure or exercise control of a body corporate or other association or to secure control of any enterprise or assets;

and in this sub-paragraph “relative” means a brother, sister, uncle, aunt, nephew, niece, lineal ancestor or descendant (the stepchild or illegitimate child of any person, or anyone adopted by a person, whether legally or otherwise, as his child, being regarded as a relative or taken into account to trace a relationship in the same way as that person’s child); and references to a wife or husband shall include a former wife or husband and a reputed wife or husband.

[^{F11}(3) For the purposes of this Schedule a person controls a body corporate if—

- (a) he holds, or is beneficially entitled to, more than 50 per cent. of the equity share capital in the body, or possesses more than 50 per cent. of the voting power in it, or
- (b) although he does not have such an interest in the body, it is reasonable, having regard to all the circumstances, to expect that he will be able, by

Status: Point in time view as at 18/09/2003.

Changes to legislation: Broadcasting Act 1990, Part I is up to date with all changes known to be in force on or before 14 July 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)

- whatever means and whether directly or indirectly, to achieve the result that the affairs of the body are conducted in accordance with his wishes; or
- (c) he holds, or is beneficially entitled to, 50 per cent. of the equity share capital in that body, or possesses 50 per cent. of the voting power in it, and an arrangement exists between him and any other participant in the body as to the manner in which any voting power in the body possessed by either of them is to be exercised, or as to the omission by either of them to exercise such voting power.
- (3A) For the purposes of sub-paragraph (3)(c)—
- (a) “arrangement” includes any agreement or arrangement, whether or not it is, or is intended to be, legally enforceable, and
- (b) a person shall be treated—
- (i) as holding, or being beneficially entitled to, any equity share capital which is held by a body corporate which he controls or to which such a body corporate is beneficially entitled, and
- (ii) as possessing any voting power possessed by such a body corporate.]
- (4)
- (5) For the purposes of any provision of this Schedule which refers to a body controlled by two or more persons or bodies of any description taken together, the persons or bodies in question shall not be regarded as controlling the body by virtue of paragraph (b) of sub-paragraph (3) unless they are acting together in concert.
- [^{F12}(6) In this Schedule any reference to a participant with more than a 20 per cent. interest in a body corporate is a reference to a person who—
- (a) holds or is beneficially entitled to more than 20 per cent. of the shares in that body, or
- (b) possesses more than 20 per cent. of the voting power in that body.
- (7) Sub-paragraph (6) shall have effect subject to the necessary modifications in relation to other references in this Schedule—
- (a) to an interest of more than a specified percentage in a body corporate, or
- (b) to an interest of a specified percentage or more in a body corporate.
- (8) Any reference in this Schedule to a person who is over a particular age is a reference to a person who has attained that age.]

Textual Amendments

- F1** Definition inserted in Sch. 2 Pt. I para. 1(1) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(2)(a)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F2** Definition in Sch. 2 Pt. I para. 1(1) substituted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1** (2)(b) (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F3** Words in Sch. 2 Pt. I para. 1(1) substituted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(2)(c)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F4** Definitions in Sch. 2 Pt. I para. 1(1) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(2)(d)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F5** Sch. 2 Pt. I: Words in definition “local authority” in para. 1(1)(a) repealed (1.4.1996) by 1994 c. 19, ss. 66(6)(8), Sch. 16 para. 89, **Sch. 18**. (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

Status: Point in time view as at 18/09/2003.

Changes to legislation: Broadcasting Act 1990, Part I is up to date with all changes known to be in force on or before 14 July 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)

- F6** Sch. 2 Pt. I para. 1(1)(aa) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 89** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F7** Sch. 2 Pt. I para. 1(1)(b): Words beginning “council constituted” to “(Scotland Act 1994)” substituted (S.) (1.4.1996) for words “regional, islands or district council” by 1994 c. 39, s. 180(1), **Sch. 13 para. 166** (with s. 128(8)); S.I. 1996/323, **art. 4(c)**
- F8** Definitions in Sch. 2 Pt. I para. 1(1) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(2)(e)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F9** Definition of “television multiplex service” in Sch. 2 Pt. I para. 1(1) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(2)(f)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F10** Sch. 2 Pt. I para. 1(1A) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(3)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F11** Sch. 2 Pt. I para. 1(3) substituted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(4)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F12** Sch. 2 Pt. I para. 1(6)(7)(8) substituted (10.8.1996 for certain purposes otherwise 1.11.1996) for sub-paragraph (6) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(6)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**

Marginal Citations

M1 1985 c. 6.

- 2 (1) [^{F13}Subject to sub-paragraph (1A)] Any reference in paragraph 1 above to a person—
- (a) holding or being entitled to shares, or any amount of the shares or equity share capital, in a body corporate, or
 - (b) possessing voting power, or any amount of the voting power, in a body corporate,
- is a reference to his doing so, or being so entitled, whether alone or jointly with one or more other persons and whether directly or through one or more nominees.
- [^{F14}(1A) For the purposes of this Schedule, a person’s holding of shares, or possession of voting power, in a body corporate shall be disregarded if, or to the extent that—
- (a) he holds the shares concerned—
 - (i) as a nominee,
 - (ii) as a custodian (whether under a trust or by a contract), or
 - (iii) under an arrangement pursuant to which he has issued, or is to issue, depositary receipts, as defined by section 220(1) of the Companies Act 1985, in respect of the shares concerned, and
 - (b) he is not entitled to exercise or control the exercise of voting rights in respect of the shares concerned.
- (1B) For the purposes of sub-paragraph (1A)(b)—
- (a) a person is not entitled to exercise or control the exercise of voting rights in respect of shares if he is bound (whether by contract or otherwise) not to exercise the voting rights, or not to exercise them otherwise than in accordance with the instructions of another, and
 - (b) voting rights which a person is entitled to exercise or of which he is entitled to control the exercise only in certain circumstances shall be taken into account only when those circumstances have arisen and for as long as they continue to obtain.]

^{F15}(2)

Status: Point in time view as at 18/09/2003.

Changes to legislation: Broadcasting Act 1990, Part I is up to date with all changes known to be in force on or before 14 July 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)

^{F16}(3)

Textual Amendments

- F13** Words in Sch. 2 Pt. I para. 2(1) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 2(2)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F14** Sch. 2 Pt. I para. 2(1A)(1B) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 2(3)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F15** Sch. 2 Pt. I para. 2(2) repealed (1.11.1996) by 1996 c. 55, s. 148(2), **Sch. 11 Pt. I** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**
- F16** Sch. 2 Pt. I para. 2(3) repealed (1.11.1996) by 1996 c. 55, s. 148(2), **Sch. 11 Pt. I** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**

- [^{F173} For the purposes of this Schedule the following persons shall be treated as connected with a particular person—
- (a) a person who controls that person,
 - (b) an associate of that person or of a person falling within paragraph (a), and
 - (c) a body which is controlled by that person or by an associate of that person.]

Textual Amendments

- F17** Sch. 2 Pt. I para. 3 substituted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 3** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**

- [^{F183A}(1) In this Schedule “coverage area”—
- (a) in relation to any service licensed by the Commission under Part I of this Act or a television multiplex service licensed by them under Part I of the 1996 Act, means the area of the United Kingdom from time to time determined by the Commission as that within which the service is capable of being received at a level satisfying such technical standards as they may from time to time determine,
 - (b) in relation to any digital programme service which is broadcast by means of a television multiplex service, means the area of the United Kingdom from time to time determined by the Commission as that within which the digital programme service as so broadcast is capable of being received at such a level,
 - (c) in relation to any service licensed by the Authority under Part III of this Act, means the area of the United Kingdom from time to time determined by the Authority as that within which the service is capable of being received at a level satisfying such technical standards as they may from time to time determine, and
 - (d) in relation to any local radio multiplex service licensed by the Authority under Part II of the 1996 Act or any local digital sound programme service which is broadcast by means of such a local radio multiplex service, means the area of the United Kingdom from time to time determined by the Authority as that within which the local radio multiplex service is capable of being received at such a level.
- (2) Where the Commission or the Authority make any determination under this paragraph, they shall—

Status: Point in time view as at 18/09/2003.

Changes to legislation: Broadcasting Act 1990, Part I is up to date with all changes known to be in force on or before 14 July 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)

- (a) publish the determination in such manner as they think fit, and
- (b) send a copy of it to such persons holding licences granted by them as appear to them to be affected by the determination.]

Textual Amendments

F18 Sch. 2 Pt. I paras. 3A, 3B inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 4** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**

^{F19}3B (1) For the purposes of this Schedule—

- (a) a person who holds a licence to provide digital programme services shall be taken to provide a digital programme service if, under a contract between him and a person who holds a licence to provide a television multiplex service, that person is obliged to broadcast the digital programme service by means of the television multiplex service;
- (b) a person who holds a licence to provide national digital sound programme services shall be taken to provide a national digital sound programme service if, under a contract between him and a person who holds a licence to provide a national radio multiplex service, that person is obliged to broadcast the national digital sound programme service by means of the national radio multiplex service;
- (c) a person who holds a licence to provide local digital sound programme services shall be taken to provide a local digital sound programme service if, under a contract between him and a person who holds a licence to provide a local radio multiplex service, that person is obliged to broadcast the local digital sound programme service by means of the local radio multiplex service.

(2) For the purposes of this Schedule a person who holds a licence to provide digital programme services, national digital sound programme services or local digital sound programme services shall also be taken to provide a digital programme service, a national digital sound programme service or a local digital sound programme service (as the case may be) if he also holds a relevant multiplex licence and is broadcasting that service under that licence.

(3) In sub-paragraph (2), “relevant multiplex licence” means—

- (a) in relation to digital programme services, a licence to provide a television multiplex service,
- (b) in relation to national digital sound programme services, a licence to provide a national radio multiplex service, and
- (c) in relation to local digital sound programme services, a licence to provide a local radio multiplex service.

Textual Amendments

F19 Sch. 2 Pt. I paras. 3A, 3B inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 4** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**

4 An order under [^{F20}any provision of this Schedule other than paragraph 7 in Part III] shall not be made by the Secretary of State unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

Status: Point in time view as at 18/09/2003.

Changes to legislation: Broadcasting Act 1990, Part I is up to date with all changes known to be in force on or before 14 July 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)

Textual Amendments

F20 Words in Sch. 2 Pt. I para. 4 substituted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 5** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**

Status:

Point in time view as at 18/09/2003.

Changes to legislation:

Broadcasting Act 1990, Part I is up to date with all changes known to be in force on or before 14 July 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.