



# Media Act 2024

## 2024 CHAPTER 15

### PART 3

#### PUBLIC SERVICE BROADCASTERS

#### CHAPTER 1

#### C4C

### 29 Sustainability duty of C4C

- (1) The Broadcasting Act 1990 is amended as follows.
- (2) After section 23 insert—

#### **“23A Sustainability duty of Corporation**

- (1) The Corporation must carry on their activities in the way that they have reasonable grounds to consider would be most likely to enable the Corporation, over the long term—
  - (a) to maintain or increase the amount of activity that is done in pursuance of their primary functions, and
  - (b) to be securely in a position to meet costs incurred in the carrying out of their primary functions.
- (2) In this section, “primary functions” has the same meaning as in section 199(1) of the Communications Act 2003.”
- (3) In Schedule 3 (the Channel Four Television Corporation: supplementary provisions), in paragraph 13 (annual reports), after sub-paragraph (1) insert—
  - “(1A) The report must include a report on the discharge by the Corporation of their duty under [section 23A](#) (sustainability duty of Corporation).”

### 30 C4C’s duties in relation to commissioning programmes

- (1) The Communications Act 2003 is amended as follows.
- (2) After section 198A insert—

#### **“198AA C4C’s duties in relation to commissioning programmes**

- (1) C4C must take steps to enable competition for commissions from C4C to make programmes, other than advertisements, for inclusion in services provided by C4C that fall within [subsection \(2\)](#).
  - (2) A service falls within this subsection if it is—
    - (a) a television broadcasting service,
    - (b) a television licensable content service,
    - (c) a digital television programme service,
    - (d) an on-demand programme service that is or forms part of a designated internet programme service, or
    - (e) a non-UK on-demand programme service that is or forms part of a designated internet programme service.
  - (3) C4C must put in place and adhere to procedures that facilitate fair competition for such commissions, including procedures for referring disputes with C4C to mediation.
  - (4) In this section, “designated internet programme service” has the same meaning as in Part 3A (see [section 362AZ12](#)).”
- (3) In section 198B (statement of media content policy)—
- (a) in the heading—
    - (i) for “Statement” substitute “Statements”;
    - (ii) at the end insert “and commissioning policy”;
  - (b) after subsection (1) insert—
 

“(1A) C4C must prepare a statement of commissioning policy at the same time as they prepare a statement of media content policy.”;
  - (c) in subsection (2), after “policy” insert “or commissioning policy”;
  - (d) after subsection (3) insert—
 

“(3A) A statement of commissioning policy must—

    - (a) set out C4C’s proposals for securing that, during the following year, they will discharge their duties under [section 198AA](#), and
    - (b) include a report on their performance in carrying out the proposals contained in the previous statement.”;
  - (e) in subsection (4), for “the statement” substitute “a statement of media content policy or commissioning policy”;
  - (f) in subsection (5), after “policy” insert “or commissioning policy”.
- (4) In section 198C (OfCOM reports on C4C’s media content duties)—
- (a) in the heading, at the end insert “and commissioning duties”;
  - (b) in subsection (1), in paragraph (a), for “section 198A” substitute “sections 198A and [198AA](#)”.

- (5) In section 198D (directions in relation to C4C’s media content duties)—
  - (a) in the heading, at the end insert “and commissioning duties”;
  - (b) in subsection (1), in paragraph (a)—
    - (i) after “198A” insert “, 198AA”;
    - (ii) for “198B(1), (3)” substitute “198B(1), (1A), (3), (3A)”;
  - (c) in subsection (2)(a), after “policy” insert “or (as the case may be) commissioning policy”;
  - (d) in subsection (3)(a), after “policy” insert “or (as the case may be) commissioning policy”.
- (6) In section 271A (remedying failure by C4C to perform media content duties)—
  - (a) in subsection (1)(a), after “198A” insert “or 198AA”;
  - (b) in subsection (2), after “198A” insert “or 198AA”.

### **31 Involvement of C4C in programme-making**

- (1) In the Communications Act 2003, omit section 295 (which restricts C4C’s involvement in programme-making).
- (2) Subsections (3) and (4) apply if, after the coming into force of subsection (1), C4C or a body corporate controlled by C4C engage in the making of one or more programmes with a view to their being broadcast on Channel 4.
- (3) In carrying out a review under section 264 of the Communications Act 2003 in relation to the relevant report period, OFCOM must consider whether and to what extent the making of programmes by C4C or a body corporate controlled by C4C with a view to their being broadcast on Channel 4 has affected the fulfilment of the public service remit for television in the United Kingdom.
- (4) The report on that review must set out the findings of OFCOM on their consideration of the matter mentioned in subsection (3) and any conclusions that they have arrived at in relation to those findings.
- (5) For the purposes of this section—
  - (a) the relevant report period is the first report period to end on or after the relevant day, and
  - (b) the relevant day is the third anniversary of the first day on which, following the coming into force of subsection (1), C4C or a body corporate controlled by C4C engages in the making of a programme with a view to its being broadcast on Channel 4.
- (6) In this section—
  - “broadcast” has the same meaning as in the Communications Act 2003;
  - “C4C” means the Channel Four Television Corporation;
  - “Channel 4” has the same meaning as in Part 1 of the Broadcasting Act 1990;
  - “controlled” has the same meaning as in Part 1 of the Broadcasting Act 1990;
  - “OFCOM” means the Office of Communications;
  - “programme” means a television programme (within the meaning of the Communications Act 2003) other than an advertisement;

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“the public service remit for television in the United Kingdom” has the meaning given by section 264 of the Communications Act 2003;

“report period” means a period selected by OFCOM for the purposes of section 264(1)(b) of the Communications Act 2003.

## CHAPTER 2

### S4C

#### 32 S4C’s powers and public service remit

- (1) The Communications Act 2003 is amended in accordance with [subsections \(2\) and \(3\)](#).
- (2) For sections 204 to 206 (S4C’s functions and main powers), substitute—

##### **“204A S4C’s principal powers and public service remit**

- (1) S4C may make available any audiovisual content.
- (2) S4C’s public service remit is to make available a broad range of high quality and diverse audiovisual content—
  - (a) a substantial proportion of which is in Welsh,
  - (b) which is all capable of being taken into account for the purpose of determining the extent to which the public service remit for television in the United Kingdom is fulfilled (see section 264(7) to (8C)), and
  - (c) which, considered as a whole, constitutes an adequate contribution to the fulfilment of that remit.
- (3) S4C must exercise the power in [subsection \(1\)](#) to fulfil its public service remit.
- (4) S4C may do anything it considers appropriate in association with anything it does in exercise of the power in [subsection \(1\)](#).
- (5) In this section “audiovisual content” has the same meaning as in section 264.
- (6) [Subsection \(13\)](#) of section 264 (interpretation of “made available”) applies for the purposes of this section as it applies for the purposes of that section.

##### **204B Restrictions on S4C’s powers**

- (1) S4C must obtain the Secretary of State’s approval in writing before (whether under [section 204A](#) or otherwise)—
  - (a) providing any television programme services;
  - (b) doing anything for a charge or with a view to making a profit.
- (2) S4C must ensure that an S4C company obtains the Secretary of State’s approval in writing before the company does anything for a charge or with a view to making a profit.
- (3) An approval under this section may be—
  - (a) a general approval in relation to a description of activities, or
  - (b) a specific approval in relation to particular activities.

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- (4) For the purposes of this section, the carrying on of the following activities is treated as approved by the Secretary of State (so far as approval under this section would otherwise be required)—
  - (a) the provision of S4C Digital,
  - (b) each activity whose carrying on is approved under section 205 or 206 of this Act (S4C’s other activities) immediately before this section comes into force, and
  - (c) each activity which is being carried on by S4C or an S4C company immediately before this section comes into force.
- (5) S4C may not provide a service that would fall to be regulated under section 245 (independent radio services) if provided by an S4C company.

### **204C Publication of approvals under section 204B**

- (1) The Secretary of State must publish any approval under section 204B, subject to [subsection \(2\)](#).
  - (2) The Secretary of State must exclude from publication any matters which appear to the Secretary of State to be matters whose publication would or might seriously and prejudicially affect the interests of any person.
  - (3) This section does not apply in relation to activities treated under [section 204B\(4\)](#) as approved under that section.”
- (3) In section 207 (S4C: charging and borrowing etc), omit subsections (1) and (2).
  - (4) In Schedule 6 to the Broadcasting Act 1990 (S4C: supplementary provisions), in paragraph 1, for sub-paragraph (3) substitute—
    - “(3) In carrying out its functions S4C may carry on activities in any way whatever, including—
      - (a) through or with other persons;
      - (b) anywhere in the United Kingdom or elsewhere;
      - (c) with a view to making a profit;
      - (d) for a charge.”

## **33 The S4C Board**

- (1) The Broadcasting Act 1990 is amended in accordance with subsections (2) to (4).
- (2) In section 56 (Welsh Authority to continue in existence as S4C), for subsection (2) substitute—
  - “(2) The members of the S4C Board (see [section 56A](#) and [Schedule 6A](#)) are to be the members of S4C, but membership of S4C does not enable any person to act otherwise than through the S4C Board.”
- (3) After section 56 insert—

### **“56A The S4C Board**

- (1) A Board of S4C is established.

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- (2) That Board—
    - (a) is to be known as the S4C Board or (in Welsh) Bwrdd S4C, and
    - (b) is to be constituted in accordance with this Act.
  - (3) Except where otherwise provided by or under any enactment, the duties and powers of S4C are to be discharged and exercised by the S4C Board on behalf of S4C.
  - (4) [Schedule 6A](#) makes further provision about the S4C Board.”
- (4) After Schedule 6 insert—

“SCHEDULE 6A

Section 56A

THE S4C BOARD

**Membership**

- 1 (1) The S4C Board is to consist of—
    - (a) non-executive members, and
    - (b) executive members.
  - (2) The non-executive members are to be—
    - (a) a chair, and
    - (b) at least five, and not more than eight, other non-executive members.
  - (3) It is for the Secretary of State—
    - (a) to decide, in accordance with [sub-paragraph \(2\)\(b\)](#), the number of other non-executive members;
    - (b) to appoint the non-executive members.
  - (4) The executive members are to be—
    - (a) the employee of S4C holding the position of, or acting as, Chief Executive of S4C, and
    - (b) at least one and not more than two other employees of S4C.
  - (5) It is for the non-executive members, in accordance with [sub-paragraph \(4\)\(b\)](#)—
    - (a) to decide the number of other executive members;
    - (b) to appoint the other executive members.
  - (6) A person making an appointment under this paragraph must do so with a view to ensuring that, collectively, the members of the S4C Board have the range of skills and experience needed for the effective running of S4C.
- 2 (1) The members of the S4C Board must not at any time include a person who is a member or an employee of the BBC.
  - (2) The members of the S4C Board must not at any time include a person who is a member or an employee of OFCOM.
  - (3) The Secretary of State must—

- (a) before appointing a person to be a non-executive member of the S4C Board, be satisfied that the person will not have any financial or other interest likely to affect prejudicially the discharge of that person's duties as a member of the S4C Board, and
- (b) from time to time consider, in respect of each non-executive member of the S4C Board, whether that member has any such interest.

### **Tenure of office**

- 3 (1) A member of the S4C Board holds and vacates office in accordance with the terms of the member's appointment, subject to the provisions of this Schedule.
- (2) A non-executive member must be appointed for a fixed term of not more than five years.
- (3) A person who has held office as a non-executive member for two consecutive terms may not be re-appointed as a non-executive member until the end of the five years beginning with the end of the second of those terms.
- (4) A non-executive member ceases to be a member of the S4C Board if the member—
  - (a) becomes an employee of S4C, or
  - (b) resigns from office by giving written notice to the Secretary of State.
- (5) An executive member under [paragraph 1\(4\)\(a\)](#) ceases to be a member of the S4C Board on ceasing to be the Chief Executive of S4C.
- (6) Any other executive member ceases to be a member of the S4C Board if the member—
  - (a) ceases to be an employee of S4C, or
  - (b) resigns from office by giving written notice to S4C.

### **Remuneration and pensions of members**

- 4 (1) S4C may pay to each non-executive member of the S4C Board such remuneration and allowances as the Secretary of State may determine.
- (2) S4C may pay or make provision for paying to or in respect of any non-executive member of the S4C Board such sums by way of pensions, allowances or gratuities as the Secretary of State may determine.
- (3) S4C may pay compensation, of such amount as the Secretary of State may determine, to a person where—
  - (a) the person ceases to be a non-executive member of the S4C Board otherwise than on the expiry of the person's term of office, and
  - (b) it appears to the Secretary of State that there are special circumstances which make it right for the person to receive compensation.

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## Proceedings

- 5 (1) The S4C Board may regulate its own procedure (including quorum), subject to the provisions of paragraphs 6 and 7.
- (2) The S4C Board may make arrangements providing for the discharge of any of the S4C Board’s functions by—
- (a) a committee, or
  - (b) one or more persons each of whom is either a member of the S4C Board or an employee of S4C.
- 6 In managing the affairs of S4C the S4C Board must have regard to such generally accepted principles of good corporate governance as it is reasonable to regard as applicable to S4C.
- 7 (1) A member of the S4C Board who has an interest, whether directly or indirectly, in any matter that is brought up for consideration at a meeting of the S4C Board must disclose the nature of that interest to the meeting.
- (2) Where a disclosure is made under [sub-paragraph \(1\)](#)—
- (a) the disclosure must be recorded in the minutes of the meeting, and
  - (b) subject to [sub-paragraph \(3\)](#), the member must not take part in any deliberation or decision of the S4C Board, or any of its committees, with respect to that matter.
- (3) [Sub-paragraph \(2\)\(b\)](#) does not apply in relation to a meeting of the S4C Board at which all the other members present resolve that the member’s interest is to be disregarded for the purposes of that provision.
- (4) For the purposes of [sub-paragraph \(1\)](#)—
- (a) a general notification given at a meeting of the S4C Board that the member is to be regarded as interested in any matter involving a specified organisation is to be regarded as a sufficient disclosure of the member’s interest in relation to any such matter, and
  - (b) a member may make a disclosure under that sub-paragraph without attending a meeting of the S4C Board if the member takes reasonable steps to secure that the disclosure is made by a notice which is taken into consideration and read at a meeting.
- (5) References in this paragraph to a meeting of the S4C Board include references to a meeting of any of its committees.
- 8 The validity of any proceedings of S4C or the S4C Board is not affected by—
- (a) any vacancy among the members of the S4C Board,
  - (b) any defect in the appointment of a member of the S4C Board, or
  - (c) a failure to comply with the requirements of [paragraph 7](#).”
- (5) Any person who is the chair, or one of the other members, of S4C immediately before this section comes into force—
- (a) becomes the chair, or one of the other non-executive members, of the S4C Board on the coming into force of this section, and
  - (b) holds that office—



- (i) for the remainder of the term of the person’s appointment as chair or other member of S4C (subject to [paragraph 3\(4\) of Schedule 6A](#) to the Broadcasting Act 1990, as inserted by [subsection \(4\)](#) of this section), and
- (ii) on and subject to the terms of that appointment.

### **34 Accounts and audit**

- (1) Schedule 6 to the Broadcasting Act 1990 (S4C: supplementary provisions) is amended as follows.
- (2) For paragraph 12(2) and (3) (audit of S4C’s accounts by appointed auditor) substitute—
  - “(2A) S4C must send a copy of its statement of accounts to the Comptroller and Auditor General as soon as possible after the end of the financial year to which the statement relates.
  - (2B) The Comptroller and Auditor General must—
    - (a) examine, certify and report on each statement of accounts of S4C, and
    - (b) send a copy of the report and certified statement of accounts to the Secretary of State.
  - (2C) The Secretary of State must lay before Parliament a copy of each such report and certified statement.
  - (2D) As soon as possible after the Secretary of State lays copies of the report and statement of accounts before Parliament, S4C must arrange for the report and certified statement to be laid before Senedd Cymru.
  - (2E) S4C must ensure that each S4C subsidiary undertaking appoints the Comptroller and Auditor General as auditor, unless the S4C subsidiary undertaking requests the Comptroller and Auditor General’s permission to appoint another person and the Comptroller and Auditor General permits the appointment of that person as auditor.
  - (2F) The Comptroller and Auditor General may inspect the accounts of any S4C subsidiary undertaking (regardless of who is appointed as auditor).”
- (3) After paragraph 12(4) insert—
  - “(5) S4C must ensure that an S4C subsidiary undertaking, if told to do so by the Secretary of State or any person authorised by the Secretary of State, grants the Secretary of State or authorised person access to—
    - (a) that undertaking’s accounts;
    - (b) information and documents relating to that undertaking’s financial transactions and commitments.
  - (6) In this paragraph “S4C subsidiary undertaking” means an undertaking which, for the purposes of the Companies Act 2006, is a subsidiary undertaking of S4C (see section 1162 of that Act).”
- (4) Omit paragraph 13(2) (accounts and audit report to be attached to annual report).

### 35 Amendment of BBC’s obligation to provide Welsh programmes

- (1) Section 58 of the Broadcasting Act 1990 (sources of programmes for S4C) is amended as follows.
- (2) For subsections (1) and (1A) substitute—
  - “(1) The BBC must provide to S4C (free of charge) sufficient television programmes in Welsh to occupy not less than ten hours’ transmission time per week, in a way that meets the reasonable requirements of S4C.
  - (1A) The duty in [subsection \(1\)](#) does not apply during any period for which the BBC and S4C agree in writing to put in place alternative arrangements that contribute to S4C fulfilling its public service remit.
  - (1B) If the BBC and S4C make an agreement under [subsection \(1A\)](#) the BBC must, as soon as reasonably practicable, publish the terms of the agreement.
  - (1C) The BBC must exclude from publication any information which it or S4C considers—
    - (a) constitutes a trade secret, or
    - (b) would be likely, if published, to prejudice the commercial interests of any person,unless the BBC and S4C consider that there is an overriding public interest in publishing the information.”
- (3) Omit subsections (2) to (4) (which relate to S4C’s switched-off analogue service).
- (4) In subsection (5)—
  - (a) for “The Welsh Authority” substitute “S4C”;
  - (b) for “on S4C” substitute “on S4C Digital”.

### 36 Chapter 2 of Part 3: minor and consequential amendments

[Schedule 4](#) contains minor and consequential amendments relating to this Chapter.