
Status: This version of this contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects
for the Media Act 2024, Paragraph 11. (See end of Document for details)

SCHEDULES

PROSPECTIVE

SCHEDULE 6

TIER 1 SERVICES: FURTHER AMENDMENTS OF PART 4A OF THE 2003 ACT

11 (1) For section 368O (power to demand information) substitute—

“368O Power to require information

- (1) The appropriate regulatory authority may by notice require a person within [subsection \(5\)](#) to provide them with any information that they require for the purpose of carrying out their functions under this Part.
- (2) OFCOM may by notice require a person within [subsection \(5\)](#) to provide them with any information that they require for the purpose of carrying out their functions under Part 5 of the 1996 Act, so far as relating to Tier 1 services.
- (3) The power conferred by [subsection \(1\)](#) or [\(2\)](#) includes power to require a person within [subsection \(5\)](#) to obtain or generate information.
- (4) The power conferred by [subsection \(1\)](#) or [\(2\)](#) must be exercised in a way that is proportionate to the use to which the information is to be put by OFCOM.
- (5) The persons within this subsection are—
 - (a) a provider of an on-demand programme service or a non-UK on-demand programme service;
 - (b) a person who was a provider of an on-demand programme service or a non-UK on-demand programme service at a time to which the required information relates;
 - (c) a person who is not within [paragraph \(a\)](#) or [\(b\)](#) but who appears to the appropriate regulatory authority to have, or to be able to obtain or generate, information required by them as mentioned in [subsection \(1\)](#).
- (6) The information that the appropriate regulatory authority may require under [subsection \(1\)](#) includes, in particular, information that they require for any one or more of the following purposes—
 - (a) the purpose of determining whether a person is a provider of an on-demand programme service or a non-UK on-demand programme service;
 - (b) the purpose of determining whether a person is a provider of a Tier 1 service;

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

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Paragraph 11. (See end of Document for details)

- (c) the purpose of determining whether there has been any change of circumstances that may affect a determination mentioned in [paragraph \(a\)](#) or [\(b\)](#);
 - (d) the purpose of assessing compliance with any duty imposed on a provider of an on-demand programme service by or by virtue of Chapter 2;
 - (e) the purpose of assessing compliance with any duty imposed on a provider of a Tier 1 service by or by virtue of Chapter 3;
 - (f) the purpose of an investigation being carried out by the authority to determine whether a contravention of section 368BA, 368CB or 368D has occurred or is occurring;
 - (g) the purpose of an investigation being carried out by the authority to determine whether there has been a failure to take an appropriate measure for the purpose mentioned in section 368E(4) or a failure to implement such a measure effectively;
 - (h) the purpose of an investigation being carried out by the authority to determine whether a contravention of [section 368HC](#), [368HJ\(1\)](#), [368HK\(2\)](#) or [368HP](#) has occurred or is occurring;
 - (i) the purpose of ascertaining or calculating applicable qualifying revenue under section 368J;
 - (j) the purpose of determining the appropriate fee that a provider is required to pay under section 368NA.
- (7) A notice under [subsection \(1\)](#) or [\(2\)](#) (an “information notice”) must—
- (a) specify or describe the information to be provided,
 - (b) specify why the information is required,
 - (c) specify the form and manner in which the information must be provided, and
 - (d) contain information about the consequences of not complying with the notice.
- (8) An information notice must specify when the information must be provided which may be—
- (a) on or by a specified date, or
 - (b) within a specified period.
- (9) The power conferred by [subsection \(1\)](#) or [\(2\)](#) does not include power to require the provision of information in respect of which a claim to legal professional privilege, or (in Scotland) to confidentiality of communications, could be maintained in legal proceedings.
- (10) A person to whom an information notice is given must provide the information in accordance with any requirements included in the notice (subject to [subsection \(11\)](#)).
- (11) The duty under [subsection \(10\)](#) does not require a disclosure of information if that disclosure would contravene the data protection legislation (but, in determining whether a disclosure would do so, that duty is to be taken into account).
- (12) In this section—

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

Changes to legislation: There are currently no known outstanding effects for the Media Act 2024, Paragraph 11. (See end of Document for details)

“data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

“information” includes technical information and material such as videos, audiovisual commercial communications, screenshots and archived material.

368OZA Information powers: supplementary

- (1) Any power to require the provision of information under [section 368HB](#), [368O](#) or [368OB](#) includes power to require the provision of information held outside the United Kingdom.
 - (2) In the following provisions of this section, a “Part 4A information duty” means—
 - (a) the duty under [section 368HB\(12\)](#);
 - (b) the duty under [section 368O\(10\)](#);
 - (c) the duty under [section 368OB\(9\)](#).
 - (3) Sections 368I and 368K apply in relation to a failure by a provider of an on-demand programme service, or a non-UK on-demand programme service that is a Tier 1 service, to comply with a Part 4A information duty as if that failure were a contravention of [section 368D](#).
 - (4) Section 368I applies in relation to a failure by a person other than one described in [subsection \(3\)](#) to comply with a Part 4A information duty falling within [subsection \(2\)\(a\)](#) or [\(b\)](#) as if that failure were a contravention of [section 368D](#).
 - (5) Where [section 368I](#) applies in accordance with [subsection \(4\)](#)—
 - (a) references in [section 368I](#) or [368J](#) to a provider of an on-demand programme service are to be read as references to the person who has failed to comply with the Part 4A information duty, and
 - (b) [section 368J\(1\)](#) applies as if, for the words “5 per cent. of the provider’s applicable qualifying revenue or £250,000, whichever is the greater amount”, there were substituted “£250,000”.
- (2) In consequence of the amendment made by [sub-paragraph \(1\)](#), in [section 368D](#), in [subsection \(3\)\(b\)](#), for “[section 368O\(2\)](#) or [\(3\)](#)” substitute “[section 368O\(2\)](#) or [\(6\)](#)”.

Commencement Information

11 Sch. 6 para. 11 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

Status:

This version of this contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Media Act 2024, Paragraph 11.