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## SCHEDULES

PROSPECTIVE

### SCHEDULE 1

Section 17

#### QUOTAS: THE BBC AND S4C

##### PART 1

##### QUOTAS: THE BBC

- 1 (1) Paragraph 1 of Schedule 12 to the Communications Act 2003 (the BBC: quotas for independent productions) is amended as follows.
  - (2) For sub-paragraph (1) substitute—

“(1) It shall be the duty of the BBC to secure that, in each year—

    - (a) it makes available qualifying audiovisual content that includes a range and diversity of independent productions commissioned in accordance with any relevant code drawn up by the BBC under the BBC Charter and Agreement, and
    - (b) the duration (in total) of those independent productions is at least the number of hours specified by order of the Secretary of State.”
  - (3) In sub-paragraph (2), omit paragraph (a).
  - (4) Omit sub-paragraph (3).
  - (5) In sub-paragraph (5), for the words from “, in each year” to the end of the sub-paragraph substitute “—
    - (a) in each year, it makes available qualifying audiovisual content that includes a range and diversity of independent productions commissioned in accordance with any relevant code drawn up by the BBC under the BBC Charter and Agreement, and
    - (b) the cost (in total) of the acquisition of those independent productions is at least the amount specified in the order.”
  - (6) Omit sub-paragraphs (8) and (9).
  - (7) In sub-paragraph (10), in paragraph (b), for “the percentage” substitute “the number of hours or (as the case may be) the amount”.
  - (8) Omit sub-paragraph (11).
  - (9) In sub-paragraph (14), omit the definition of “programming budget” and the word “and” before it.
  - (10) After sub-paragraph (14) insert—

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“(15) See also sections [278B](#) and [278C](#) (which make further provision for the interpretation of this paragraph etc).”

#### Commencement Information

**II** Sch. 1 para. 1 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

### PART 2

#### QUOTAS: S4C

- 2 (1) Paragraph 7 of Schedule 12 to the Communications Act 2003 (S4C: quotas for independent productions) is amended as follows.
- (2) For sub-paragraph (1) substitute—
- “(1) It shall be the duty of S4C to secure that, in each year—
- (a) it makes available qualifying audiovisual content that includes a range and diversity of independent productions commissioned in accordance with the code drawn up under paragraph 10, and
- (b) the duration (in total) of those independent productions is at least the number of hours specified by order of the Secretary of State.”
- (3) In sub-paragraph (2), omit paragraph (a).
- (4) Omit sub-paragraph (3).
- (5) In sub-paragraph (5), for the words from “, in each year” to the end of the sub-paragraph substitute “—
- (a) in each year, it makes available qualifying audiovisual content that includes a range and diversity of independent productions commissioned in accordance with the code drawn up under paragraph 10, and
- (b) the cost (in total) of the acquisition of those independent productions is at least the amount specified in the order.”
- (6) In sub-paragraph (8), in paragraph (b), for “the percentage” substitute “the number of hours or (as the case may be) the amount”.
- (7) Omit sub-paragraph (9).
- (8) Omit sub-paragraph (12).
- (9) In sub-paragraph (13), omit the definition of “programming budget” and the word “and” before it.
- (10) After sub-paragraph (13) insert—
- “(14) See also sections [278B](#) and [278C](#) (which make further provision for the interpretation of this paragraph etc).”

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### Commencement Information

**I2** Sch. 1 para. 2 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 3 (1) Paragraph 8 of Schedule 12 to that Act (programme quotas for original productions) is amended as follows.
- (2) For sub-paragraph (1) substitute—
- “(1) It shall be the duty of S4C to secure that, in each year—
- (a) it makes available qualifying audiovisual content that includes a range of original productions,
  - (b) the duration (in total) of those original productions is at least the number of hours determined in accordance with sub-paragraph (1B), and
  - (c) if OFCOM so provide in a direction given to S4C, the additional peak viewing time objective described in sub-paragraph (1A) is met.
- (1A) The additional peak viewing time objective is that (out of the number of hours determined for the purposes of sub-paragraph (1)(b)) at least the number of hours determined in accordance with sub-paragraph (1B) is allocated to the broadcasting of original productions included in S4C Digital at peak viewing times.
- (1B) A determination for the purposes of sub-paragraph (1)(b) or (1A) is to be—
- (a) by agreement between S4C and OFCOM, or
  - (b) in default of agreement, by a direction given by OFCOM to S4C specifying the number of hours.
- (1C) Before giving a direction under sub-paragraph (1)(c), OFCOM must consult S4C.”
- (3) Omit sub-paragraphs (2) to (5).
- (4) In sub-paragraph (6), omit the words from “, in relation to” to “the Welsh Authority,”.
- (5) After sub-paragraph (7) insert—
- “(7A) An order under sub-paragraph (6) may—
- (a) authorise OFCOM to give a direction to S4C that original productions of a description specified in the direction may not be counted towards meeting S4C’s duty under sub-paragraph (1);
  - (b) require OFCOM to consult S4C before giving such a direction;
  - (c) require OFCOM to prepare and publish guidance about the determination of whether an original production falls within a description specified in a direction given by virtue of paragraph (a);
  - (d) require S4C to have regard to that guidance.”
- (6) Omit sub-paragraph (10).
- (7) In sub-paragraph (11), in the definition of “peak viewing time”—

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- (a) omit the words from “, in relation to” to “the Welsh Authority.”;
- (b) for “one or more of those services” substitute “S4C Digital”.

(8) After sub-paragraph (12) insert—

“(13) See also sections [278B](#) and [278C](#) (which make further provision for the interpretation of this paragraph etc).”

**Commencement Information**

**I3** Sch. 1 para. 3 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

4 In paragraph 10 of Schedule 12 to that Act (code relating to programme commissioning)—

- (a) in sub-paragraph (1), after “to be applied” insert “—  
(a)”;
- (b) at the end of that sub-paragraph insert “, or  
(b) when they are agreeing terms for the commissioning of independent productions that will be included in a qualifying audiovisual service other than one to which paragraph (a) relates but which they wish to count towards meeting a duty imposed by virtue of paragraph 7(1) or (4).”;
- (c) in sub-paragraph (4), after paragraph (g) insert—  
“(h) that such information about the application of the code as OFCOM consider appropriate is given to persons who make independent productions that are to be commissioned in accordance with the code.”;
- (d) after sub-paragraph (11) insert—

“(12) See also [sections 278B](#) and [278C](#) (which make further provision for the interpretation of this paragraph etc).”

**Commencement Information**

**I4** Sch. 1 para. 4 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

PROSPECTIVE

SCHEDULE 2

Section 27

PART 1: FURTHER AMENDMENTS

*Broadcasting Act 1990*

1 The Broadcasting Act 1990 is amended as follows.

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**Commencement Information**

**I5** Sch. 2 para. 1 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 2 In section 24 (Channel 4 to be provided by Corporation as licensed service), in subsection (3), for “England, Scotland and Northern Ireland” substitute “the United Kingdom”.

**Commencement Information**

**I6** Sch. 2 para. 2 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 3 In section 49 (licensing of additional services), omit subsection (1A).

**Commencement Information**

**I7** Sch. 2 para. 3 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 4 In section 66 (requirements relating to transmission and distribution of services), in subsection (6)(b), for “England, Scotland and Northern Ireland” substitute “the United Kingdom”.

**Commencement Information**

**I8** Sch. 2 para. 4 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 5 In Schedule 2 (restrictions on the holding of licences), in Part 2 (disqualification for holding licences), in paragraph 2 (disqualification of religious bodies)—  
(a) omit sub-paragraph (1A)(d);  
(b) in sub-paragraph (1B), omit the definition of “public teletext licence”.

**Commencement Information**

**I9** Sch. 2 para. 5 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

**Commencement Information**

**I5** Sch. 2 para. 1 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

**I6** Sch. 2 para. 2 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

**I7** Sch. 2 para. 3 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

**I8** Sch. 2 para. 4 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

**I9** Sch. 2 para. 5 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

*Broadcasting Act 1996*

- 6 The Broadcasting Act 1996 is amended as follows.

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**Commencement Information**

**I10** Sch. 2 para. 6 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 7 In section 2 (meaning of “qualifying service”), in subsection (2), omit paragraph (f) (meaning of “the digital public teletext provider”).

**Commencement Information**

**I11** Sch. 2 para. 7 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 8 In section 12 (conditions attached to multiplex licence), omit subsection (4)(a).

**Commencement Information**

**I12** Sch. 2 para. 8 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 9 (1) Section 24 (digital additional service) is amended as follows.  
 (2) In subsection (1)(c), omit “the digital public teletext service.”  
 (3) In subsection (3A), in the definition of “relevant public service broadcaster”, omit paragraph (f).

**Commencement Information**

**I13** Sch. 2 para. 9 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 10 In section 33 (review of digital television broadcasting), in subsection (1)(a)(ii), omit “the digital public teletext service.”

**Commencement Information**

**I14** Sch. 2 para. 10 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 11 In section 39 (interpretation of Part 1), in subsection (1), omit the definitions of—  
 (a) “digital public teletext service”;  
 (b) “public teletext provider”.

**Commencement Information**

**I15** Sch. 2 para. 11 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 12 (1) Section 97 (listed events) is amended as follows.  
 (2) In subsection (2)(d) (as substituted by section 299(1) of the Communications Act 2003), for “televise” substitute “show”.  
 (3) In subsection (3)—  
 (a) omit the “and” following paragraph (a);  
 (b) after paragraph (b) insert “, and

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- (c) such other persons as the Secretary of State considers appropriate.”

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**Commencement Information**

**I16** Sch. 2 para. 12 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 13 (1) Section 98 (categories of service) is amended as follows.
- (2) Omit subsection (4).
- (3) In subsection (5), for the words from “television” to the end substitute “relevant services which appear to them to fall within [subsection \(1A\)](#) or [\(2A\)](#).”
- (4) Omit subsections (5A) to (5D).

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**Commencement Information**

**I17** Sch. 2 para. 13 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 14 (1) Section 99 (contract for exclusive right to televise listed event to be void) is amended as follows.
- (2) In the heading, for “right to televise” substitute “coverage of”.
- (3) Omit subsection (2).
- (4) Omit subsection (4).

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**Commencement Information**

**I18** Sch. 2 para. 14 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 15 In section 100 (contract for televising listed event must specify category of service), in the heading, for “televising” substitute “showing coverage of”.

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**Commencement Information**

**I19** Sch. 2 para. 15 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 16 (1) Section 102 (power of OFCOM to impose penalty) is amended as follows.
- (2) Before subsection (1) insert—
- “(A1) If OFCOM—
- (a) are satisfied that a person other than the BBC or S4C who is the provider of a relevant service has failed to comply with section [101\(1\)](#), and
- (b) are not satisfied that in all the circumstances it would be unreasonable to have expected the person to have complied with that provision,
- they may require the person to pay, within a specified period, a specified financial penalty to OFCOM.

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(B1) If OFCOM are satisfied that, in connection with an application for consent for the purposes of section 101(5), a person other than the BBC or S4C who is the provider of a relevant service has—

- (a) provided them with information which was false in a material particular, or
- (b) withheld any material information with the intention of causing OFCOM to be misled,

they may require the person to pay, within a specified period, a specified financial penalty to OFCOM.”

(3) In subsection (1)(a), omit “subsection (1) of section 101 or”.

(4) in subsection (2), for “under subsection (1) of section 101 or” substitute “for the purposes of”.

(5) In subsection (3), after “subsection” insert “(A1), (B1),”.

(6) In subsection (4)(a), after “means” insert “—

(i) in relation to a financial penalty imposed under subsection (A1) or (B1), an amount determined by OFCOM to be the value of the rights to include coverage of the event in question in the relevant service at the time when the rights are acquired, and

(ii) in relation to a financial penalty imposed under subsection (1) or (2),”.

(7) In subsection (6), after “subsection” insert “(A1), (B1),”.

(8) In subsection (7), after “subsection” insert “(A1), (B1),”.

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#### Commencement Information

**I20** Sch. 2 para. 16 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

17 In section 103 (report to Secretary of State about BBC or S4C), in subsection (2), for “under subsection (1) of section 101” substitute “for the purposes of section 101(5)”.

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#### Commencement Information

**I21** Sch. 2 para. 17 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

18 (1) Section 104 (code of guidance) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a), for “section 101(1B)” substitute “section 101(5)”;
- (b) in paragraph (b)—
  - (i) for “section 102(1)” substitute “section 102(A1) or (1)”;
  - (ii) for “television programme provider” substitute “person”.

(3) In subsection (4)—

- (a) in paragraph (c), for “televise” substitute “show”;



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- (b) for paragraph (d) substitute—  
“ (d) such other persons as OFCOM consider appropriate.”

**Commencement Information**

**I22** Sch. 2 para. 18 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 19 (1) In section 105 (interpretation of Part 4), subsection (1) is amended as follows.
- (2) For the definition of “adequate alternative coverage” and “live”, substitute—  
“adequate alternative coverage”, “adequate live coverage” and “live coverage” are to be construed in accordance with regulations under section 104ZA (subject to section 104ZA(2));”.
- (3) In the definition of “Channel 4”, for “has” substitute “and “Channel 5” have”.
- (4) In the definition of “television programme provider”, for “has the meaning given by section 99(2)” substitute “means the BBC, S4C or any person who is the holder of any licence under Part 1 of the 1990 Act or a digital programme licence under Part 1 of this Act”.
- (5) Omit the definitions of “national Channel 3 service”, “regional Channel 3 service” and “television broadcasting service”.
- (6) At the appropriate place insert—  
““Channel 3 service” means a regional or national Channel 3 service;”;  
““designated internet programme service” has the same meaning as in Part 3A of the Communications Act 2003 (see [section 362AA\(1\)](#) of that Act);”;  
““internet programme service” has the same meaning as in Part 3A of the Communications Act 2003 (see [section 362AA\(10\)](#) of that Act);”;  
““on-demand programme service” and “non-UK on-demand programme service” have the same meaning as in the Communications Act 2003 (see sections 368A and [368AA\(1\)](#) of that Act);”;  
““relevant service” has the meaning given by section 98(7);”;  
““S4C Digital” has the same meaning as in Part 1 of the 1990 Act (see section 71(1) of that Act);”.
- (7) After subsection (1) insert—  
“(1A) The services that are to be taken for the purposes of this Part to be available to members of the public include any service which—  
(a) is available for reception by members of the public (within the meaning of section 361 of the Communications Act 2003), or  
(b) is available for use by members of the public (within the meaning of section 368R(4) of the Communications Act 2003).
- (1B) In this Part—  
(a) a reference to the provision of a television programme service is to be read in accordance with section 362(2) and (3) of the Communications Act 2003;  
(b) a reference to the provision of an on-demand programme service or a non-UK on-demand programme service is to be read in accordance with section 368R(5) and (6) of the Communications Act 2003.

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(1C) In this Part, the person, and the only person, who is to be treated for the purposes of this Part as providing a relevant service of the kind described in section 98(7)(d) is the person who has such control of the service as is described in section 98(7)(d)(iii).

(1D) For the purposes of this Part as it relates to relevant services of the kind described in section 98(7)(d)—

- (a) the provision of a service by the BBC does not include its provision by a BBC company;
- (b) the provision of a service by S4C does not include its provision by an S4C company;

and, accordingly, control that is capable of being exercised by the BBC or S4C over decisions by a BBC company or an S4C company about what is to be included in a service is to be disregarded for the purposes of determining who has such control of the service as is described in section 98(7)(d)(iii).”

#### Commencement Information

I23 Sch. 2 para. 19 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

20 In section 130 (interpretation of Part 5), in subsection (1), in the definition of “licensed service”, omit paragraph (aa).

#### Commencement Information

I24 Sch. 2 para. 20 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

#### Commencement Information

I10 Sch. 2 para. 6 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I11 Sch. 2 para. 7 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I12 Sch. 2 para. 8 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I13 Sch. 2 para. 9 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I14 Sch. 2 para. 10 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I15 Sch. 2 para. 11 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I16 Sch. 2 para. 12 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I17 Sch. 2 para. 13 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I18 Sch. 2 para. 14 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I19 Sch. 2 para. 15 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I20 Sch. 2 para. 16 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I21 Sch. 2 para. 17 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I22 Sch. 2 para. 18 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I23 Sch. 2 para. 19 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I24 Sch. 2 para. 20 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

#### *Tobacco Advertising and Promotion Act 2002*

21 In section 12 of the Tobacco Advertising and Promotion Act 2002 (television and radio broadcasting), in subsection (3), omit paragraph (b) and the “and” before it.

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**Commencement Information**

**I25** Sch. 2 para. 21 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

*Communications Act 2003*

22 The Communications Act 2003 is amended as follows.

**Commencement Information**

**I26** Sch. 2 para. 22 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

23 In section 3 (general duties of OFCOM), in subsection (4)(a), for “the purposes of public service television broadcasting in the United Kingdom” substitute “the public service remit for television in the United Kingdom (as defined in section 264)”.

**Commencement Information**

**I27** Sch. 2 para. 23 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

24 In section 64 (must carry obligations), omit subsection (3)(f).

**Commencement Information**

**I28** Sch. 2 para. 24 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

25 In section 198A (C4C’s functions in relation to media content), in subsection (3) (b), for “objectives” substitute “requirements”.

**Commencement Information**

**I29** Sch. 2 para. 25 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

26 In section 216 (renewal of Channel 3 and 5 licences), in subsection (6), for “complying” substitute “that, either on its own or together with other arrangements, complied”.

**Commencement Information**

**I30** Sch. 2 para. 26 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

27 Omit the italic heading before section 218.

**Commencement Information**

**I31** Sch. 2 para. 27 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

28 In section 224 (meaning of initial expiry date), omit subsection (1)(c).

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**Commencement Information**

**I32** Sch. 2 para. 28 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

29 In the italic heading before section 225, omit “and teletext”.

**Commencement Information**

**I33** Sch. 2 para. 29 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

30 In section 226 (application for review of financial terms in consequence of new obligations), in subsection (1)—

- (a) after paragraph (a) insert “or”;
- (b) omit paragraph (c) and the “or” before it.

**Commencement Information**

**I34** Sch. 2 para. 30 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

31 In section 227 (reviews under sections 225 and 226), in subsection (7), omit paragraph (b) and the “and” before it.

**Commencement Information**

**I35** Sch. 2 para. 31 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

32 (1) Section 229 (report in anticipation of new licensing round) is amended as follows.

(2) In subsection (2), for “the purposes of public service television broadcasting in the United Kingdom” substitute “the public service remit for television in the United Kingdom”.

(3) In subsection (6), in the definition of “relevant licence”—

- (a) after paragraph (a) insert “or”;
- (b) omit paragraph (c) and the “or” before it.

**Commencement Information**

**I36** Sch. 2 para. 32 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

33 In section 233 (services that are not television licensable content services), in subsection (2), omit paragraph (b) (but not the “or” following it).

**Commencement Information**

**I37** Sch. 2 para. 33 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

34 In section 241 (television multiplex services), omit subsection (9)(f).

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**Commencement Information**

**I38** Sch. 2 para. 34 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 35 In section 243 (powers where frequencies reserved for qualifying services), omit subsection (7)(e).

**Commencement Information**

**I39** Sch. 2 para. 35 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 36 (1) Section 263 (application of regulatory regimes) is amended as follows.
- (2) In subsection (2)—
- (a) omit “, in relation to the licensed service,”;
  - (b) for “that service” substitute “that holder’s licensed service”.
- (3) In subsection (3)(a), for “4, for Channel 5 or for the public teletext service” substitute “4 or for Channel 5”.

**Commencement Information**

**I40** Sch. 2 para. 36 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 37 In section 264 (OFCOM reports on the fulfilment of the public service remit)—
- (a) in subsection (9)(a), omit “or service”;
  - (b) in subsection (12)—
    - (i) in paragraph (b), at the end insert “and”;
    - (ii) omit paragraph (d) and the “and” before it.

**Commencement Information**

**I41** Sch. 2 para. 37 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 38 In section 265 (public service remits of licensed providers)—
- (a) in subsection (1)—
    - (i) omit “, and for the public teletext service,”;
    - (ii) omit (in both places it occurs) “or service”;
  - (b) omit subsections (4) and (5).

**Commencement Information**

**I42** Sch. 2 para. 38 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 39 Omit section 268 (statement of service policy by the public teletext provider).

**Commencement Information**

**I43** Sch. 2 para. 39 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

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40 Omit section 269 (changes of public teletext service policy).

**Commencement Information**

**I44** Sch. 2 para. 40 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

41 (1) Section 270 (enforcement of public service remits) is amended as follows.

(2) In subsection (1)—

- (a) omit “or the public teletext provider”;
- (b) in paragraph (a), omit “or the public teletext service”.

(3) In subsection (3)(b)—

- (a) omit “or statements of service policy”;
- (b) omit “or 268”.

(4) In subsection (4)(a), omit “, or statement of service policy,”.

(5) In subsection (6)—

- (a) in paragraph (a), omit “or the public teletext provider”;
- (b) in paragraph (b), omit “or service”.

(6) In subsection (7)—

- (a) in paragraph (a), for “269” substitute “267”;
- (b) in paragraph (b)(i), for “service” substitute “channel”.

(7) In subsection (8)(a)—

- (a) for “269” substitute “267”;
- (b) for “service” substitute “channel”.

(8) Omit subsection (10).

**Commencement Information**

**I45** Sch. 2 para. 41 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

42 In section 271 (power to amend public service remits), in subsection (1)(a), omit “or for the public teletext service”.

**Commencement Information**

**I46** Sch. 2 para. 42 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

43 In section 272 (must-offer obligations in relation to networks), omit subsection (1)(b) (but not the “and” following it).

**Commencement Information**

**I47** Sch. 2 para. 43 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

44 In section 273 (must-offer obligations in relation to satellite services), omit subsection (1)(b) (but not the “and” following it).

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**Commencement Information**

**I48** Sch. 2 para. 44 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

45 In section 274 (securing reception of must-provide services in certain areas), omit subsection (1)(b) (but not the “and” following it).

**Commencement Information**

**I49** Sch. 2 para. 45 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

46 In section 275 (must-provide services for the purposes of section 274), omit subsection (1)(f).

**Commencement Information**

**I50** Sch. 2 para. 46 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

47 Omit section 276 (cooperation with the public teletext provider).

**Commencement Information**

**I51** Sch. 2 para. 47 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

48 Omit section 284 (news provision on the public teletext service).

**Commencement Information**

**I52** Sch. 2 para. 48 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

49 Omit section 289 (regional matters in the public teletext service).

**Commencement Information**

**I53** Sch. 2 para. 49 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

50 Omit section 298 (conditions prohibiting interference with other services) and the italic heading before it.

**Commencement Information**

**I54** Sch. 2 para. 50 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

51 Omit section 300 (effects of categorisation of listed events into Group A and Group B).

**Commencement Information**

**I55** Sch. 2 para. 51 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

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- 52 In section 301 (the code under section 104 of the Broadcasting Act 1996), omit subsection (2).

**Commencement Information**

**I56** Sch. 2 para. 52 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 53 Omit section 308 (assistance for the visually impaired with the public teletext service).

**Commencement Information**

**I57** Sch. 2 para. 53 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 54 In section 310 (code of practice for electronic programme guides), omit subsection (4)(f).

**Commencement Information**

**I58** Sch. 2 para. 54 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 55 In section 322 (supplementary powers relating to advertising), in subsection (1)—
- (a) omit paragraph (b);
  - (b) in paragraph (c), omit “other”.

**Commencement Information**

**I59** Sch. 2 para. 55 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 56 In section 324 (setting and publication of standards), omit subsection (12)(a)(ii) (but not the “or” following it).

**Commencement Information**

**I60** Sch. 2 para. 56 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 57 In section 335 (conditions securing compliance with international obligations), omit subsection (3)(d).

**Commencement Information**

**I61** Sch. 2 para. 57 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 58 (1) Section 351 (changes of control of Channel 3 services) is amended as follows.
- (2) In subsection (4)—
- (a) omit paragraph (a)(i);
  - (b) after paragraph (a) insert—
    - “(aa) the extent to which the qualifying audiovisual content made available by the provider of the service includes a range



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- of original productions and the duration (in total) of those productions;”;
- (c) in paragraph (b), for “programmes of each of those descriptions” substitute “news programmes, current affairs programmes and original productions”.
- (3) In subsection (5)—
- (a) for paragraph (a) substitute—
- “(aa) the extent to which the qualifying audiovisual content made in the United Kingdom that is made available by the provider of the service includes a range of Channel 3 programmes made outside the M25 area and the duration (in total) of those programmes;”;
- (b) omit paragraph (b).
- (4) In subsection (6), in paragraph (c), for the words from “for the purposes of” to the end of the paragraph substitute “for the purposes of networking arrangements.”

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**Commencement Information**

**I62** Sch. 2 para. 58 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 59 (1) Section 353 (changes of control of Channel 5) is amended as follows.
- (2) In subsection (4)—
- (a) omit paragraph (a)(i);
- (b) after paragraph (a) insert—
- “(aa) the extent to which the qualifying audiovisual content made available by the provider of Channel 5 includes a range of original productions and the duration (in total) of those productions;”;
- (c) in paragraph (b), for “programmes of each of those descriptions” substitute “news programmes, current affairs programmes and original productions”.
- (3) In subsection (5)—
- (a) for paragraph (a) substitute—
- “(a) the extent to which the qualifying audiovisual content made in the United Kingdom that is made available by the provider of Channel 5 includes a range of programmes made outside the M25 area and the duration (in total) of those programmes;”;
- (b) omit paragraph (b).

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**Commencement Information**

**I63** Sch. 2 para. 59 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 60 (1) Section 362 (interpretation of Part 3) is amended as follows.
- (2) In subsection (1), at the appropriate place insert—
- ““audiovisual content”, in relation to a relevant audiovisual service, has the meaning given by section 264;”;

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““qualifying audiovisual content” has the meaning given by [section 278B](#) (and references to making available qualifying audiovisual content are to be construed in accordance with that section);”;

““qualifying audiovisual service” has the meaning given by [section 278B](#);”;

““relevant audiovisual service” has the meaning given by [section 264](#);”.

(3) In subsection (1), omit the definitions of—

“analogue teletext service”;

“the digital public teletext service”;

“the public teletext provider”;

“the public teletext service”.

(4) In subsection (2), omit paragraph (b) (public teletext service).

#### Commencement Information

**I64** Sch. 2 para. 60 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

61 In section 405 (general interpretation), in subsection (1)—

(a) in the definition of “programme service”, omit paragraph (b) (the public teletext service);

(b) omit the definition of “purposes of public service television broadcasting”;

(c) at the appropriate place insert—

““the public service remit for television in the United Kingdom” has the meaning given by [section 264](#);”.

#### Commencement Information

**I65** Sch. 2 para. 61 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

62 In Schedule 9 (arrangements about carrying on of C4C’s activities), in paragraph 1 (notification of requirement to submit proposals), in sub-paragraph (1), after paragraph (aa) (and before the “and” following it) insert—

“(ab) as soon as practicable after the day on which [section 3](#) of the Media Act 2024 comes into force,”.

#### Commencement Information

**I66** Sch. 2 para. 62 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

63 Omit Schedule 10 (licensing the public teletext service).

#### Commencement Information

**I67** Sch. 2 para. 63 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

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- 64 In Schedule 12 (corresponding obligations of the BBC and Welsh Authority), omit paragraph 11 (co-operation with the public teletext provider) and the italic heading before it.

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**Commencement Information**

I68 Sch. 2 para. 64 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

- 65 In Schedule 18 (transitional provisions), in paragraph 51 (listed events rules), omit sub-paragraphs (4) and (5).

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**Commencement Information**

I69 Sch. 2 para. 65 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

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**Commencement Information**

I26 Sch. 2 para. 22 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I27 Sch. 2 para. 23 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I28 Sch. 2 para. 24 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I29 Sch. 2 para. 25 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I30 Sch. 2 para. 26 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I31 Sch. 2 para. 27 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I32 Sch. 2 para. 28 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I33 Sch. 2 para. 29 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I34 Sch. 2 para. 30 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I35 Sch. 2 para. 31 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I36 Sch. 2 para. 32 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I37 Sch. 2 para. 33 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I38 Sch. 2 para. 34 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I39 Sch. 2 para. 35 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I40 Sch. 2 para. 36 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I41 Sch. 2 para. 37 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I42 Sch. 2 para. 38 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I43 Sch. 2 para. 39 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I44 Sch. 2 para. 40 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I45 Sch. 2 para. 41 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I46 Sch. 2 para. 42 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I47 Sch. 2 para. 43 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I48 Sch. 2 para. 44 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I49 Sch. 2 para. 45 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I50 Sch. 2 para. 46 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I51 Sch. 2 para. 47 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I52 Sch. 2 para. 48 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I53 Sch. 2 para. 49 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I54 Sch. 2 para. 50 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I55 Sch. 2 para. 51 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I56 Sch. 2 para. 52 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I57 Sch. 2 para. 53 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I58 Sch. 2 para. 54 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

I59 Sch. 2 para. 55 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

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- I60** Sch. 2 para. 56 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)
- I61** Sch. 2 para. 57 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)
- I62** Sch. 2 para. 58 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)
- I63** Sch. 2 para. 59 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)
- I64** Sch. 2 para. 60 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)
- I65** Sch. 2 para. 61 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)
- I66** Sch. 2 para. 62 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)
- I67** Sch. 2 para. 63 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)
- I68** Sch. 2 para. 64 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)
- I69** Sch. 2 para. 65 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

### Digital Economy Act 2010

- 66 In the Digital Economy Act 2010, omit sections 27 and 28 (public teletext service).

#### Commencement Information

- I70** Sch. 2 para. 66 not in force at Royal Assent, see [s. 55\(3\)\(a\)](#)

## SCHEDULE 3

Section 28(2)

### PART 2: FURTHER AMENDMENTS

- 1 The Communications Act 2003 is amended as follows.

#### Commencement Information

- I71** Sch. 3 para. 1 in force at Royal Assent for specified purposes, see [s. 55\(1\)\(a\)](#)

- 2 In section 393 (general restrictions on disclosure of information), in subsection (6), in paragraph (a), after “137A” insert “, [362AG\(7\)](#), [362AW](#)”.

#### Commencement Information

- I72** Sch. 3 para. 2 in force at Royal Assent for specified purposes, see [s. 55\(1\)\(a\)](#)

- 3 In section 394 (service of notifications and other documents), in subsection (2), in paragraph (a), after “this Act” insert “, other than Part 3A so far as relating to notifications by OFCOM”.

#### Commencement Information

- I73** Sch. 3 para. 3 in force at Royal Assent for specified purposes, see [s. 55\(1\)\(a\)](#)

- 4 In section 400 (destination of fees and penalties), in subsection (1), after paragraph (h) insert—
- “(ha) an amount paid to OFCOM in respect of a penalty imposed by them under Part 3A of this Act”.

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**Commencement Information**

**I74** Sch. 3 para. 4 in force at Royal Assent for specified purposes, see [s. 55\(1\)\(a\)](#)

PROSPECTIVE

SCHEDULE 4

Section 36

CHAPTER 2 OF PART 3: MINOR AND CONSEQUENTIAL AMENDMENTS

*Broadcasting Act 1990*

1 The Broadcasting Act 1990 is amended as follows.

**Commencement Information**

**I75** Sch. 4 para. 1 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

2 In section 37 (announcements of programme schedules), in subsection (2)(a), after “on S4C” insert “Digital”.

**Commencement Information**

**I76** Sch. 4 para. 2 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

3 (1) Section 56 (Welsh Authority to continue as Sianel Pedwar Cymru) is amended as follows.

(2) In subsection (1), omit the words after paragraph (b).

(3) In subsection (3), for “the Welsh Authority” substitute “S4C”.

**Commencement Information**

**I77** Sch. 4 para. 3 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

4 (1) Section 60 (advertising on S4C) is amended as follows.

(2) In subsections (4) and (5), for “The Welsh Authority” substitute “S4C”.

(3) In subsection (4)(a), after “on S4C” insert “Digital”.

(4) In subsection (4)(a) and (aa), after “of S4C” insert “Digital”.

**Commencement Information**

**I78** Sch. 4 para. 4 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

5 (1) Section 61 (funding of Welsh Authority) is amended as follows.

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- (2) In subsection (1)—
- (a) for “the Welsh Authority” substitute “S4C”;
  - (b) for “the Authority” substitute “S4C”;
  - (c) for the words from “of—” to the end of paragraph (b) substitute “of fulfilling S4C’s public service remit”.
- (3) In subsection (3)—
- (a) for “the Welsh Authority” substitute “S4C”;
  - (b) for “the Authority” substitute “S4C”.
- (4) In the heading, for “Welsh Authority” substitute “S4C”.

**Commencement Information**

**I79** Sch. 4 para. 5 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 6 (1) Section 61A (Welsh Authority public service fund) is amended as follows.
- (2) In subsection (2)—
- (a) for “the Welsh Authority” substitute “S4C”;
  - (b) for “the Authority”, in the first place it occurs, substitute “S4C”;
  - (c) for the words from “their functions” to the end of the subsection substitute “fulfilling S4C’s public service remit.”
- (3) In subsection (4)—
- (a) for “The Welsh Authority” substitute “S4C”;
  - (b) for “television programme”, in the first place it occurs, substitute “audiovisual content”;
  - (c) for “television programme service”, in the first place it occurs, substitute “relevant audiovisual service”;
  - (d) for the words from “broadcast” to the end substitute “included in a relevant audiovisual service provided by S4C in fulfilling its public service remit.”
- (4) After subsection (4) insert—
- “(4A) In subsection (4), “audiovisual content” and “relevant audiovisual service” have the same meaning as in Part 3 of the Communications Act 2003 (see section 362 of that Act).”
- (5) In the heading, for “Welsh Authority” substitute “S4C”.

**Commencement Information**

**I80** Sch. 4 para. 6 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 7 (1) Section 63 (government control over S4C) is amended as follows.
- (2) In subsections (1), (2), (3) and (4), for “the Welsh Authority” substitute “S4C”.
- (3) In subsections (1), (3) and (4), for “the Authority” substitute “S4C”.

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#### Commencement Information

**I81** Sch. 4 para. 7 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 8 (1) Section 64 (audience research by Welsh Authority) is amended as follows.
- (2) In subsection (1)—
- (a) for “the Welsh Authority” substitute “S4C”;
  - (b) in paragraphs (a) and (c), after “S4C” insert “Digital”.
- (3) In subsection (2)(a), for “the Welsh Authority” substitute “S4C”.
- (4) In subsection (2)(b), for “the Authority” substitute “S4C”.
- (5) In the heading, for “Welsh Authority” substitute “S4C”.

#### Commencement Information

**I82** Sch. 4 para. 8 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 9 In section 66 (requirements relating to transmission and distribution of services), in subsection (7)—
- (a) for “the Welsh Authority” substitute “S4C”;
  - (b) after “S4C” insert “Digital”;
  - (c) for “Wales” substitute “the United Kingdom”.

#### Commencement Information

**I83** Sch. 4 para. 9 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 10 In section 71 (interpretation of Part 1), in subsection (1), in the definition of “S4C” and “S4C Digital”—
- (a) omit ““S4C” and”;
  - (b) omit “each”.

#### Commencement Information

**I84** Sch. 4 para. 10 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 11 In section 176 (duty to provide advance information about programmes), in the table in subsection (7), in the entry relating to the public television services of the Welsh Authority—
- (a) in the first column, for “the Welsh Authority” substitute “S4C”;
  - (b) in the second column, for “The Authority” substitute “S4C”.

#### Commencement Information

**I85** Sch. 4 para. 11 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

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- 12 In section 177 (orders proscribing unacceptable foreign satellite services), in subsection (6), in the definition of “foreign satellite service”, for “the Welsh Authority” substitute “S4C”.

**Commencement Information**

**I86** Sch. 4 para. 12 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 13 In section 188 (power to give broadcasting bodies etc directions relating to international obligations), in subsection (2)(c), for “the Welsh Authority” substitute “S4C”.

**Commencement Information**

**I87** Sch. 4 para. 13 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 14 In section 202 (general interpretation), in subsection (1)—
- (a) in the definition of “an S4C company”, for “the Welsh Authority”, in both places it occurs, substitute “S4C”;
  - (b) before that definition insert—
 

““S4C”, except in the phrases “S4C company”, “S4C Digital”, “S4C entity” and “S4C subsidiary undertaking”, means the body corporate given the name S4C (or Sianel Pedwar Cymru) by section 56(1);”.

**Commencement Information**

**I88** Sch. 4 para. 14 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 15 In Part 2 of Schedule 2 (disqualification for holding licences), in paragraphs 3(1) (a) (disqualification of publicly-funded bodies for radio service licences) and 5(b) (disqualification of broadcasting bodies), for “the Welsh Authority” substitute “S4C”.

**Commencement Information**

**I89** Sch. 4 para. 15 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 16 (1) Schedule 6 (the Welsh Authority: supplementary provisions) is amended as follows.
- (2) In the Schedule heading, for “The Welsh Authority” substitute “S4C”.
  - (3) In paragraph 1(1) (S4C not exercising functions on behalf of the Crown), for “The Welsh Authority (in this Schedule referred to as “the Authority”)” substitute “S4C”.
  - (4) In paragraph 1(2) (S4C’s power to do anything which is incidental or conducive to the carrying out of its functions), for “The Authority” substitute “S4C”.
  - (5) Omit paragraphs 2 to 8 (membership).
  - (6) In paragraphs 9(1) and (2) (employees), 10 (seal), 11 (documents), 12(1), (1A) and (4) (accounts and audit), 13 (annual reports) and 14 (advisory committees), and in the italic heading before paragraph 9—



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- (a) for “the Authority”, in each place it occurs;
  - (b) for “The Authority”, in each place it occurs;
- substitute “S4C”.

(7) In paragraph 9 (employees), for sub-paragraph (3) substitute—

“(3) If a person—

- (a) participates in a pension scheme as an employee of S4C, and
- (b) on or after ceasing to be an employee of S4C, becomes a non-executive member of the S4C Board,

the person’s service as a non-executive member of the S4C Board may, if the Secretary of State so determines, be treated for the purposes of the pension scheme as if it were service as an employee of S4C.”

(8) In the italic heading before paragraph 10, for “Authority’s” substitute “S4C’s”.

(9) In the italic heading before paragraph 11, for “Authority” substitute “S4C”.

(10) In paragraphs 13(3)(b) and 14, for “the Authority’s” substitute “S4C’s”.

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**Commencement Information**

**I90** Sch. 4 para. 16 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

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**Commencement Information**

**I75** Sch. 4 para. 1 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

**I76** Sch. 4 para. 2 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

**I77** Sch. 4 para. 3 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

**I78** Sch. 4 para. 4 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

**I79** Sch. 4 para. 5 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

**I80** Sch. 4 para. 6 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

**I81** Sch. 4 para. 7 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

**I82** Sch. 4 para. 8 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

**I83** Sch. 4 para. 9 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

**I84** Sch. 4 para. 10 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

**I85** Sch. 4 para. 11 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

**I86** Sch. 4 para. 12 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

**I87** Sch. 4 para. 13 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

**I88** Sch. 4 para. 14 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

**I89** Sch. 4 para. 15 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

**I90** Sch. 4 para. 16 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

*Broadcasting Act 1996*

17 The Broadcasting Act 1996 is amended as follows.

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**Commencement Information**

**I91** Sch. 4 para. 17 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

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- 18 In section 2 (meaning of “qualifying service”), in subsection (2)(e)—
- (a) for “the Welsh Authority” substitute “S4C”;
  - (b) for “205” substitute “204B”.

**Commencement Information**

**I92** Sch. 4 para. 18 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 19 (1) Section 24 (digital additional services) is amended as follows.
- (2) In subsection (1)(c), for “the Welsh Authority” substitute “S4C”.
- (3) In subsection (3A), in the definition of “public television service of the Welsh Authority”—
- (a) for “the Welsh Authority” substitute “S4C”;
  - (b) in paragraph (b), for the words after “any television programme service” substitute “provided in digital form by S4C in fulfilling its public service remit”.
- (4) In subsection (3A), in paragraph (e) of the definition of “relevant public service broadcaster”, for “the Welsh Authority” substitute “S4C”.

**Commencement Information**

**I93** Sch. 4 para. 19 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 20 Omit section 29(2) (application of the Broadcasting Act 1990 to S4C Digital).

**Commencement Information**

**I94** Sch. 4 para. 20 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 21 In section 33(1)(a)(ii) and (3)(d) (review of digital television broadcasting), for “the Welsh Authority” substitute “S4C”.

**Commencement Information**

**I95** Sch. 4 para. 21 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 22 In section 39 (interpretation of Part 1), in subsection (1), in the definition of “S4C” and “S4C Digital”—
- (a) omit ““S4C” and”;
  - (b) omit “each”.

**Commencement Information**

**I96** Sch. 4 para. 22 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 23 In section 97 (listed events)—
- (a) in subsection (2) (before its substitution by section 299(1) of the Communications Act 2003), for “the Welsh Authority” substitute “S4C”;

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- (b) in subsection (2) (as substituted by section 299(1) of the Communications Act 2003), for “the Welsh Authority” substitute “S4C”.

**Commencement Information**

I97 Sch. 4 para. 23 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 24 In sections 99(2) (televising listed events), 103(3) (report to Secretary of State) and 104(4)(b) (code of guidance), for “the Welsh Authority” substitute “S4C”.

**Commencement Information**

I98 Sch. 4 para. 24 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 25 In section 105 (interpretation of Part 4 and supplementary provisions), in subsection (1), omit the definition of “S4C”.

**Commencement Information**

I99 Sch. 4 para. 25 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 26 In section 107 (code relating to avoidance of unjust or unfair treatment or interference with privacy), in subsection (5)(b), for “the Welsh Authority”, in both places it occurs, substitute “S4C”.

**Commencement Information**

I100 Sch. 4 para. 26 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 27 In section 130(1) (interpretation of Part 5)—
- (a) in the definition of “broadcasting body”, for “the Welsh Authority” substitute “S4C”;
  - (b) in the definition of “licensed service”, in paragraph (e), for “the Welsh Authority” substitute “S4C”.

**Commencement Information**

I101 Sch. 4 para. 27 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

**Commencement Information**

I91 Sch. 4 para. 17 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)  
I92 Sch. 4 para. 18 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)  
I93 Sch. 4 para. 19 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)  
I94 Sch. 4 para. 20 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)  
I95 Sch. 4 para. 21 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)  
I96 Sch. 4 para. 22 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)  
I97 Sch. 4 para. 23 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)  
I98 Sch. 4 para. 24 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)  
I99 Sch. 4 para. 25 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

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**I100** Sch. 4 para. 26 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

**I101** Sch. 4 para. 27 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

### *Tobacco Advertising and Promotion Act 2002*

- 28 In section 12(6) of the Tobacco Advertising and Promotion Act 2002 (television and radio broadcasting), for “the Welsh Authority referred to in” substitute “the body corporate so named by”.

#### **Commencement Information**

**I102** Sch. 4 para. 28 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

### *Communications Act 2003*

- 29 The Communications Act 2003 is amended as follows.

#### **Commencement Information**

**I103** Sch. 4 para. 29 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 30 In section 12(9)(b) (OFCOM’s Content Board), for “and employees of the Welsh Authority” substitute “of the S4C Board and employees of S4C”.

#### **Commencement Information**

**I104** Sch. 4 para. 30 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 31 In the Chapter heading of Chapter 1 of Part 3, for “the Welsh Authority” substitute “, S4C”.

#### **Commencement Information**

**I105** Sch. 4 para. 31 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 32 (1) In section 203 (function of OFCOM), and in its heading, for “the Welsh Authority” substitute “S4C”.
- (2) In the italic heading before section 203, for “The Welsh Authority” substitute “S4C (Sianel Pedwar Cymru)”.

#### **Commencement Information**

**I106** Sch. 4 para. 32 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 33 (1) Section 207 (finances) is amended as follows.
- (2) In subsection (3), for “the Welsh Authority” substitute “S4C”.
- (3) In subsections (4) and (6), for “The Welsh Authority” substitute “S4C”.

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(4) In subsection (6), for “the Authority”, in both places it occurs, substitute “S4C”.

(5) Omit subsections (8) and (9).

(6) In the heading, for “Welsh Authority” substitute “S4C”.

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**Commencement Information**

**I107** Sch. 4 para. 33 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

34 In sections 211(1)(a) (regulation of independent television services) and 243(7)(d) (reserved frequencies), for “the Welsh Authority” substitute “S4C”.

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**Commencement Information**

**I108** Sch. 4 para. 34 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

35 In section 264 (OFCOM reports on the fulfilment of public service remits), for subsection (12)(b) substitute—  
“(b) S4C;”.

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**Commencement Information**

**I109** Sch. 4 para. 35 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

36 In sections 277(11) (programming quotas for independent productions), 278(8) (programming quotas for regional productions) and 285(6)(c) (code relating to programme commissioning), for “the Welsh Authority” substitute “S4C”.

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**Commencement Information**

**I110** Sch. 4 para. 36 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

37 In sections 303(12)(a) (code relating to provision for people with disabilities), 305(2)(a) (relevant dates) and 324(3)(a) and (10)(c) (setting and publication of standards), for “the Welsh Authority” substitute “S4C”.

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**Commencement Information**

**I111** Sch. 4 para. 37 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

38 (1) In section 338 (corresponding rules), and in its heading, for “the Welsh Authority” substitute “S4C”.

(2) In the italic heading before section 338, for “the Welsh Authority” substitute “S4C”.

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**Commencement Information**

**I112** Sch. 4 para. 38 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

39 (1) Section 339 (review of fulfilment of public service remits) is amended as follows.

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- (2) In subsection (1), for the words after “performance” substitute “by S4C of its duty to fulfil its public service remit.”
- (3) In subsections (4) and (5), for “the Welsh Authority” substitute “S4C”.
- (4) In the heading—
  - (a) for “Welsh Authority” substitute “S4C”;
  - (b) for “remit” substitute “remit”.

**Commencement Information**

**I113** Sch. 4 para. 39 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 40 In the italic heading before section 339, for “the Welsh Authority” substitute “S4C”.

**Commencement Information**

**I114** Sch. 4 para. 40 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 41 (1) Section 340 (directions to S4C to take remedial action) is amended as follows.
- (2) In subsections (1), (2), (4) and (5), for “the Welsh Authority” substitute “S4C”.
  - (3) In subsection (1)(a), for the words from “their” to the end of paragraph (a) (but not the “and” at the end) substitute “its duty to fulfil its public service remit”.
  - (4) In subsection (2), for “the Authority” substitute “S4C”.
  - (5) In the heading, for “Welsh Authority” substitute “S4C”.

**Commencement Information**

**I115** Sch. 4 para. 41 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 42 (1) Section 341 (imposition of penalties) is amended as follows.
- (2) In subsections (1), (2) and (4), and in the heading, for “the Welsh Authority” substitute “S4C”.
  - (3) In subsection (2), for “the Authority” substitute “S4C”.

**Commencement Information**

**I116** Sch. 4 para. 42 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 43 (1) Section 343 (provision of information) is amended as follows.
- (2) In subsections (1) and (2), for “the Welsh Authority” substitute “S4C”.
  - (3) In the heading, for “Welsh Authority” substitute “S4C”.

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**Commencement Information**

I117 Sch. 4 para. 43 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 44 In section 347(7) (statement of charging principles), for “the Welsh Authority” substitute “S4C”.

**Commencement Information**

I118 Sch. 4 para. 44 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 45 (1) Section 362 (interpretation of Part 3) is amended as follows.
- (2) In subsection (1)—
- (a) omit the definition of “S4C” and “S4C Digital”;
  - (b) in the definition of “S4C company”—
    - (i) for “the Welsh Authority” substitute “S4C”;
    - (ii) for “that Authority”, in both places it occurs, substitute “S4C”;
  - (c) after the definition of “S4C company” insert—

““S4C Digital” means the television programme service provided by S4C in digital form and originally known as S4C Digital but increasingly since April 2010 (date of digital switch-over in Wales) simply called S4C;”.
- (3) In subsection (3)—
- (a) in paragraph (c);
  - (b) in the words after that paragraph;  
for “the Welsh Authority” substitute “S4C”.

**Commencement Information**

I119 Sch. 4 para. 45 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 46 In section 368R(6) (interpretation of Part 4A), for “the Welsh Authority”, in both places it occurs, substitute “S4C”.

**Commencement Information**

I120 Sch. 4 para. 46 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 47 In section 393(3)(g) (restrictions on disclosure of information), for “the Welsh Authority” substitute “S4C”.

**Commencement Information**

I121 Sch. 4 para. 47 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 48 In section 405(1) (interpretation of Act), after the definition of “representation” insert—

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““S4C” means the body corporate given the name S4C (or Sianel Pedwar Cymru) by section 56(1) of the 1990 Act;”.

**Commencement Information**

**I122** Sch. 4 para. 48 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 49 (1) In the heading of Schedule 12 (corresponding obligations of the BBC and S4C), for “Welsh Authority” substitute “S4C”.
- (2) Part 2 of that Schedule (obligations of S4C) is amended in accordance with paragraphs [50](#) to [71](#).

**Commencement Information**

**I123** Sch. 4 para. 49 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 50 In the heading of that Part, for “The Welsh Authority” substitute “S4C”.

**Commencement Information**

**I124** Sch. 4 para. 50 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 51 (1) Paragraph 3 (public service remits) is amended as follows.
- (2) Omit sub-paragraphs (1) to (4).
- (3) In sub-paragraph (5), for “modify sub-paragraphs (2) and (3)” substitute “amend [section 204A](#) for the purpose of modifying S4C’s public service remit”.
- (4) For sub-paragraphs (6) and (7) substitute—
- “(6) Before making an order under sub-paragraph (5), the Secretary of State must consult—
- (a) S4C, and
- (b) OFCOM.
- (7) An order under sub-paragraph (5) must not contain provision inconsistent with a requirement that a substantial proportion of audiovisual content made available by S4C is in Welsh.
- (7A) In sub-paragraph (7) “audiovisual content” has the same meaning as in section 264.
- (7B) Subsection (13) of section 264 (interpretation of “made available”) applies for the purposes of sub-paragraph (7) as it applies for the purposes of that section.”
- (5) For the italic heading before paragraph 3 substitute “Modification of S4C’s public service remit”.



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**Commencement Information**

**I125** Sch. 4 para. 51 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 52 (1) Paragraph 4 (statements of programme policy) is amended as follows.
- (2) In sub-paragraphs (1) and (3) to (7), for “the Welsh Authority” substitute “S4C”.
- (3) In sub-paragraph (2)—
- (a) for “the Welsh Authority’s”, in both places it occurs, substitute “S4C’s”;
  - (b) for paragraph (a) substitute—  
“(a) S4C’s public service remit is fulfilled; and”.
- (4) After sub-paragraph (2) insert—
- “(2A) Every such statement must—
  - (a) state whether relevant audiovisual services other than S4C Digital will be used, during the following year, to fulfil S4C’s public service remit, and
  - (b) if so, set out S4C’s proposals as to the contributions that S4C Digital and other relevant audiovisual services will make.”

**Commencement Information**

**I126** Sch. 4 para. 52 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 53 (1) Paragraph 5 (duties regarding arrangements with networks) is amended as follows.
- (2) For “the Welsh Authority”, in each place it occurs, substitute “S4C”.
- (3) In sub-paragraphs (3)(b) and (4), for “the Authority’s” substitute “S4C’s”.
- (4) In sub-paragraph (7)(a), for “the Welsh Authority’s” substitute “S4C’s”.

**Commencement Information**

**I127** Sch. 4 para. 53 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 54 In paragraph 6 (supply of services by satellite in certain areas), for “the Welsh Authority” substitute “S4C”.

**Commencement Information**

**I128** Sch. 4 para. 54 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 55 (1) Paragraph 7 (programming quotas for independent productions) is amended as follows.
- (2) In sub-paragraphs (4), (6), (7), (8) and (10), for “the Welsh Authority” substitute “S4C”.
- (3) In sub-paragraph (7)(a), for “the Authority” substitute “S4C”.

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**Commencement Information**

**I129** Sch. 4 para. 55 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 56 (1) Paragraph 8 (programme quotas for original productions) is amended as follows.
- (2) In sub-paragraphs (8) and (12)(a), for “the Welsh Authority” substitute “S4C”.
- (3) In sub-paragraph (12)(b), for “the Authority” substitute “S4C”.

**Commencement Information**

**I130** Sch. 4 para. 56 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 57 (1) Paragraph 9 (news and current affairs programmes) is amended as follows.
- (2) In sub-paragraphs (1), (2), (3), (4), (5)(a) and (9)(a), for “the Welsh Authority” substitute “S4C”.
- (3) In sub-paragraphs (5)(b) and (9)(b), for “the Authority” substitute “S4C”.
- (4) In sub-paragraph (7)—
- (a) omit paragraph (a);
  - (b) in paragraph (c)—
    - (i) for “the Welsh Authority’s” substitute “S4C’s”;
    - (ii) after “designated” insert “in writing by the Secretary of State”;
    - (iii) omit the words after “this paragraph”.

**Commencement Information**

**I131** Sch. 4 para. 57 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 58 (1) Paragraph 10 (code relating to programme commissioning) is amended as follows.
- (2) In sub-paragraphs (1), (2), (3), (7), (8)(c) and (10), for “the Welsh Authority” substitute “S4C”.
- (3) In sub-paragraph (2), after “of a” insert “television”.
- (4) In sub-paragraph (3)(d), for “the Authority” substitute “S4C”.
- (5) In sub-paragraphs (5) and (6), for “The Welsh Authority” substitute “S4C”.
- (6) In sub-paragraph (6)(b), for “that Authority” substitute “S4C”.
- (7) Omit sub-paragraph (10).

**Commencement Information**

**I132** Sch. 4 para. 58 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 59 In paragraphs 12 (duty to observe programme standards), 13 (duty to comply with direction about complaints procedure) and 14(1) (duty to comply with directions about advertising), for “the Welsh Authority” substitute “S4C”.

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**Commencement Information**

I133 Sch. 4 para. 59 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

60 In paragraph 13, for “the Authority” substitute “S4C”.

**Commencement Information**

I134 Sch. 4 para. 60 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

61 In paragraph 14(2)(a), for “the Authority’s” substitute “S4C’s”.

**Commencement Information**

I135 Sch. 4 para. 61 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

62 (1) Paragraph 15 (OFCOM action if S4C fails to perform duties) is amended as follows.

(2) In sub-paragraphs (1)(a), (2), (4), (5) and (6), for “the Welsh Authority” substitute “S4C”.

(3) In sub-paragraph (1)(b), for “the Authority’s” substitute “S4C’s”.

(4) In sub-paragraph (5), for “the Authority” substitute “S4C”.

**Commencement Information**

I136 Sch. 4 para. 62 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

63 (1) Paragraph 16 (directions with respect to advertising) is amended as follows.

(2) In sub-paragraph (1), for “the Welsh Authority” substitute “S4C”.

(3) In sub-paragraph (2)(d), omit “S4C or”.

**Commencement Information**

I137 Sch. 4 para. 63 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

64 In paragraph 17 (fairness standards), for “the Welsh Authority” substitute “S4C”.

**Commencement Information**

I138 Sch. 4 para. 64 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

65 (1) Paragraph 18 (party political broadcasts) is amended as follows.

(2) In sub-paragraphs (1) and (5), for “the Welsh Authority” substitute “S4C”.

(3) In sub-paragraph (2), for “The Welsh Authority” substitute “S4C”.

(4) In sub-paragraph (3), for “The Welsh Authority’s” substitute “S4C’s”.

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- (5) In sub-paragraph (6)—
- (a) omit paragraph (a);
  - (b) in paragraph (c)—
    - (i) for “the Welsh Authority’s” substitute “S4C’s”;
    - (ii) after “designated” insert “in writing by the Secretary of State”;
    - (iii) omit the words after “this paragraph”.

**Commencement Information**

**I139** Sch. 4 para. 65 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 66 (1) Paragraph 19 (publicising complaints procedures) is amended as follows.
- (2) In sub-paragraphs (1) and (2)(a), for “the Welsh Authority” substitute “S4C”.
  - (3) In sub-paragraph (2)(b), for “the Authority”, in each place it occurs, substitute “S4C”.

**Commencement Information**

**I140** Sch. 4 para. 66 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 67 In paragraph 20(1) (monitoring of programmes), for “the Welsh Authority” substitute “S4C”.

**Commencement Information**

**I141** Sch. 4 para. 67 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 68 (1) Paragraph 21 (compliance with international obligations) is amended as follows.
- (2) In sub-paragraph (1), for “the Welsh Authority” substitute “S4C”.
  - (3) In sub-paragraphs (2) and (3), for “the Authority” substitute “S4C”.

**Commencement Information**

**I142** Sch. 4 para. 68 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 69 (1) Paragraph 22 (services for people with disabilities) is amended as follows.
- (2) For “the Welsh Authority” substitute “S4C”.
  - (3) For “the Welsh Authority’s” substitute “S4C’s”.

**Commencement Information**

**I143** Sch. 4 para. 69 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

- 70 (1) Paragraph 23 (equality of opportunity) is amended as follows.
- (2) In sub-paragraphs (1), (2) and (5), for “the Welsh Authority” substitute “S4C”.

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(3) In sub-paragraphs (1) and (2), for “the Authority” substitute “S4C”.

(4) In sub-paragraphs (3) and (4), for “The Welsh Authority” substitute “S4C”.

#### Commencement Information

I144 Sch. 4 para. 70 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

71 (1) Paragraph 24 (public services) is amended as follows.

(2) In sub-paragraph (1)—

(a) for “the Welsh Authority’s” substitute “S4C’s”;

(b) omit paragraph (a);

(c) for paragraph (c) substitute—

“(c) any other relevant audiovisual service provided by S4C in fulfilling its public service remit.”

(3) In sub-paragraph (2)—

(a) for “the Welsh Authority” substitute “S4C”;

(b) for “the Authority” substitute “S4C”.

(4) In the italic heading before paragraph 24, for “Welsh Authority’s” substitute “S4C’s”.

#### Commencement Information

I145 Sch. 4 para. 71 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

72 In Schedule 18 (transitional provisions), omit paragraph 27 and sub-paragraph (3) of paragraph 43.

#### Commencement Information

I146 Sch. 4 para. 72 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

#### Commencement Information

I103 Sch. 4 para. 29 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

I104 Sch. 4 para. 30 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

I105 Sch. 4 para. 31 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

I106 Sch. 4 para. 32 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

I107 Sch. 4 para. 33 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

I108 Sch. 4 para. 34 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

I109 Sch. 4 para. 35 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

I110 Sch. 4 para. 36 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

I111 Sch. 4 para. 37 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

I112 Sch. 4 para. 38 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

I113 Sch. 4 para. 39 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

I114 Sch. 4 para. 40 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

I115 Sch. 4 para. 41 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

I116 Sch. 4 para. 42 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

I117 Sch. 4 para. 43 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

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- I118 Sch. 4 para. 44 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I119 Sch. 4 para. 45 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I120 Sch. 4 para. 46 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I121 Sch. 4 para. 47 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I122 Sch. 4 para. 48 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I123 Sch. 4 para. 49 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I124 Sch. 4 para. 50 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I125 Sch. 4 para. 51 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I126 Sch. 4 para. 52 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I127 Sch. 4 para. 53 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I128 Sch. 4 para. 54 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I129 Sch. 4 para. 55 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I130 Sch. 4 para. 56 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I131 Sch. 4 para. 57 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I132 Sch. 4 para. 58 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I133 Sch. 4 para. 59 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I134 Sch. 4 para. 60 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I135 Sch. 4 para. 61 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I136 Sch. 4 para. 62 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I137 Sch. 4 para. 63 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I138 Sch. 4 para. 64 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I139 Sch. 4 para. 65 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I140 Sch. 4 para. 66 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I141 Sch. 4 para. 67 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I142 Sch. 4 para. 68 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I143 Sch. 4 para. 69 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I144 Sch. 4 para. 70 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I145 Sch. 4 para. 71 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)
- I146 Sch. 4 para. 72 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

### *Equality Act 2010*

- 73 In Part 1 of Schedule 19 to the Equality Act 2010 (public authorities), in the entry for “The Welsh Authority (as defined by section 56(1) of the Broadcasting Act 1990)”, for “The Welsh Authority (as defined)” substitute “S4C (as named”.

### **Commencement Information**

- I147 Sch. 4 para. 73 not in force at Royal Assent, see [s. 55\(3\)\(c\)](#)

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PROSPECTIVE

## SCHEDULE 5

Section 37(6)

### TIER 1 SERVICES: CHAPTER TO BE INSERTED AS CHAPTER 3 OF PART 4A OF THE 2003 ACT

#### Commencement Information

**I148** Sch. 5 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

Insert the following Chapter as Chapter 3 of Part 4A of the Communications Act 2003—

### “CHAPTER 3

#### REGULATION OF TIER 1 SERVICES

##### *Meaning of Tier 1 service*

#### **368HA Meaning of Tier 1 service**

- (1) In this Act, a “Tier 1 service” means—
  - (a) an on-demand programme service that falls within [subsection \(2\)](#), and
  - (b) an on-demand programme service, or a non-UK on-demand programme service, that is a Tier 1 service by virtue of regulations under [section 368HB](#).
- (2) An on-demand programme service falls within this subsection if it is an on-demand programme service that is being used by a public service broadcaster, other than the BBC, to contribute to the fulfilment of its public service remit.
- (3) In this section, “public service remit”—
  - (a) in relation to S4C, has the meaning given by [section 204A](#);
  - (b) in relation to the provider of a Channel 3 service or Channel 5, has the meaning given by [section 265\(2\)](#);
  - (c) in relation to the provider of Channel 4, has the meaning given by [section 265\(3\)](#).

#### **368HB Power to specify Tier 1 services etc**

- (1) The Secretary of State may by regulations provide that an on-demand programme service, or a non-UK on-demand programme service, is a Tier 1 service if it is specified, or falls within a description specified, in the regulations.
- (2) The Secretary of State may make regulations under [subsection \(1\)](#) only if the Secretary of State is satisfied that it is appropriate for the providers of the services specified, or falling within a description specified, in the regulations to be subject to the duties imposed on providers of Tier 1 services.



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- (3) Before making regulations under [subsection \(1\)](#) (but after considering any report prepared by OFCOM under [subsection \(5\)](#) or [\(6\)](#)), the Secretary of State must publish on a publicly accessible part of an official website of His Majesty’s Government a list of the services, or descriptions, that the Secretary of State proposes to specify in the regulations.
- (4) Regulations are not to be made under [subsection \(1\)](#) unless the period of five sitting days beginning with the first sitting day after the date on which the requirement in [subsection \(3\)](#) is met in relation to the regulations has expired.
- (5) Before making the first regulations under [subsection \(1\)](#), the Secretary of State must—
  - (a) request OFCOM to prepare a report on the operation of the market in the United Kingdom for on-demand programme services and non-UK on-demand programme services, and
  - (b) have regard to the contents of that report.
- (6) Where the Secretary of State is considering whether to make a second or subsequent set of regulations under [subsection \(1\)](#), the Secretary of State—
  - (a) may request OFCOM to prepare a further report on the operation of the market in the United Kingdom for on-demand programme services and non-UK on-demand programme services, and
  - (b) where a request is made, the Secretary of State must have regard to the contents of the report in deciding whether to make the regulations.
- (7) In preparing a report requested under [subsection \(5\)\(a\)](#) or [\(6\)\(a\)](#), OFCOM must deal with any matters specified by the Secretary of State in the request (as well as any other matters that they consider appropriate).
- (8) For the purposes of preparing a report requested under [subsection \(5\)\(a\)](#) or [\(6\)\(a\)](#), OFCOM may request any person who appears to be the provider of an on-demand programme service or a non-UK on-demand programme service to provide OFCOM with any information relating to that service that is specified in the request.
- (9) The power conferred by [subsection \(8\)](#) 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) Information provided in response to a request by OFCOM may be shared by OFCOM with the Secretary of State but may not be further shared (whether by OFCOM or the Secretary of State).
- (11) A request under [subsection \(8\)](#) may—
  - (a) specify a period of time within which the information must be provided;
  - (b) specify the form and manner in which the information must be provided.
- (12) A person who is requested to provide information under [subsection \(8\)](#) must comply with that request.
- (13) In this section “sitting day” means a day on which both Houses of Parliament sit.



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### *Duties relating to notification etc*

#### **368HC Notification to OFCOM**

- (1) A person who provides a Tier 1 service must give OFCOM a notification (a “Tier 1 notification”) to that effect.
- (2) Subsection (3) applies where—
  - (a) regulations are made under [section 368HB\(1\)](#), and
  - (b) a non-UK on-demand programme service is specified or falls within a description specified in the regulations.
- (3) OFCOM must, for the purpose of assisting with compliance with [subsection \(1\)](#), inform the provider of that Tier 1 service of that fact.
- (4) A person who gives a Tier 1 notification must also notify OFCOM if the person ceases to provide a Tier 1 service.
- (5) A Tier 1 notification or a notification under [subsection \(4\)](#) must—
  - (a) be sent to OFCOM in such manner as they may require, and
  - (b) include such information as they may require.

#### **368HD Lists of Tier 1 providers**

- (1) OFCOM must establish and maintain an up to date list of persons who have—
  - (a) given a Tier 1 notification to OFCOM under [section 368HC\(1\)](#), and
  - (b) not given a further notification under [section 368HC\(4\)](#).
- (2) The list must include contact details which may be used by members of the public wishing to contact a Tier 1 service.
- (3) OFCOM must publish the list on a publicly accessible part of their website.

### *Application etc of Chapter 2 to certain Tier 1 services*

#### **368HE Application etc of Chapter 2 to certain Tier 1 services**

- (1) Subsection (2) applies where a non-UK on-demand programme service is a Tier 1 service by virtue of regulations under [section 368HB](#).
- (2) The following provisions of Chapter 2 apply in relation to the Tier 1 service as if any reference in those provisions to an on-demand programme service included a reference to the Tier 1 service—
  - (a) [section 368C](#), so far as relating to the duties of the appropriate regulatory authority in relation to [section 368D](#);
  - (b) [section 368D](#) (duties of service providers), apart from [section 368D\(2\)\(ca\)](#);
  - (c) [section 368E](#) (harmful material);
  - (d) [section 368F](#) (advertising);
  - (e) [section 368FA](#) (advertising: less healthy food and drink);
  - (f) [section 368G](#) (sponsorship);
  - (g) [section 368H](#) (prohibition of product placement and exceptions).

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- (3) A duty or prohibition arising by virtue of [subsection \(2\)](#) applies in relation to the Tier 1 service only on and after the end of the grace period that applies in relation to the Tier 1 service.
- (4) In [subsection \(3\)](#), “the grace period”, in relation to a non-UK on-demand programme service that is a Tier 1 service, means the period of 12 months beginning with the day on which the non-UK on-demand programme service became a Tier 1 service.
- (5) Where regulations under [section 368HB\(1\)](#) provide that a non-UK on-demand programme service specified in the regulations is a Tier 1 service, the regulations may also provide—
  - (a) that subsections (1) and (2) do not apply in relation to the service, or
  - (b) that those subsections apply in relation to the service as if the reference in [subsection \(4\)](#) to 12 months were a reference to such lesser period as may be specified in the regulations.
- (6) Section 368D(3)(zb) applies in relation to an on-demand programme service that is a Tier 1 service by virtue of [section 368HA\(1\)\(a\)](#) with the modification that the reference in section 368D(3)(zb) to 60 days is to be read as a reference to 90 days.

*Standards code for Tier 1 services*

**368HF Standards code for Tier 1 services**

- (1) OFCOM must prepare and publish a code containing standards set by them for the content of programmes to be included in Tier 1 services.
- (2) The standards must be such as appear to OFCOM to be best calculated to secure the following objectives (“the standards objectives”)—
  - (a) that persons under the age of 18 are protected;
  - (b) that material likely to encourage or incite the commission of crime or to lead to disorder is not included in Tier 1 services;
  - (c) that news included in those services is presented with due impartiality;
  - (d) that news included in those services is reported with due accuracy;
  - (e) that the impartiality requirements described in [section 368HG](#) are met;
  - (f) that generally accepted standards are applied to the contents of those services so as to provide adequate protection for members of the public from the inclusion of offensive and harmful material;
  - (g) that the proper degree of responsibility is exercised with respect to the content of religious programmes included in those services.
- (3) The standards included in the code to secure the objective described in [subsection \(2\)\(g\)](#) must, in particular, contain provision designed to secure that religious programmes do not involve—
  - (a) any improper exploitation of susceptibilities of the audience for such a programme, or
  - (b) any abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination.
- (4) OFCOM may fulfil their duty to publish the code in such ways as OFCOM consider likely to bring the code to the attention of persons who are likely to be affected by it.

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- (5) OFCOM—
- (a) must keep the code under review,
  - (b) may from time to time revise the code, and
  - (c) where they do so, must publish the code as revised.
- (6) References in this Part to a code under this section are to be read, in relation to times after a revised code is published, as references to the code as revised.
- (7) In this section—
- “news” means news in whatever form it is included in a service;
  - “programme” does not include an advertisement.

### **368HG Tier 1 standards code: special impartiality requirements**

- (1) The impartiality requirements referred to in [section 368HF\(2\)\(e\)](#) are—
- (a) the exclusion from programmes included in any Tier 1 services of all expressions of the views or opinions of the person providing that service on—
    - (i) matters of political or industrial controversy, or
    - (ii) matters relating to current public policy;
  - (b) the preservation of due impartiality on the part of the person providing the service as respects those matters.
- (2) Subsection (1)(a) does not require the exclusion of expressions of views or opinions relating to the provision of on-demand programme services or non-UK on-demand programme services.
- (3) A code under [section 368HF](#) must make provision about the application of the requirement in [subsection \(1\)\(b\)](#), including provision about the ways in which the requirement may be met.

### **368HH Tier 1 standards code: matters to be taken into account**

- (1) In preparing or revising a code under [section 368HF](#), OFCOM must, in particular and to such extent as appears to them to be relevant to securing the standards objectives, have regard to each of the matters set out in [subsection \(2\)](#).
- (2) Those matters are—
- (a) the likely expectation of potential audiences as to the nature of the content of programmes included in particular Tier 1 services;
  - (b) the degree of harm or offence likely to be caused by the inclusion of any particular sort of content, whether in programmes generally or in particular kinds of programmes;
  - (c) the age of the content of particular programmes or particular kinds of programmes included in Tier 1 services;
  - (d) the extent to which, and the ways in which, information about the nature of the content of particular kinds of programmes or of particular programmes can be given in a way that enables individuals to make choices about whether they (or others for whom they have responsibility) view or continue to view that content;
  - (e) the likely effect of consideration being required in order to view a particular Tier 1 service or particular programmes included in a Tier 1 service;

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- (f) the length of time for which particular programmes are included in Tier 1 services;
  - (g) the desirability of maintaining the independence of editorial control over programme content.
- (3) In preparing or revising a code under [section 368HF](#), OFCOM must 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 section.
- (4) The Secretary of State may by regulations amend the list of matters in [subsection \(2\)](#).
- (5) Before making regulations under [subsection \(4\)](#), the Secretary of State must consult OFCOM.
- (6) A statutory instrument containing regulations under [subsection \(4\)](#) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

### **368HI Tier 1 standards code: procedural requirements**

- (1) Before publishing a code under [section 368HF](#), OFCOM must consult—
- (a) persons appearing to OFCOM to represent the interests of potential audiences of Tier 1 services;
  - (b) such persons providing on-demand programme services or non-UK on-demand programme services as OFCOM think fit; and
  - (c) such other persons as appear to OFCOM to have an interest in the content of the code.
- (2) For the purposes of the consultation, OFCOM must publish a draft of the code.
- (3) After considering any views expressed by those persons, OFCOM may—
- (a) publish the code in the terms of the draft published for the purposes of the consultation, or
  - (b) modify the draft and publish the code in the terms of the draft as modified.
- (4) Subsections (1) to (3) apply to a revision of a code under [section 368HF](#) as they apply to a code.

#### *Duties of Tier 1 providers as regards Tier 1 standards code*

### **368HJ Duties of Tier 1 providers to comply with Tier 1 standards code**

- (1) A person who provides a Tier 1 service must observe the code for the time being published under [section 368HF](#).
- (2) The duty under [subsection \(1\)](#) applies only on and after the end of the grace period that applies in relation to the service.
- (3) In [subsection \(2\)](#), “the grace period”, in relation to a Tier 1 service, means the period of 12 months beginning with whichever is the later of the following—
- (a) the day on which the on-demand programme service, or non-UK on-demand programme service, became a Tier 1 service;
  - (b) the day when the first code under [section 368HF](#) was published.

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- (4) Where regulations under [section 368HB\(1\)](#) provide that an on-demand programme service, or a non-UK on-demand programme service, specified in the regulations is a Tier 1 service, the regulations may also provide—
- (a) that subsections (2) and (3) do not apply in relation to the service, or
  - (b) that those subsections apply in relation to the service as if the reference in subsection (3) to 12 months were a reference to such lesser period as may be specified in the regulations.

#### *Complaints relating to Tier 1 standards code*

### **368HK Complaints relating to Tier 1 standards code**

- (1) OFCOM must establish and maintain procedures for the handling and resolution of complaints that a person who provides a Tier 1 service is failing, or has failed, to comply with [section 368HJ\(1\)](#).
- (2) A person who provides a Tier 1 service must establish and maintain procedures for the handling and resolution of complaints that the person is failing, or has failed, to comply with [section 368HJ\(1\)](#).

#### *Accessibility code for Tier 1 services*

### **368HL Accessibility code for Tier 1 services**

- (1) OFCOM must prepare and publish a code imposing requirements on providers of Tier 1 services for the purpose of ensuring that such services are accessible to people with disabilities, including, in particular, people with disabilities affecting their sight or hearing, or both.
- (2) The code must include provision requiring providers of Tier 1 services to report annually to OFCOM about—
  - (a) the accessibility of their services to people with disabilities;
  - (b) the steps taken to secure the quality and usability of the means by which their services are made accessible to people with disabilities.
- (3) The code must include provision requiring every provider of a Tier 1 service to ensure that adequate information about the assistance for disabled people that is provided in relation to that service is made available to those who are likely to want to make use of it.
- (4) The code must include provision requiring the provider of a Tier 1 service, from the second anniversary of the relevant date, to secure that, in the 12 month period beginning with that second anniversary and in the succeeding 12 month period—
  - (a) at least 40 per cent of the total catalogue hours of that service for that period consists of programmes that are accompanied by subtitling;
  - (b) at least 5 per cent of the total catalogue hours of that service for that period consists of programmes that are accompanied by audio-description for the blind; and
  - (c) at least 2.5 per cent of the total catalogue hours of that service for that period consists of programmes that are presented in, or translated into, sign language.

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- (5) The code must include provision requiring the provider of a Tier 1 service, from the fourth anniversary of the relevant date, to secure that, in the 12 month period beginning with the fourth anniversary and in each succeeding 12 month period—
- (a) at least 80 per cent of the total catalogue hours of that service for that period consists of programmes that are accompanied by subtitling;
  - (b) at least 10 per cent of the total catalogue hours of that service for that period consists of programmes that are accompanied by audio-description for the blind; and
  - (c) at least 5 per cent of the total catalogue hours of that service for that period consists of programmes that are presented in, or translated into, sign language.
- (6) A reference in any paragraph of subsections (4) and (5) to the total catalogue hours of a Tier 1 service for a period of time is a reference to the combined duration of the programmes available from the service within that period, other than those programmes excluded under subsection (7) in relation to the requirement in that paragraph.
- (7) The code must set out, in relation to each of the paragraphs of subsections (4) and (5), the descriptions of programmes that are excluded for the purposes of the requirement in that paragraph.
- This subsection does not restrict the provision which may be made under subsection (8).
- (8) The code may include provision under which Tier 1 services specified in the code are wholly or partly exempted from some or all of the requirements set out in subsections (4) and (5).
- (9) Provision in the code partly exempting a Tier 1 service may, in particular, provide for the exemption to apply in relation to particular methods, or particular descriptions of method, by which that service is available to members of the public.
- (10) Before including in the code such provision as is described in subsection (7) or (8) in relation to a Tier 1 service, OFCOM must have regard, in particular, to—
- (a) the extent of the benefit which would be conferred if the provider of the service were to comply with the requirements set out in subsections (4) and (5);
  - (b) the size of the audience for the service;
  - (c) the number of persons who would be likely to benefit from compliance with those requirements and the extent of the likely benefit for each of those persons;
  - (d) the extent to which persons accessing the service are resident in places outside the United Kingdom;
  - (e) the technical difficulty of compliance with those requirements; and
  - (f) the cost, in the context of the matters mentioned in paragraphs (a) to (e), of compliance with those requirements.
- (11) The requirements that may be imposed by the code include, in particular—
- (a) requirements as to lesser levels of assistance that apply before the date on which the requirements set out in subsection (4) or (5) fall to be complied with;
  - (b) requirements as to the provision of assistance for disabled people, or a description of disabled people, in the case of a Tier 1 service that is exempted or partly exempted.



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- (12) The code must also give guidance as to—
- (a) the extent to which Tier 1 services should promote the understanding and enjoyment by people with disabilities (in particular, people with disabilities affecting their sight or hearing, or both) of the programmes to be included in Tier 1 services; and
  - (b) the means by which such understanding and enjoyment should be promoted.
- (13) OFCOM—
- (a) must keep the code under review,
  - (b) may from time to time revise the code, and
  - (c) where they do so, must publish the code as revised.
- (14) OFCOM must publish the code, and every revision of it, in such manner as they consider appropriate, having regard to the need to make the code or revision accessible to people with disabilities, including, in particular, people with disabilities affecting their sight or hearing, or both.
- (15) References in this Part to a code under this section are to be read, in relation to times after a revised code is published, as references to the code as revised.
- (16) In this section, “programme” does not include an advertisement.

### **368HM Meaning of “relevant date”**

- (1) The relevant date, in relation to a Tier 1 service, is the later of—
- (a) the day on which the on-demand programme service, or non-UK on-demand programme service, became a Tier 1 service, and
  - (b) the day on which the first code under [section 368HL](#) was published.
- (2) OFCOM may determine that a service provided by a person is to be treated for the purposes of [section 368HL](#) and this section as a continuation of a service previously provided by that person.

### **368HN Power to modify requirements in section 368HL**

- (1) Where it appears to the Secretary of State, in the case of Tier 1 services of a particular description, that the requirement specified in any paragraph of [section 368HL\(4\)](#) has been or is likely to be fulfilled in their case before the anniversary specified in [section 368HL\(4\)](#), the Secretary of State may by regulations modify [section 368HL](#) so as to do one or both of the following—
- (a) increase the percentage so specified in relation to services of that description;
  - (b) substitute the first anniversary for the anniversary specified in [section 368HL\(4\)](#) in the case of services of that description.
- (2) The Secretary of State may by regulations modify [section 368HL](#) so as to do one or both of the following—
- (a) substitute a later anniversary for the anniversary specified in [section 368HL\(5\)](#);
  - (b) substitute a higher percentage for the percentage for the time being specified in any paragraph of [section 368HL\(5\)](#).
- (3) The provision that may be made by regulations under this section includes—

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- (a) modifications for requiring the code to set out additional requirements to be fulfilled once the requirements previously required to be set out in the code have been fulfilled; and
  - (b) savings for the requirements previously set out in the code.
- (4) Before making regulations under this section the Secretary of State must consult OFCOM.
- (5) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

### **368HO Tier 1 accessibility code: procedural requirements**

- (1) Before publishing a code or a revised code under [section 368HL](#), OFCOM must consult—
- (a) such persons appearing to OFCOM to represent the interests of people with disabilities as OFCOM think fit;
  - (b) such persons providing on-demand programme services or non-UK on-demand programme services as OFCOM think fit; and
  - (c) such other persons as appear to OFCOM to have an interest in the content of the code.
- (2) For the purposes of the consultation, OFCOM must publish a draft of the code.

### **368HP Duty to comply with Tier 1 accessibility code**

A provider of a Tier 1 service must comply with such of the requirements of the code under [section 368HL](#) as apply to that provider.

#### *Reports to Secretary of State*

### **368HQ Reports to Secretary of State**

OFCOM may from time to time report to the Secretary of State on any issues which—

- (a) have been identified by them in the course of carrying out their functions in relation to Tier 1 services, and
- (b) appear to them to raise questions of general policy about the regulation of those services.

#### *Application of Chapter 3*

### **368HR Application of Chapter 3**

The duties of providers of Tier 1 services under or by virtue of this Chapter apply in relation to those services only so far as they are made available for use by members of the public in the United Kingdom.”



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PROSPECTIVE

SCHEDULE 6

Section 37(7)

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

1 Part 4A of the Communications Act 2003 is amended as follows.

**Commencement Information**

**I149** Sch. 6 para. 1 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

2 Before section 368I insert—  
“Chapter 4

*Enforcement: general”.*

**Commencement Information**

**I150** Sch. 6 para. 2 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

3 (1) Section 368I (enforcement of sections 368CB and 368D) is amended as follows.

(2) For the heading substitute “Enforcement of service providers’ principal duties”.

(3) In subsection (1), in the words before paragraph (a), after “section 368D” insert “, or that a provider of a non-UK on-demand programme service that is a Tier 1 service is contravening or has contravened section 368D,”.

(4) After subsection (1) insert—

“(1A) Where OFCOM (as the appropriate regulatory authority) determine that a provider of a Tier 1 service is contravening or has contravened section 368HC, 368HJ(1), 368HK(2) or 368HP, they may do one or both of the following—

- (a) give the provider an enforcement notice under this section;
- (b) impose a financial penalty on the provider in accordance with section 368J.”

(5) In subsection (2)—

- (a) after “subsection (1)” insert “or (1A)”;
- (b) after “section 368D” insert “or (as the case may be) [section 368HC](#), [368HJ\(1\)](#), [368HK\(2\)](#) or [368HP](#)”.

(6) In subsection (3)—

- (a) after “subsection (1)” insert “or (1A)”;
- (b) after “section 368D” insert “or (as the case may be) [section 368HC](#), [368HJ\(1\)](#), [368HK\(2\)](#) or [368HP](#)”.

(7) In subsection (10)—

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- (a) after “an on-demand programme service” insert “, or a non-UK on-demand programme service that is a Tier 1 service,”;
- (b) after “subsection (1)” insert “, (1A)”.

**Commencement Information**

**I151** Sch. 6 para. 3 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 4 In section 368IA (enforcement of section 368E(4)), in subsection (1), in the words before paragraph (a), after “an on-demand programme service” insert “, or a non-UK on-demand programme service that is a Tier 1 service,”.

**Commencement Information**

**I152** Sch. 6 para. 4 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 5 (1) Section 368K (suspension or restriction of service for contraventions or failures) is amended as follows.
- (2) In subsection (1), in the words before paragraph (a), after “an on-demand programme service” insert “or a non-UK on-demand programme service that is a Tier 1 service”.
- (3) After subsection (1) insert—
- “(1A) OFCOM (as the appropriate regulatory authority) must serve a notice under subsection (2) on a provider of a Tier 1 service if they are satisfied—
- (a) that the provider is in contravention of [section 368HC](#), [368HJ\(1\)](#), [368HK\(2\)](#) or [368HP](#),
  - (b) that the imposition of one or more financial penalties or enforcement notifications under section 368I has not resulted in the remedying of the contravention, and
  - (c) that the giving of a direction under this section would be appropriate and proportionate to the seriousness of the contravention.”
- (4) In subsection (2)—
- (a) in paragraph (a), after “subsection (1)” insert “or (1A)”;
  - (b) in paragraph (b), after “subsection (1)” insert “or (1A)”;
  - (c) in paragraph (c), after “subsection (1)(a)” insert “or (1A)(a)”.
- (5) In subsection (3)—
- (a) in the words before paragraph (a), after “subsection (1)(c)” insert “or (1A)(c)”;
  - (b) in paragraph (a), after “an on-demand programme service” insert “or a non-UK on-demand programme service that is a Tier 1 service”.

**Commencement Information**

**I153** Sch. 6 para. 5 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 6 (1) Section 368L (suspension or restriction of service for inciting crime or disorder) is amended as follows.

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- (2) In subsection (1), in the words before paragraph (a), after “an on-demand programme service” insert “or a non-UK on-demand programme service that is a Tier 1 service”.
- (3) In subsection (3), in paragraph (a), after “an on-demand programme service” insert “or a non-UK on-demand programme service that is a Tier 1 service”.
- (4) In subsection (5), in paragraph (a), after “an on-demand programme service” insert “or a non-UK on-demand programme service that is a Tier 1 service”.

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**Commencement Information**

**I154** Sch. 6 para. 6 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 7 (1) Section 368M (supplementary provisions about directions) is amended as follows.
  - (2) In subsection (2), after “any on-demand programme service” insert “, or to any non-UK on-demand programme service that is a Tier 1 service,”.
  - (3) After subsection (2) insert—

“(2A) A direction has effect in relation to a non-UK on-demand programme service that is a Tier 1 service only so far as the service is made available for use by members of the public in the United Kingdom.”

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**Commencement Information**

**I155** Sch. 6 para. 7 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 8 In section 368N (enforcement of directions under section 368K or 368L), in subsection (1), in the words before paragraph (a), after “an on-demand programme service” insert “or a non-UK on-demand programme service that is a Tier 1 service”.

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**Commencement Information**

**I156** Sch. 6 para. 8 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 9 Before section 368NA insert—

“Chapter 5

*Supplementary*”.

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**Commencement Information**

**I157** Sch. 6 para. 9 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 10 (1) Section 368NA (fees) is amended as follows.
  - (2) In subsection (2), after “an on-demand programme service” insert “or a non-UK on-demand programme service that is a Tier 1 service”.
  - (3) After subsection (8) insert—

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- “(8A) The authority may also repay some or all of a fee paid to them by a person under subsection (2) if—
- (a) the person has ceased to provide a Tier 1 service at some time during the period to which the fee relates,
  - (b) the Tier 1 service in question was a non-UK on-demand programme service,
  - (c) the person gave a notification under section 368HC(4) that the person had ceased to provide the Tier 1 service, and
  - (d) the person did not cease to provide the Tier 1 service following a direction given by the appropriate regulatory authority under section 368K or 368L.
- (8B) The authority may repay some of a fee paid to them by a person under subsection (2) if—
- (a) the person has ceased to provide a Tier 1 service at some time during the period to which the fee relates,
  - (b) the Tier 1 service in question was an on-demand programme service that the person continues to provide, and
  - (c) the person gave a notification under [section 368HC\(4\)](#) that the person had ceased to provide the Tier 1 service.”

#### Commencement Information

**1158** Sch. 6 para. 10 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 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

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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;
  - (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

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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—
  - “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 \(6\)](#)”.

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**Commencement Information**

**I159** Sch. 6 para. 11 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 12 (1) Section 368R (interpretation of Part 4A) is amended as follows.
- (2) In subsection (1), in the definition of “children’s programme”, in paragraph (a), after “an on-demand programme service” insert “or a non-UK on-demand programme service that is a Tier 1 service”.
- (3) In subsection (2), after “an on-demand programme service” insert “or a non-UK on-demand programme service that is a Tier 1 service”.
- (4) In subsection (3), after “an on-demand programme service” insert “or a non-UK on-demand programme service that is a Tier 1 service”.
- (5) In subsection (5), after “an on-demand programme service” insert “or a non-UK on-demand programme service”.

**Commencement Information**

**I160** Sch. 6 para. 12 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

PROSPECTIVE

SCHEDULE 7

Section 37(8)

TIER 1 SERVICES: AMENDMENTS OF OTHER LEGISLATION

- 1 In section 93 of the Representation of the People Act 1983 (broadcasting of local items during election period), in subsection (6), in the definition of “relevant services”, in paragraph (b), at the end insert “or services that are Tier 1 services within the meaning given by [section 368HA](#) of the Communications Act 2003”.

**Commencement Information**

**I161** Sch. 7 para. 1 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 2 (1) The Broadcasting Act 1996 is amended as follows.
- (2) In section 107 (preparation by OFCOM of code relating to avoidance of unjust or unfair treatment etc)—
- (a) in subsection (1), in paragraph (a), for “this section” substitute “subsection (5)”;
- (b) after subsection (1) insert—
- “(1A) OFCOM must also draw up, and from time to time review, a code giving guidance as to the principles to be observed, and practices to be followed, in connection with the avoidance of—



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- (a) unjust or unfair treatment in any programme that is included in a Tier 1 service (within the meaning given by [section 368HA](#) of the Communications Act 2003), or
- (b) unwarranted infringement of privacy in, or in connection with the obtaining of material included in, such programmes.

(1B) Subsection (1A) applies in relation to a Tier 1 service only so far as the service is made available for use by members of the public in the United Kingdom.”;

- (c) in subsection (3), for “the code” substitute “a code under this section”;
- (d) in subsection (4), for “the code” substitute “a code under this section”;
- (e) in subsection (5), for “This section” substitute “This subsection”.

(3) In section 110 (general functions of OFCOM in relation to complaints), in subsection (3), for “the code” substitute “the codes”.

(4) In section 111 (complaints of unfair treatment etc)—

- (a) in subsection (4), after “in a licensed service” insert “or a Tier 1 service”;
- (b) after subsection (4) insert—

“(4A) OFCOM must not entertain, or proceed with the consideration of, a fairness complaint relating to the inclusion of a programme in a Tier 1 service unless it appears to them that the programme—

- (a) was first included in the service after the end of the grace period, or
- (b) if first included before then, either remained included or was again included after the end of that period.

(4B) In subsection (4A), “the grace period”, in relation to a Tier 1 service, means the period of 12 months beginning with whichever is the later of the following—

- (a) the day on which the on-demand programme service, or non-UK on-demand programme service, became a Tier 1 service;
- (b) the day when the first code under section 107(1A) was published.

(4C) Where regulations under [section 368HB\(1\)](#) of the Communications Act 2003 provide that an on-demand programme service, or a non-UK on-demand programme service, specified in the regulations is a Tier 1 service, the regulations may also provide—

- (a) that subsections (4A) and (4B) do not apply in relation to the service, or
- (b) that those subsections apply in relation to the service as if the reference in subsection (4B) to 12 months were a reference to such lesser period as may be specified in the regulations.”;

(c) in subsection (5), after “in a licensed service” insert “or a Tier 1 service”;

(d) in subsection (6), after “in a licensed service” insert “or a Tier 1 service”.

(5) In section 115 (consideration of fairness complaints), in subsection (9)—



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- (a) omit the “and” at the end of paragraph (a);
  - (b) at the end of paragraph (b) insert “, and
    - (c) in a case where the relevant programme was included in a Tier 1 service, the person who provides that service.”
- (6) In section 119 (publication of OFCOM’s findings)—
- (a) after subsection (7C) insert—
    - “(7D) Where the relevant person is a provider of a Tier 1 service, the following provisions of the Communications Act 2003 apply in relation to a contravention of the duty under subsection (6) as they apply in relation to a contravention of the duty under [section 368HJ\(1\)](#) of that Act—
      - (a) section 368I(1A)(b) (power to impose a financial penalty in accordance with section 368J) and section 368J;
      - (b) section 368K (suspension or restriction of services).”;
    - (b) in subsection (8), in paragraph (c), for the words from “by a broadcasting body” to “licensed service” substitute “by a relevant person”;
    - (c) in subsection (11A), omit the “and” at the end of paragraph (a);
    - (d) in that subsection, at the end of paragraph (b) insert “, and
      - (c) in a case where the relevant programme was included in a Tier 1 service, the person who provides that service.”
- (7) In section 120 (reports on action taken voluntarily in response to findings on complaints)—
- (a) after subsection (3) insert—
    - “(3A) Where the relevant programme was included in a Tier 1 service, the provider of that service shall send to OFCOM a report of any supplementary action taken by—
      - (a) the provider, or
      - (b) any other person appearing to the provider to be responsible for the making or provision of the relevant programme.”;
    - (b) in subsection (4), for “or (3)” substitute “, (3) or (3A)”.
- (8) In section 130 (interpretation of Part 5), in subsection (1), insert at the appropriate place—
- ““Tier 1 service” has the same meaning as in the Communications Act 2003 (see [section 368HA](#) of that Act);”.

#### Commencement Information

**I162** Sch. 7 para. 2 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 3
- (1) The Communications Act 2003 is amended as follows.
  - (2) In section 361 (meaning of “available for reception by members of the public”), in subsection (2), at the end insert “or a non-UK on-demand programme service that is a Tier 1 service (see [section 368HA](#))”.
  - (3) In section 368Z14 (prohibition of paid-for advertising of less healthy food and drink), in subsection (3)(b)—

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- (a) after “in on-demand programme services” insert “or in non-UK on-demand programme services that are Tier 1 services”;
  - (b) in the words in brackets, for “section 368FA” substitute “sections 368FA and 368HE(2)(e)”.
- (4) In section 405 (general interpretation), in subsection (1), insert at the appropriate places—
- ““non-UK on-demand programme service” has the meaning given by section 368AA(1);”;
  - ““Tier 1 service” has the meaning given by section 368HA;”.
- (5) In Schedule 11A (restrictions on product placement), in paragraph 3(2)(a), after “an on-demand programme service” insert “or a non-UK on-demand programme service that is a Tier 1 service”.

#### Commencement Information

**I163** Sch. 7 para. 3 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 4
- (1) Section 9A of the Wireless Telegraphy Act 2006 (notice to satellite uplinkers) is amended as follows.
  - (2) In subsection (3), in the words before paragraph (a), after “an on-demand programme service” insert “, or a non-UK on-demand programme service that is a Tier 1 service,”.
  - (3) In subsection (6)—
    - (a) in the definition of “on-demand programme service”, after “on-demand programme service” insert “, “non-UK on-demand programme service” and “Tier 1 service” each”;
    - (b) in the words in brackets, for “section 368A” substitute “sections 368A, 368AA and 368HA”.

#### Commencement Information

**I164** Sch. 7 para. 4 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 5
- (1) The Online Safety Act 2023 is amended as follows.
  - (2) In section 80 (scope of duties about regulated provider pornographic content)—
    - (a) in subsection (6)—
      - (i) after “programme service” insert “or a non-UK on-demand programme service that is a Tier 1 service”;
      - (ii) omit “within the meaning of section 368A of the Communications Act”;
    - (b) after subsection (6) insert—
      - “(6A) In subsection (6), “on-demand programme service”, “non-UK on-demand programme service” and “Tier 1 service” have the same meaning as in the Communications Act (see sections 368A, 368AA and 368HA of that Act).”

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- (3) In Schedule 9 (certain internet services not subject to duties relating to regulated provider pornographic content)—
- (a) in the italic heading before paragraph 5, after “services” insert “and non-UK on-demand programme services that are Tier 1 services”;
  - (b) in paragraph 5 (on-demand programme services (entire internet service))—
    - (i) in sub-paragraph (1), after “programme service” insert “or a non-UK on-demand programme service that is a Tier 1 service”;
    - (ii) in sub-paragraph (2), for “has” substitute “, “non-UK on-demand programme service” and “Tier 1 service” have”;
    - (iii) in sub-paragraph (2), for “section 368A” substitute “sections 368A, 368AA and 368HA”;
  - (c) in the italic heading before paragraph 6, after “services” insert “and non-UK on-demand programme services that are Tier 1 services”;
  - (d) in paragraph 6 (on-demand programme services (part of internet service))—
    - (i) in sub-paragraph (2)(a), after “programme service” insert “or a non-UK on-demand programme service that is a Tier 1 service”;
    - (ii) in sub-paragraph (3), after “programme service” insert “or a non-UK on-demand programme service that is a Tier 1 service”.

**Commencement Information**

**I165** Sch. 7 para. 5 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

PROSPECTIVE

SCHEDULE 8

Section 40

OTHER AMENDMENTS OF PART 4A OF THE 2003 ACT

- 1 Part 4A of the Communications Act 2003 is amended as follows.

**Commencement Information**

**I166** Sch. 8 para. 1 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 2 In section 368BZA (list of providers), in subsection (1), for “providing an on-demand programme service” substitute “who have—
- (a) given a notification to OFCOM under section 368BA(1) of their intention to provide an on-demand programme service, and
  - (b) not given a further notification under section 368BA(2)(b) of their intention to cease to provide it”.

**Commencement Information**

**I167** Sch. 8 para. 2 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

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- 3 In section 368BB (enforcement of section 368BA), after subsection (6) insert—
- “(7) Subsection (6) applies whether or not the provider is in the United Kingdom.”

**Commencement Information**

**I168** Sch. 8 para. 3 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 4 Omit the cross-heading preceding section 368BC.

**Commencement Information**

**I169** Sch. 8 para. 4 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 5 (1) Omit sections 368BC and 368BD (accessibility for people with disabilities).
- (2) In consequence of the amendment made by sub-paragraph (1), in section 402 (power of Secretary of State to make orders and regulations), in subsection (2)(a), omit “or regulations under section 368BC”.

**Commencement Information**

**I170** Sch. 8 para. 5 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 6 Omit section 368CA (code on accessibility for people with disabilities).

**Commencement Information**

**I171** Sch. 8 para. 6 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 7 In section 368D (duties of service providers), in subsection (3)(zb), for “forty-two days” substitute “60 days”.

**Commencement Information**

**I172** Sch. 8 para. 7 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 8 In section 368I (enforcement of sections 368CB and 368D), after subsection (8) insert—
- “(8A) Subsection (8) applies whether or not the provider is in the United Kingdom.”

**Commencement Information**

**I173** Sch. 8 para. 8 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

- 9 In section 368IA (enforcement of section 368E(4)), after subsection (8) insert—
- “(8A) Subsection (8) applies whether or not the person is in the United Kingdom.”

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**Commencement Information**

**I174** Sch. 8 para. 9 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

10 In section 368J (financial penalties), in subsection (1), omit “, 368BD”.

**Commencement Information**

**I175** Sch. 8 para. 10 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

11 In section 368K (suspension or restriction of service for contraventions or failures), in subsection (1)—  
(a) in paragraph (a), omit “, or of regulations under section 368BC”;  
(b) in paragraph (b), omit “, 368BD”.

**Commencement Information**

**I176** Sch. 8 para. 11 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

12 (1) Before section 368R insert—

**“368QA Service of notices by OFCOM**

Section [362AZ10](#) (notices) applies in relation to a notice that may or must be given by OFCOM under any provision of this Part as it applies in relation to a notice that may or must be given by them under any provision of Part 3A.”

(2) In consequence of the amendment made by [sub-paragraph \(1\)](#), in section 394 (service of notifications and other documents), in subsection (2)(a) (as amended by [paragraph 3](#) of [Schedule 3](#) and [paragraph 3](#) of [Schedule 9](#)), after “Part 3B” insert “or Part 4A”.

**Commencement Information**

**I177** Sch. 8 para. 12 not in force at Royal Assent, see [s. 55\(3\)\(d\)](#)

PROSPECTIVE

SCHEDULE 9

Section 48(2)

PART 6: FURTHER AMENDMENTS

1 The Communications Act 2003 is amended as follows.

**Commencement Information**

**I178** Sch. 9 para. 1 not in force at Royal Assent, see [s. 55\(3\)\(f\)](#)

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- 2 In section 393 (general restrictions on disclosure of information), in subsection (6), in paragraph (a), after “362AW” (inserted by [paragraph 2 of Schedule 3](#)) insert “, 362BC(6)”.

**Commencement Information**

**I179** Sch. 9 para. 2 not in force at Royal Assent, see [s. 55\(3\)\(f\)](#)

- 3 In section 394 (service of notifications and other documents), in subsection (2)(a), after “Part 3A” (inserted by [paragraph 3 of Schedule 3](#)) insert “, Part 3B”.

**Commencement Information**

**I180** Sch. 9 para. 3 not in force at Royal Assent, see [s. 55\(3\)\(f\)](#)

- 4 In section 400 (destination of fees and penalties), in subsection (1), in [paragraph \(ha\)](#) (inserted by [paragraph 4 of Schedule 3](#)), after “3A” insert “or 3B”.

**Commencement Information**

**I181** Sch. 9 para. 4 not in force at Royal Assent, see [s. 55\(3\)\(f\)](#)

PROSPECTIVE

SCHEDULE 10

Section 49(3)

SCHEDULE TO BE INSERTED AS SCHEDULE 16A TO THE 2003 ACT

**Commencement Information**

**I182** Sch. 10 not in force at Royal Assent, see [s. 55\(3\)\(g\)](#)

After Schedule 16 to the Communications Act 2003 insert—

“SCHEDULE 16A

Section 392A

PENALTIES IMPOSED BY OFCOM UNDER PARTS 3A AND 3B

**Interpretation**

- 1 References in this Schedule to a penalty are to—
- (a) a penalty imposed by a confirmation decision (see [sections 362AZ1\(8\)](#) and [362BS\(8\)](#));
  - (b) a penalty imposed by a penalty notice under [section 362AZ4\(2\)](#) or [362BV\(2\)](#);

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- (c) a penalty imposed by a penalty notice under [section 362AZ7\(6\)](#) or [362BY\(6\)](#).

### Amount of penalties: principles

- 2 (1) In determining the amount of a penalty to be imposed on a person, OFCOM must, in particular, take into account—
  - (a) any representations made, and evidence provided, by the person, and
  - (b) the effects of the failure or failures in respect of which the penalty is imposed.
- (2) In the case of a penalty imposed by a confirmation decision, OFCOM must also take into account any representations made, and evidence provided, by any other person to whom the provisional notice of contravention relating to the same matter was given.
- (3) OFCOM must also take into account—
  - (a) in the case of a penalty imposed by a confirmation decision, any steps taken by the person towards—
    - (i) complying with the duty or duties specified in the provisional notice of contravention given to the person, or
    - (ii) remedying the failure to comply with that duty or those duties;
  - (b) in the case of a penalty imposed by a penalty notice, any steps taken by the person towards—
    - (i) complying with the duty or duties specified in the confirmation decision given to the person, or
    - (ii) remedying the failure to comply with that duty or those duties.
- (4) A penalty must be of an amount that OFCOM consider to be—
  - (a) appropriate, and
  - (b) proportionate to the failure or failures in respect of which it is imposed.
- (5) See also section 392 (which requires OFCOM to produce guidelines about their determination of penalties that they impose).

### Maximum amount of penalties

- 3 (1) Sub-paragraph (2) applies where—
  - (a) a penalty is imposed on a person in respect of a regulated television selection service that is or was at any time provided by that person,
  - (b) a penalty is imposed on a person other than the BBC or S4C in respect of a designated internet programme service that is or was at any time provided by that person,
  - (c) a penalty is imposed on a person in respect of a designated radio selection service that is or was at any time provided by that person, or
  - (d) a penalty is imposed on a person other than the BBC in respect of a relevant internet radio service that is or was at any time provided by that person,and the person upon whom the penalty is imposed has an accounting period.
- (2) The maximum amount of the penalty that may be imposed is whichever is the greater of—



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- (a) £250,000, and
  - (b) 5% of the person’s qualifying worldwide revenue for the person’s most recent complete accounting period.
- (3) In any case other than that described in sub-paragraph (1), the maximum amount of the penalty that may be imposed is £250,000.
- (4) If (in a case described in sub-paragraph (1)) the first accounting period of the person has not yet ended, sub-paragraph (2)(b) is to be read as referring to 5% of the amount that OFCOM estimate to be the person’s likely qualifying worldwide revenue for that period.
- (5) If the duration of the accounting period by reference to which an amount of qualifying worldwide revenue is calculated is less than a year, the amount mentioned in sub-paragraph (2)(b) is to be increased proportionately.
- (6) If the duration of the accounting period by reference to which an amount of qualifying worldwide revenue is calculated is more than a year, the amount mentioned in sub-paragraph (2)(b) is to be decreased proportionately.
- (7) The amount of a person’s qualifying worldwide revenue for an accounting period is, in the event of a disagreement between the person and OFCOM, the amount determined by OFCOM.
- (8) In this paragraph, “accounting period”, in relation to a person, means a period in respect of which accounts are prepared in relation to that person or, where that person is an individual, in respect of that individual’s business.

#### **Maximum amount of penalties: group of entities**

- 4 (1) This paragraph contains modifications of paragraph 3 where, in accordance with Schedule 16B, two or more entities are jointly and severally liable for a penalty.
- (2) Sub-paragraphs (3) to (6) of this paragraph apply instead of paragraph 3(1) to (4).
- (3) If the entities do not include the BBC or S4C, the maximum amount of the penalty for which the entities are liable is whichever is the greater of—
- (a) £250,000, and
  - (b) 5% of the qualifying worldwide revenue of the group of entities that consists of—
    - (i) the entity to which the confirmation decision or the penalty notice relates (“entity E”), and
    - (ii) every other entity which (at the time the confirmation decision or the penalty notice is given) is a group undertaking in relation to entity E.
- (4) In any case other than that described in sub-paragraph (3), the maximum amount of the penalty for which the entities are liable is £250,000.
- (5) In sub-paragraph (3)(b), the reference to the qualifying worldwide revenue of a group of entities is to—
- (a) the amount of the group’s qualifying worldwide revenue for the most recent complete accounting period of the entities liable for the penalty, or



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- (b) if the first accounting period of the entities liable for the penalty has not yet ended, the amount that OFCOM estimate to be the group’s likely qualifying worldwide revenue for that period.
- (6) In a case where the accounting periods of the entities liable for the penalty are different—
- (a) the reference in [sub-paragraph \(5\)\(a\)](#) to the accounting period of the entities is to be read as a reference to the accounting period of any of the entities (at OFCOM’s discretion), and
  - (b) [sub-paragraph \(5\)\(b\)](#) is to apply as if—
    - (i) for “the first accounting period of the entities” there were substituted “the first accounting period of all the entities”, and
    - (ii) for “that period” there were substituted “the accounting period of any of the entities (at OFCOM’s discretion)”.
- (7) [Sub-paragraphs \(5\) to \(7\) of paragraph 3](#) are to be read with necessary modifications for the purposes of this paragraph.
- (8) In this paragraph—
- “accounting period”, in relation to an entity, means a period in respect of which accounts are prepared in relation to that entity;
  - “group undertaking” has the meaning given by section 1161(5) of the Companies Act 2006.
- (9) For the purposes of this paragraph, sections 1161(5) and 1162 of, and Schedule 7 to, the Companies Act 2006—
- (a) are to apply in relation to an entity which is not an undertaking (as defined in section 1161(1) of that Act) as they apply in relation to an undertaking, and
  - (b) are to be read with any necessary modifications if applied to an entity formed under the law of a country or territory outside the United Kingdom.

#### **Power to amend paragraphs 3 and 4**

- 5 (1) The Secretary of State may by regulations amend any of the following provisions of this Schedule so as to substitute a different amount or a different percentage for the amount or percentage for the time being specified in that provision—
- (a) [paragraph 3\(2\)\(a\)](#);
  - (b) [paragraph 3\(2\)\(b\)](#);
  - (c) [paragraph 3\(3\)](#);
  - (d) [paragraph 3\(4\)](#);
  - (e) [paragraph 4\(3\)\(a\)](#);
  - (f) [paragraph 4\(3\)\(b\)](#);
  - (g) [paragraph 4\(4\)](#).
- (2) A statutory instrument containing regulations under [sub-paragraph \(1\)](#) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

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### Recovery of penalties

- 6 (1) In England and Wales, a penalty is recoverable—
- (a) if the county court so orders, as if it were payable under an order of that court;
  - (b) if the High Court so orders, as if it were payable under an order of that court.
- (2) In Scotland, a penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (3) In Northern Ireland, a penalty is recoverable—
- (a) if a county court so orders, as if it were payable under an order of that court;
  - (b) if the High Court so orders, as if it were payable under an order of that court.

### Qualifying worldwide revenue

- 7 (1) For the purposes of this Schedule, OFCOM must produce a statement giving information about the amounts which it does, or does not, regard as comprising a person’s “qualifying worldwide revenue”.
- (2) The statement must include provision about the application of that term to a group of entities for the purposes of [paragraph 4](#) of this Schedule.
- (3) The statement may make different provision in relation to different kinds of regulated television selection services, designated internet programme services, designated radio selection services and relevant internet radio services.
- (4) Before producing the statement (including a revised or replacement statement), OFCOM must consult—
- (a) the Secretary of State,
  - (b) the Treasury, and
  - (c) such other persons as OFCOM consider appropriate.
- (5) OFCOM must keep the statement under review.
- (6) OFCOM must publish the statement (and any revised or replacement statement).
- (7) OFCOM must send a copy of the statement (and any revised or replacement statement) to the Secretary of State and the Secretary of State must lay it before Parliament.

### Interpretation

- 8 In this Schedule—
- “designated internet programme service” has the same meaning as in Part 3A (and a reference to providing an internet programme service is to be construed in accordance with [section 362AZ12\(2\) to \(5\)](#));
  - “designated radio selection service” has the same meaning as in Part 3B;
  - “regulated television selection service” has the same meaning as in Part 3A;

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“relevant internet radio service” has the same meaning as in Part 3B.”

PROSPECTIVE

## SCHEDULE 11

Section 49(5)

### SCHEDULE TO BE INSERTED AS SCHEDULE 16B TO THE 2003 ACT

#### Commencement Information

**I183** Sch. 11 not in force at Royal Assent, see [s. 55\(3\)\(g\)](#)

After [Schedule 16A](#) to the Communications Act 2003 (as inserted by [Schedule 10](#)) insert—

#### “SCHEDULE 16B

Section 392B

#### PARTS 3A AND 3B: LIABILITY OF PARENT ENTITIES ETC

#### Interpretation

1 In this Schedule—

“confirmation decision” means a notice under [section 362AZ1](#) or [362BS](#);

“designated internet programme service” has the same meaning as in Part 3A (and a reference to providing an internet programme service is to be construed in accordance with [section 362AZ12\(2\)](#) to (5));

“designated radio selection service” has the same meaning as in Part 3B;

“fellow subsidiary undertaking” has the meaning given by section 1161(4) of the Companies Act 2006;

“parent undertaking” and “subsidiary undertaking” are to be read in accordance with section 1162 of that Act;

“penalty notice” means a notice under [section 362AZ4](#), [362AZ7\(6\)](#), [362BV](#) or [362BY\(6\)](#);

“provisional notice of contravention” means a notice under [section 362AZ](#) or [362BR](#);

“regulated television selection service” has the same meaning as in Part 3A;

“relevant internet radio service” has the same meaning as in Part 3B.

#### Joint provisional notices of contravention

2 (1) This paragraph applies where—

(a) OFCOM are satisfied that there are grounds for giving a person a provisional notice of contravention in respect of—

(i) a regulated television selection service that is or was at any time provided by that person,

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- (ii) a designated internet programme service that is or was at any time provided by that person,
  - (iii) a designated radio selection service that is or was at any time provided by that person, or
  - (iv) a relevant internet radio service that is or was at any time provided by that person, and
- (b) that person is an entity (“E”).
- (2) If there is an entity which is a parent undertaking in relation to E, the provisional notice of contravention may be given—
  - (a) to E alone, or
  - (b) jointly to E and to an entity which is a parent undertaking in relation to E.
- (3) If there is an entity which is a subsidiary undertaking in relation to E, the provisional notice of contravention may be given—
  - (a) to E alone, or
  - (b) jointly to E and to an entity which is a subsidiary undertaking in relation to E.
- (4) If E is a subsidiary undertaking and there is an entity which is a fellow subsidiary undertaking in relation to E, the provisional notice of contravention may be given—
  - (a) to E alone, or
  - (b) jointly to E and to an entity that is a fellow subsidiary undertaking in relation to E.
- (5) If an individual or individuals control E, the provisional notice of contravention may be given—
  - (a) to E alone, or
  - (b) jointly to E and to the individual or individuals who control E.
- (6) For the purposes of [sub-paragraph \(5\)](#), an individual or individuals are to be taken to control E if that individual or those individuals would, if they were an undertaking, be a parent undertaking in relation to E within the meaning of section 1162 of the Companies Act 2006 by reason of meeting the condition in subsection (2)(a), (b), (c) or (d) or (4)(a) of that section.
- (7) If a provisional notice of contravention is given jointly as mentioned in [sub-paragraph \(2\)\(b\)](#), [\(3\)\(b\)](#), [\(4\)\(b\)](#) or [\(5\)\(b\)](#), the statement under section [362AZ\(6\)\(a\)](#) or (as the case may be) [362BR\(6\)\(a\)](#) must include, among the matters about which representations may be made to OFCOM, the matter of whether joint and several liability would be appropriate.

### **Liability of parent entities for failures by subsidiary entities**

- 3 (1) This paragraph applies where—
- (a) OFCOM are satisfied that there are grounds for giving a person—
    - (i) a confirmation decision which requires the person to take steps or imposes a penalty (or both), or
    - (ii) a penalty notice,
 in respect of a service of a type specified in [sub-paragraph \(2\)](#) that is or was at any time provided by the person,

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- (b) the person is an entity (“E”), and
  - (c) there is another entity which is a parent undertaking in relation to E (a “parent entity”).
- (2) The types of service referred to in [sub-paragraph \(1\)\(a\)](#) are—
- (a) a regulated television selection service;
  - (b) a designated internet programme service;
  - (c) a designated radio selection service;
  - (d) a relevant internet radio service.
- (3) The confirmation decision or penalty notice may be given—
- (a) to E alone, or
  - (b) jointly to E and to a parent entity.
- (4) Before giving a penalty notice to a parent entity, or giving a confirmation decision to a parent entity which was not previously given a provisional notice of contravention relating to the same matter, OFCOM must give that entity an opportunity to make representations to OFCOM about—
- (a) the matters contained in the penalty notice or confirmation decision, and
  - (b) whether joint and several liability would be appropriate.
- (5) OFCOM may not give a confirmation decision or a penalty notice to a parent entity (“P”) if—
- (a) P meets the condition in section 1162(2)(a) of the Companies Act 2006 in relation to E, and
  - (b) P makes representations to OFCOM, in pursuance of [paragraph 2\(7\)](#) or [sub-paragraph \(4\)](#), that satisfy OFCOM that P does not meet any condition in section 1162(2)(b), (c) or (d) or (4) of that Act in relation to E.
- (6) If a confirmation decision or a penalty notice is given to entities jointly under [sub-paragraph \(3\)\(b\)](#), those entities are jointly and severally liable to comply with the requirements or (as the case may be) pay the penalty imposed by the decision or notice.
- (7) See also [paragraph 4](#) of [Schedule 16A](#).

#### **Liability of subsidiary entities for failures by parent entities**

- 4 (1) This paragraph applies where—
- (a) OFCOM are satisfied that there are grounds for giving a person—
    - (i) a confirmation decision which requires the person to take steps or imposes a penalty (or both), or
    - (ii) a penalty notice,in respect of a service of a type specified in [sub-paragraph \(2\)](#) that is or was at any time provided by the person,
  - (b) the person is an entity (“E”),
  - (c) there is another entity which is a subsidiary undertaking in relation to E (a “subsidiary entity”), and
  - (d) OFCOM are satisfied that the other entity’s acts or omissions contributed to the failure to which the confirmation decision or penalty notice relates.
- (2) The types of service referred to in [sub-paragraph \(1\)\(a\)](#) are—

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- (a) a regulated television selection service;
  - (b) a designated internet programme service;
  - (c) a designated radio selection service;
  - (d) a relevant internet radio service.
- (3) The confirmation decision or penalty notice may be given—
- (a) to E alone, or
  - (b) jointly to E and to a subsidiary entity.
- (4) Before giving a penalty notice to a subsidiary entity, or giving a confirmation decision to a subsidiary entity which was not previously given a provisional notice of contravention relating to the same matter, OFCOM must give that entity an opportunity to make representations to OFCOM about—
- (a) the matters contained in the penalty notice or the confirmation decision, and
  - (b) whether joint and several liability would be appropriate.
- (5) If a confirmation decision or penalty notice is given to entities jointly under [sub-paragraph \(3\)\(b\)](#), those entities are jointly and severally liable to comply with the requirements or (as the case may be) pay the penalty imposed by the decision or notice.
- (6) See also [paragraph 4 of Schedule 16A](#).

#### **Liability of fellow subsidiary entities for failures by subsidiary entities**

- 5 (1) This paragraph applies where—
- (a) OFCOM are satisfied that there are grounds for giving a person—
    - (i) a confirmation decision which requires the person to take steps or imposes a penalty (or both), or
    - (ii) a penalty notice,
 in respect of a service of a type specified in [sub-paragraph \(2\)](#) that is or was at any time provided by the person,
  - (b) the person is an entity (“E”),
  - (c) E is a subsidiary undertaking,
  - (d) there is another entity which is a fellow subsidiary undertaking in relation to E (a “fellow subsidiary entity”), and
  - (e) OFCOM are satisfied that the acts or omissions of the fellow subsidiary entity contributed to the failure to which the confirmation decision or penalty notice relates.
- (2) The types of service referred to in [sub-paragraph \(1\)\(a\)](#) are—
- (a) a regulated television selection service;
  - (b) a designated internet programme service;
  - (c) a designated radio selection service;
  - (d) a relevant internet radio service.
- (3) The confirmation decision may be given—
- (a) to E alone, or
  - (b) jointly to E and to a fellow subsidiary entity.

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- (4) Before giving a penalty notice to a fellow subsidiary entity, or giving a confirmation decision to a fellow subsidiary entity which was not previously given a provisional notice of contravention relating to the same matter, OFCOM must give that entity an opportunity to make representations to OFCOM about—
  - (a) the matters contained in the confirmation decision or the penalty notice, and
  - (b) whether joint and several liability would be appropriate.
- (5) If a confirmation decision or penalty notice is given to entities jointly under [sub-paragraph \(3\)\(b\)](#), those entities are jointly and severally liable to comply with the requirements or (as the case may be) pay the penalty imposed by the decision or notice.
- (6) See also [paragraph 4 of Schedule 16A](#).

### **Liability of controlling individuals for failures by entities**

- 6 (1) This paragraph applies where—
  - (a) OFCOM are satisfied that there are grounds for giving a person—
    - (i) a confirmation decision which requires the person to take steps or imposes a penalty (or both), or
    - (ii) a penalty notice,in respect of a service of a type specified in [sub-paragraph \(2\)](#) that is or was at any time provided by the person,
  - (b) the person is an entity (“E”), and
  - (c) an individual or individuals control E.
- (2) The types of service referred to in [sub-paragraph \(1\)\(a\)](#) are—
  - (a) a regulated television selection service;
  - (b) a designated internet programme service;
  - (c) a designated radio selection service;
  - (d) a relevant internet radio service.
- (3) The confirmation decision may be given—
  - (a) to E alone, or
  - (b) jointly to E and to the individual or individuals who control E.
- (4) Before giving a penalty notice to an individual, or giving a confirmation decision to an individual who was not previously given a provisional notice of contravention relating to the same matter, OFCOM must give that individual an opportunity to make representations to OFCOM about—
  - (a) the matters contained in the confirmation decision or the penalty notice, and
  - (b) whether joint and several liability would be appropriate.
- (5) For the purposes of this paragraph, an individual or individuals are to be taken to control E if that individual or those individuals would, if they were an undertaking, be a parent undertaking in relation to E within the meaning of section 1162 of the Companies Act 2006 by reason of meeting the condition in subsection (2)(a), (b), (c) or (d) or (4)(a) of that section.



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- (6) OFCOM may not give a confirmation decision or a penalty notice to an individual or individuals (“P”) if—
- (a) the condition by reason of which P controls E is the condition in section 1162(2)(a) of the Companies Act 2006, and
  - (b) P makes representations to OFCOM in pursuance of [paragraph 2\(7\)](#) or [sub-paragraph \(4\)](#) which satisfy OFCOM that P does not control E by reason of any condition in section 1162(2)(b), (c) or (d) or (4) of that Act.
- (7) If a confirmation decision or penalty notice is given jointly to E and to an individual or individuals under [sub-paragraph \(3\)\(b\)](#), E and that individual or those individuals are jointly and severally liable to comply with the requirements or (as the case may be) pay the penalty, imposed by the decision or notice.

### General

- 7 In its application for the purposes of this Schedule, paragraph 4 of Schedule 7 to the Companies Act 2006 is to be read as if the reference to operating and financial policies were to policies relating to compliance with the regulatory requirements imposed by Parts 3A and 3B.
- 8 For the purposes of this Schedule, sections 1161(4) and 1162 of, and Schedule 7 to, the Companies Act 2006—
- (a) are to apply in relation to an entity which is not an undertaking (as defined in section 1161(1) of that Act) as they apply in relation to an undertaking, and
  - (b) are to be read with any necessary modifications if applied to an entity formed under the law of a country or territory outside the United Kingdom.”

PROSPECTIVE

## SCHEDULE 12

Section 51

### AMENDMENTS RELATED TO THE UK’S WITHDRAWAL FROM THE EU

#### PART 1

##### AMENDMENTS OF THE BROADCASTING ACTS

- 1 In section 202 of the Broadcasting Act 1990 (general interpretation), in subsection (1), omit the definition of “the Audiovisual Media Services Directive”.

#### Commencement Information

**I184** Sch. 12 para. 1 not in force at Royal Assent, see [s. 55\(3\)\(h\)](#)

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- 2 In section 105 of the Broadcasting Act 1996 (interpretation of Part 4), in subsection (1), in the definition of “the Audiovisual Media Services Directive”, at the end insert “as it has effect in EU law from time to time”.

**Commencement Information**

**I185** Sch. 12 para. 2 not in force at Royal Assent, see [s. 55\(3\)\(h\)](#)

**PART 2**

AMENDMENTS OF THE COMMUNICATIONS ACT 2003

- 3 The Communications Act 2003 is amended as follows.

**Commencement Information**

**I186** Sch. 12 para. 3 not in force at Royal Assent, see [s. 55\(3\)\(h\)](#)

- 4 (1) Section 335B (maintenance of list of providers) is amended as follows.
- (2) In subsection (1), for the words after paragraph (b) substitute “which are subject to regulation by OFCOM as a result of one of the provisions listed in [subsection \(1A\)](#)”.
- (3) After subsection (1) insert—
- “(1A) The provisions are—
- (a) section 198 (regulation of the BBC by OFCOM);
  - (b) section 203 (regulation of S4C by OFCOM);
  - (c) section 211 (regulation of independent television services).”
- (4) Omit subsection (2).
- (5) For subsection (3) substitute—
- “(3) OFCOM must publish the up to date list on a publicly accessible part of their website.”
- (6) In subsection (4)—
- (a) after “subsection (1)” insert “(other than any service provided by the BBC or S4C)”;
  - (b) for the words from “the determination of jurisdiction” to the end substitute “whether or not the service falls to be regulated by OFCOM under section 211.”

**Commencement Information**

**I187** Sch. 12 para. 4 not in force at Royal Assent, see [s. 55\(3\)\(h\)](#)

- 5 (1) Section 368BZA (maintenance of list of providers) is amended as follows.
- (2) Omit subsection (2).
- (3) For subsection (3) substitute—

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“(3) OFCOM must publish the up to date list on a publicly accessible part of their website.”

**Commencement Information**

**I188** Sch. 12 para. 5 not in force at Royal Assent, see [s. 55\(3\)\(h\)](#)

- 6 In section 368BA (advance notification to appropriate regulatory authority), in subsection (4), for the words from “the determination” to the end substitute “whether or not paragraphs (e) and (f) of section 368A(1) are satisfied.”

**Commencement Information**

**I189** Sch. 12 para. 6 not in force at Royal Assent, see [s. 55\(3\)\(h\)](#)

- 7 In section 368CB (quota for European works)—
- (a) in subsection (7), in the definition of “European works”, after “Services Directive” insert “as it has effect in EU law as amended from time to time”;
  - (b) in subsection (8), at the end insert “as amended from time to time”.

**Commencement Information**

**I190** Sch. 12 para. 7 not in force at Royal Assent, see [s. 55\(3\)\(h\)](#)

- 8 In section 368D (duties of service providers), in subsection (2)(ca), for the words from “under the jurisdiction” to the end substitute “subject to regulation by the appropriate regulatory authority as a result of section 368A(1)(e) and (f);”.

**Commencement Information**

**I191** Sch. 12 para. 8 not in force at Royal Assent, see [s. 55\(3\)\(h\)](#)

- 9 (1) Section 368E (harmful material) is amended as follows.
- (2) Before subsection (3)(za) insert—
- “(zza) material the inclusion of which in an on-demand programme service would be an offence under section 1 of the Terrorism Act 2006 (encouragement of terrorism);”.
- (3) In subsection (3)(za)—
- (a) for “would be conduct” substitute “is conduct of a kind that, immediately before IP completion day, would have been”;
  - (b) omit sub-paragraph (i).

**Commencement Information**

**I192** Sch. 12 para. 9 not in force at Royal Assent, see [s. 55\(3\)\(h\)](#)

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- 10 For section 368OA (co-operation with member States and the European Commission) substitute—

**“368OA Co-operation with EEA States**

OFCOM may co-operate with EEA States which are subject to the Audiovisual Media Services Directive, and with the national regulatory authorities of such EEA states, for the following purposes—

- (a) facilitating the carrying out by OFCOM of any of their functions under this Part, or
- (b) facilitating the carrying out by the national regulatory authorities of the EEA states of any of their functions in relation to on-demand programme services under the Directive as it has effect in EU law as amended from time to time.”

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**Commencement Information**

**I193** Sch. 12 para. 10 not in force at Royal Assent, see [s. 55\(3\)\(h\)](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 50 coming into force by [2024 c. 15 s. 55\(2\)](#)