

SCHEDULE

Regulation 3

Amendments of Broadcasting Act 1996: sporting and other events of national interest

1. For section 98 there is substituted—

“98 Categories of service.

(1) For the purposes of this Part, television programme services and EEA satellite services shall be divided into two categories as follows—

- (a) those television programme services and EEA satellite services which for the time being satisfy the qualifying conditions, and
- (b) all other television programme services and EEA satellite services.

(2) In this section “the qualifying conditions”, in relation to a service, means the conditions—

- (a) that the service is provided without any consideration being required for reception of the service, and
- (b) that the service is received by at least 95 per cent. of the population of the United Kingdom.

(3) There shall be disregarded for the purposes of subsection (2)(a) any fee payable in respect of a television licence, as defined by section 1(7) of the Wireless Telegraphy Act 1949.

(4) The condition in subsection (2)(b)

- (a) is to be taken to be satisfied in relation to a regional Channel 3 service if it is satisfied in relation to Channel 3 as a whole, and
- (b) is to be taken to be satisfied in relation to Channel 4 if it is satisfied in relation to Channel 4 and S4C taken together.

(5) The Commission shall from time to time publish a list of the television programme services and EEA satellite services which appear to them to satisfy the qualifying conditions.

(6) In this section “EEA satellite service” means any service which—

- (a) consists in the transmission for general reception of television programmes by satellite, and
- (b) is provided by a person who for the purposes of Council Directive [89/552/EEC](#) is under the jurisdiction of an EEA State other than the United Kingdom.”

2. In subsection (3) of section 99 (contract for exclusive right to televise listed event to be void) for paragraph (a) there is substituted—

“(a) has not granted any right to televise the whole or, as the case may be, that part of the event live for reception in that area to any other television programme provider nor to any broadcaster who for the purposes of Council Directive [89/552/EEC](#) is under the jurisdiction of an EEA State other than the United Kingdom, and”.

3. In section 101 (restriction on televising of listed event), in subsection (1), for “person”, in the first place where it occurs, there is substituted “television programme provider”.

4. After section 101 there is inserted—

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“Designated events in relation to other EEA States.

101A. For the purposes of this Part, a sporting or other event is a designated event, in relation to an EEA State other than the United Kingdom, if—

- (a) that State has designated the event in accordance with Article 3a(1) of Council Directive [89/552/EEC](#) as being of major importance to its society, and
- (b) the designation forms part of measures—
 - (i) which have been notified by that State to the European Commission for the purposes of Article 3a(2) of that Directive, and
 - (ii) notice of which has been published by the European Commission in the Official Journal of the Communities.

Restriction on televising of an event designated by other EEA State.

101B.—(1) A television programme provider shall not, without the previous consent of the Commission, exercise rights to televise the whole or part of an event which is a designated event, in relation to an EEA State other than the United Kingdom, for reception in that EEA State or any area of that EEA State, where a substantial proportion of the public in that EEA State is deprived of the possibility of following that event by live or deferred coverage on free television as determined by that State in accordance with Article 3a(1) of Council Directive [89/552/EEC](#).

- (2) The Commission may revoke any consent given by them under subsection (1).
- (3) Failure to comply with subsection (1) shall not affect the validity of any contract.
- (4) Subsection (1) shall not have effect where the rights were acquired before the day on which the event became a designated event.”

5.—(1) Section 102 (power of Commission to impose penalty) is amended as follows.

- (2) In subsection (1)(a) after “subsection (1) of section 101” there is inserted “or subsection (1) of section 101B”.
- (3) In subsection (2) after “subsection (1) of section 101” there is inserted “or subsection (1) of section 101B”.
- (4) After subsection (2) there is inserted—
 - “(2A) Before requiring any person to pay a financial penalty under subsection (1) on the ground that he has failed to comply with subsection (1) of section 101B, the Commission shall consult such persons (who may include competent authorities in other EEA States) as appear to the Commission to be appropriate.”

6.—(1) Section 103 (report to Secretary of State) is amended as follows.

- (2) In subsection (1)(a) after “subsection (1) of section 101” there is inserted “or subsection (1) of section 101B”.
- (3) In subsection (2) after “subsection (1) of section 101” there is inserted “or subsection (1) of section 101B”.
- (4) After subsection (2) there is inserted—
 - “(2A) Before reporting to the Secretary of State that a broadcasting body has failed to comply with subsection (1) of section 101B, the Commission shall consult such persons (who may include competent authorities in other EEA States) as appear to the Commission to be appropriate.”

7. In section 104(1) (code of guidance)—

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- (a) in paragraph (a) for “this Part” there is substituted “sections 99, 100 and 101”.
 - (b) in paragraph (b)—
 - (i) in sub-paragraph (i), after “section 101(1)” there is inserted “or section 101B(1)”;
and
 - (ii) in sub-paragraph (ii), after “section 101(1)” there is inserted “or section 101B(1)”.
8. After section 104 there is inserted—

“Provision of information.

104A.—(1) A television programme provider shall, at the request of the Commission, provide them with such information as the Commission consider appropriate regarding any contract which he has entered into which relates to an event which, in relation to an EEA State other than the United Kingdom, is a designated event.

(2) If so requested by a competent authority in an EEA State other than the United Kingdom, the Commission shall provide the authority with such information relating to rights to televise listed events or designated events as the Commission consider it appropriate to provide.”

9. In section 105(1) (interpretation of Part IV)—
- (a) after the definition of “the Commission” there is inserted—

““designated event”, in relation to an EEA State other than the United Kingdom, has the meaning given by section 101A;”,
 - (b) in the definition of “live”, before “shall” there is inserted “in relation to the televising of a listed event,”, and
 - (c) after the definition of “national Channel 3 service” and “regional Channel 3 service” there is inserted—

““S4C” has the same meaning as in Part I of the 1990 Act;”.