Draft Order laid before Parliament under section 11 of the Public Bodies Act 2011, for approval by resolution of each House of Parliament after the expiry of the 40-day period referred to in section 11(4) of that Act.

DRAFT STATUTORY INSTRUMENTS

2013 No. 0000

PUBLIC BODIES

The Public Bodies (Modification of Functions of OFCOM) Order 2013

Made - - - - ***

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by sections 5(1) and 6 of the Public Bodies Act 2011(**1**).

In accordance with section 8 of that Act, the Secretary of State considers that this Order—

(a) serves the purpose of improving the exercise of public functions, having had regard to the factors set out in section 8(1); and

(b) does not remove any necessary protection or prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise.

The Secretary of State has consulted in accordance with section 10 of that Act.

A draft of this Order, and an explanatory document containing the information required by section 11(2) of that Act, have been laid before Parliament in accordance with section 11(1) after the end of the period of twelve weeks mentioned in section 11(3). In accordance with section 11(4) of that Act, the draft of this Order has been approved by a resolution of each House of Parliament after the expiry of the 40-day period referred to in that provision.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Public Bodies (Modification of Functions of OFCOM) Order 2013 and comes into force on the day after the day on which it is made.

(2) In this Order—

"the Act" means the Communications Act 2003(**2**);

"OFCOM" means the Office of Communications.

(**1**) 2011 c.24.
(**2**) 2003 c.21.

Amendments of the Office of Communications Act 2002

2. The Schedule to the Office of Communications Act 2002(**3**) is amended as follows.

3.—(1) Paragraph 14 (committees of OFCOM and advisory committees) is amended as follows.

(2) Omit sub-paragraph (3A)(**4**).

(3) At the end insert—

"(5) A committee established by OFCOM may, with OFCOM's consent, establish sub-committees to advise the committee on the carrying out of any functions by the committee."

4. After paragraph 14 insert—

"**14A.**—(1) The persons listed in sub-paragraph (2) shall be disqualified from being the chairman or another member of any committee established by OFCOM for the purpose of carrying out any of the following functions of OFCOM—

(a) functions in relation to matters that concern the contents of anything which is or may be broadcast or otherwise transmitted by means of electronic communications networks;

(b) functions in relation to the promotion of public understanding or awareness of matters relating to the publication of matter by means of the electronic media.

(2) The persons are—

(a) trustees and employees of the BBC;

(b) members and employees of the Welsh Authority; and

(c) members and employees of C4C.

(3) The reference in sub-paragraph (1) to the publication of anything by means of the electronic media is a reference to its being—

(a) broadcast so as to be available for reception by members of the public or of a section of the public; or

(b) distributed by means of an electronic communications network to members of the public or of a section of the public.

(4) In this paragraph—

"electronic communications network" has the meaning given by section 32 of the Communications Act 2003; and

"the BBC", "broadcast", "C4C", "distribute" and "the Welsh Authority" have the meaning given by section 405 of that Act."

5. In paragraph 15 (proceedings of OFCOM and their committees etc.), after sub-paragraph (1) insert—

"(1A) OFCOM may permit a committee established by them to make such arrangements for regulating its own procedure, and for regulating the procedure of any sub-committee established by it, as it thinks fit."

6. After paragraph 16 insert—

"Consent requirement for changes to certain bodies established by OFCOM

16A.—(1) OFCOM may not—

(**3**) 2002 c.11.
(**4**) Sub-paragraph (3A) was inserted by paragraph 172(4) of Schedule 17 to the Communications Act 2003 c.21.

(a) abolish a relevant body,

(b) remove functions from a relevant body, or

(c) materially restrict the conditions under which a relevant body may exercise functions,

without the consent of the Secretary of State.

(2) In this paragraph "relevant body" means—

(a) the Consumer Panel established under section 16 of the Communications Act 2003; or

(b) a committee established by OFCOM which, immediately before the coming into force of this paragraph, was—

(i) the Content Board established in accordance with section 12 of the Communications Act 2003;

(ii) the advisory committee for any part of the United Kingdom established in accordance with section 20 of that Act; or

(iii) the advisory committee on elderly and disabled people established in accordance with section 21 of that Act."

Amendments of Part 1 of the Communications Act 2003

7. Part 1 of the Act (functions of OFCOM) is amended as follows.

8.—(1) Omit sections 12 and 13 (the Content Board).

(2) In section 14(7), omit paragraphs (b) and (c).

(3) The amendments made by this article do not affect the existence or functions of the committee which, immediately before the coming into force of those amendments, constituted the Content Board.

9.—(1) In section 16 (consumer consultation)—

(a) in subsection (2), for "must" substitute "may";

(b) omit subsections (3) to (13).

(2) In section 17 (membership etc. of the Consumer Panel) omit subsections (2) to (8).

(3) Omit section 19 (power to amend remit of Consumer Panel).

(4) The amendments made by this article do not affect the existence or functions of the panel of persons which, immediately before the coming into force of those amendments, constituted the Consumer Panel.

10.—(1) Omit sections 20 and 21 (advisory committees).

(2) The repeal of sections 20 and 21 of the Act does not affect the existence or functions of any committee which, immediately before the coming into force of that repeal, existed by virtue of either of those sections.

11. Omit section 27 (training and equality of opportunity).

Functions of OFCOM in relation to broadcasters

12. Part 3 of the Act (television and radio services etc.) is amended as follows.

13. In section 198C (OFCOM reports on C4C's media content policies)(**5**), for subsection (3) substitute—

"(3) "Relevant period" means a period of no more than 5 years beginning with the relevant day and ending with a day selected by OFCOM.

(4) In subsection (3) "the relevant day" means—

(a) in the case of the first relevant period, the date of the coming into force of this section, and

(b) in any other case, the day after the last day of the previous period for which OFCOM prepared a report under this section."

14.—(1) Section 264 (OFCOM reports on the fulfilment of the public service remit) is amended as follows.

(2) For subsections (1) to (3) substitute—

"(1) If required to do so by the Secretary of State, OFCOM must carry out a review of the extent to which the public service broadcasters have, during the specified period, provided relevant television services which (taking them all together over the period as a whole) fulfil the purposes of public service television broadcasting in the United Kingdom.

"The specified period" means the period specified by the Secretary of State for the purposes of the review.

(2) The Secretary of State may require a review under this section to be carried out—

(a) in relation to only the purposes of public service television broadcasting in the United Kingdom specified by the Secretary of State for the purposes of the review;

(b) so as to pay particular attention to the public service broadcasters so specified.

(3) If OFCOM are required to carry out a review under this section, they must also prepare a report on the matters found on the review, with a view to maintaining and strengthening the quality of public service television broadcasting in the United Kingdom."

(3) In subsection (5), for the words from "OFCOM" to the end substitute "OFCOM must have regard to the desirability of the criteria listed in subsection (6), or such of them as may be specified by the Secretary of State for the purposes of the review, being met".

(4) In subsection (6), for the words from "A manner" to "ensures" substitute "The criteria referred to in subsection (5) are".

(5) In subsection (7)(a), for "in a manner compatible with subsection (6)" substitute "in a way that meets the criteria listed in subsection (6) (or such of them as have been specified by the Secretary of State for the purposes of the review)".

(6) In subsection (8)—

(a) for "Every report under this section must" substitute "OFCOM must comply with a direction by the Secretary of State that requires a report under this section to do any of the following";

(b) in paragraph (a), after "United Kingdom" insert "(or such of those purposes as were specified by the Secretary of State for the purposes of the review)".

15.—(1) Section 264A (OFCOM reports: wider review and reporting obligations)(**6**) is amended as follows.

(2) For subsection (1) substitute—

(**5**) Section 198C of the Communications Act 2003 was inserted by section 23(1) of the Digital Economy Act 2010 c.24.
(**6**) Section 264A of the Communications Act 2003 was inserted by section 2 of the Digital Economy Act 2010.