Draft Regulations laid before Parliament under sections 277(12), 278C(10) and 309(5) of, and paragraphs 1(13) and 7(11) of Schedule 12 to, the Communications Act 2003 (c. 21), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2025 No. ****

BROADCASTING

The Broadcasting (Independent Productions) Regulations 2025

Made - - - -	***
Coming into force - -	*1st January 2026*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 277(1)(b), 277(2)(b), 278C(2), 309(2) and 402(3)(c) of, and paragraphs 1(1)(b) and 1(2)(b), 7(1)(b) and 7(2)(b) of Schedule 12 to, the Communications Act 2003(**a**).

The Secretary of State has consulted OFCOM, the BBC and S4C in accordance with sections 277(11), 278C(9) and 309(4) of, and paragraphs 1(12) and 7(10) of Schedule 12 to, the Communications Act 2003(**b**).

A draft of these Regulations has been laid before Parliament and approved by a resolution of each House of Parliament in accordance with sections 277(12), 278C(10) and 309(5) of, and paragraphs 1(13) and 7(11) of Schedule 12 to, the Communications Act 2003.

Citation, commencement and extent

1. —(1) These Regulations may be cited as the Broadcasting (Independent Productions) Regulations 2025 and come into force on 1st January 2026.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2.—(1) In these Regulations—

"the 2003 Act" means the Communications Act 2003;

"broadcaster" means—

(a) the BBC,

(**a**) 2003 c. 21. Section 277(1) was substituted by section 8 of the Media Act 2024 (c. 15). Section 278C was inserted by section 12 of that Act. Paragraphs 1(1) and 7(1) of Schedule 12 were substituted by paragraphs 1 and 2 of Schedule 1 to that Act.

(**b**) Section 277(11) was amended by paragraph 36 of Schedule 4 to the Media Act 2024. Paragraph 7(10) was amended by paragraph 55 of that Schedule.

(b) S4C, or

(c) a person who provides a relevant regulated television service;

"control" has the same meaning as in paragraph 1 of Schedule 2 to the 1990 Act(**a**);

"excluded programme" means—

(a) a programme which consists wholly or mainly of news,

(b) a programme constituting part of a series of programmes which—

(i) consist, wholly or mainly, of news or items relevant to news,

(ii) are presented live, and

(iii) are usually shown on at least four days in each of the weeks when they are shown,

(c) a programme provided by or on behalf of the Open University, or

(d) a broadcast on behalf of a political party or any statement by a Minister of the Crown within the meaning of the Ministers of the Crown Act 1975 or by the Scottish Ministers;

"local television broadcaster" means a person who provides a local digital television programme service (within the meaning of article 3 of the Local Digital Television Programme Services Order 2012(**b**)) and no other relevant regulated television service;

"producer" means a person by whom the arrangements necessary for—

(a) the making of a programme, or

(b) in the circumstances described in regulations 4(2)(c) and 6(2)(c), the making of part of a programme,

are undertaken;

"production facilities requirement" means a contractual obligation a broadcaster has required, as a condition on which the contract is granted, that the producer must—

(a) use the production facilities of the broadcaster, or

(b) not use the production facilities of another broadcaster,

unless this requirement arises from an obligation contained in an earlier contract that remains in force;

"programme" does not include an advertisement or any separate item whose duration is two minutes or less;

"relevant broadcaster" means the person who provides a digital television programme service that is not comprised in a licensed public service channel and "relevant television programme service" means that service;

"relevant provider" means—

(a) the BBC,

(b) S4C, or

(c) the provider of a licensed public service channel;

(**a**) The "1990 Act" is defined in section 405(1) of the Communications Act 2003 (c. 21). The definition of "control" in paragraph 1(1) of Schedule 2 to the Broadcasting Act 1990 (c. 42) was amended by paragraph 1(2)(c) of Part 1 of Schedule 2 to the Broadcasting Act 1996 (c. 55). Paragraph 1(3) and (3A) of Schedule 2 to the Broadcasting Act 1990 were substituted for paragraph 1(3) by paragraph 1(4) of Part 1 of Schedule 2 to the Broadcasting 1996, and paragraph 1(3)(b) was amended by section 357(1) of the Communications Act 2003.

(**b**) S.I. 2012/292. There are no relevant amendments.

"relevant regulated television service" has the meaning given by section 13(1A) of the 1990 Act(**a**).

(2) For the purposes of these Regulations—

(a) the following persons are treated as connected with a broadcaster—

(i) a person who controls the broadcaster,

(ii) an associate of the broadcaster or of a person falling within paragraph (i), and

(iii) a body which is controlled by the broadcaster or by an associate of the broadcaster;

(b) "associate" is to be construed in accordance with paragraph 1(1A) of Schedule 2 to the 1990 Act(**b**).

(3) In the definition of "production facilities requirement", a reference to the production facilities of a broadcaster means—

(a) any premises or equipment which may be used to make a programme and which are owned or leased by that broadcaster or are otherwise under their control, and

(b) any person who is employed by, or has contractual obligations with, that broadcaster in connection with the making of programmes except any person who is employed, or has contractual obligations, to be seen or heard (or both) on programmes.

(4) For the purposes of these Regulations, a programme may be treated as being made by a particular person or persons notwithstanding that more than 75% of the duration of the programme includes images or images and sounds which have been provided by some person other than that person or those persons where—

(a) the images or images and sounds so provided are not broadcast live, and

(b) changes of substance (whether by means of editing or otherwise) have been made to such images or images and sounds.

(5) For the purposes of these Regulations, a programme must not be prevented from being treated as having been commissioned by a broadcaster by reason only of the fact that it was intended to be first shown commercially in cinemas.

(6) In the application of regulation 3(3) and regulation 4(2) to a regional Channel 3 service(**c**), references to the relevant provider include references to the provider of another regional Channel 3 service or any person acting on behalf of such providers.

(7) In the application of regulation 3(3) and regulation 4(2) to a regional Channel 3 service where the provider of that service also provides, or is an associate of the provider of, the national Channel 3 service(**d**), references to the relevant provider include references to the provider of the national Channel 3 service or any person acting on behalf of that provider.

Meaning of "independent producer"

3.—(1) In these Regulations, an "independent producer" means a producer—

(a) who is not a broadcaster, an employee of a broadcaster or a person connected with a broadcaster,

(b) who does not have a relevant shareholding greater than 25% in a broadcaster or a person connected with a broadcaster, unless the exception in paragraph (2) applies, and

(c) which is not a body corporate in which either—

(**a**) Subsection (1A) of section 13 was inserted by paragraph 5 of Schedule 15 to the Communications Act 2003.
(**b**) Paragraph 1(1A) was inserted by paragraph 1(3) of Part 1 of Schedule 2 to the Broadcasting Act 1996.
(**c**) The definition of "regional Channel 3 service" is in section 362(1) of the Communications Act 2003.
(**d**) The definition of "national Channel 3 service" is in section 362(1) of the Communications Act 2003.

(i) any one broadcaster or person connected with a broadcaster has a relevant shareholding greater than 25%, or

(ii) more than two broadcasters or persons connected with a broadcaster together have an aggregate relevant shareholding greater than 50%.

(2) For the purposes of paragraph (1)(b), a relevant shareholding does not include any shareholding which a producer has in a local television broadcaster or a person connected with a local television broadcaster unless the shareholding is in a person who is connected with the local television broadcaster and the person is—

(a) a broadcaster other than a local television broadcaster, or

(b) connected with a broadcaster who is not a local television broadcaster.

(3) For the purposes of paragraph (1), "relevant shareholding" means a shareholding held in the circumstances in which a person or persons—

(a) hold or are beneficially entitled to more than the percentage of shares specified in paragraph (1)(b) and (c); or

(b) possess more than that specified percentage of voting power in the body in question.

(4) For the purposes of this regulation, a person holds or is beneficially entitled to shares, or possesses voting power, in a body corporate whether that person—

(a) does so or is so entitled alone or jointly with one or more persons, and

(b) whether that person does so or is so entitled directly or through one or more nominees.

(5) A person is to be treated as an independent producer, despite not meeting the requirements in paragraph (1), where they have made a programme (whether on their own or together with any other person) providing that—

(a) they were commissioned to make the programme, whether on their own or together with any other person, by a relevant provider or relevant broadcaster,

(b) they were an independent producer when commissioned,

(c) the relevant provider or relevant broadcaster so commissioned them in good faith in the expectation that they would be an independent producer when performing their part in the making of the programme,

(d) the programme was made within 2 years of the date on which they were so commissioned, and

(e) in the circumstances described in regulation 4(2)(c) or regulation 6(2)(c), the part of a programme made by the person is the part referred to in paragraph (iii) of those sub-paragraphs.

(6) For the purposes of paragraph (5), a producer is commissioned to make a programme on the date on which they become subject to a contractual obligation to make that programme (whether on their own or with another person) regardless of whether that obligation is subsequently varied or supplemented by any further contractual provisions relating to the making of the programme.

Meaning of "independent productions" in section 277 of, and Schedule 12 to, the 2003 Act

4.—(1) For the purposes of section 277 of, and paragraphs 1 and 7 of Schedule 12 to, the 2003 Act, a reference to "independent productions" is a reference to programmes that meet Conditions A to C.

(2) Condition A is that the programme has been commissioned by the relevant provider and—

(a) has been made by an independent producer,

(b) has been made by—

(i) the relevant provider together with an independent producer, or

(ii) an independent producer together with any other person,

where 25 % or more of the cost of the production of the programme has been borne or provided by the relevant provider, or

(c) includes images or images and sounds which have been provided by a person other than the relevant provider, or a person commissioned by them, where—

(i) the images or images and sounds so provided consist of live coverage of an event,

(ii) they do not exceed 75 % of the duration of the programme, and

(iii) the remainder of the programme, including any sound commentary added to those images or images and sounds, has been made by an independent producer.

(3) Condition B is that the programme has been made pursuant to a contract between the relevant provider and producer which—

(a) where any contractual obligations—

(i) concern directly or indirectly, the making of programmes (but not in respect of the use made of them), and

(ii) are capable of remaining in force for a period in excess of five years,

provides either side with the right to terminate those obligations at intervals of not more than five years, but without prejudice to any rights in respect of obligations that had not been discharged at the date of termination, and

(b) does not include a production facilities requirement.

(4) Condition C is that the programme is not an excluded programme.

Independent productions quotas for relevant providers and provision about their fulfilment

5.—(1) For the purposes of section 277 of, and paragraphs 1 and 7 of Schedule 12 to, the 2003 Act, the total duration of independent productions for each relevant provider is at least the number of hours per year specified in the Schedule.

(2) Qualifying audiovisual content that is made available in the circumstances described in paragraph (3) may not be counted towards meeting the quota condition in paragraph (1).

(3) Those circumstances are that the person has previously made available audiovisual content consisting of the same or substantially the same material (whether in the same year or a previous year).

Meaning of "qualifying programmes" in section 309 of the 2003 Act

6. —(1) For the purposes of section 309(1) of the 2003 Act, a reference to "qualifying programmes" are to the programmes included in the relevant television programme service that meet Conditions A and B.

(2) Condition A is that the programme—

(a) is made either by the relevant broadcaster or by a person commissioned by them,

(b) is made by—

(i) the relevant broadcaster together with any other person, or

(ii) by a person commissioned by the relevant broadcaster together with any other person,

where 25 % or more of the cost of the production of the programme has been borne or provided by the relevant broadcaster, or

(c) includes images or images and sounds which have been provided by a person other than the relevant broadcaster or a person commissioned by them where—

(i) the images or images and sounds so provided consist of live coverage of an event,

(ii) they do not exceed 75 % of the duration of the programme, and

(iii) the remainder of the programme (including any sound commentary added to those images or images and sounds) has been made by the relevant broadcaster or a person commissioned by them.

(3) Condition B is that the programme is not an excluded programme or a programme that has previously been shown in substantially the same form on the relevant television programme service.

Meaning of "independent productions" in section 309 of the 2003 Act

7. —(1) For the purposes of section 309(1) of the 2003 Act, a reference to "independent productions" is a reference to any programmes that meet Conditions A to C.

(2) Condition A is that the programme falls within the definition of "qualifying programme" specified in regulation 6.

(3) Condition B is that—

(a) in the case of a programme to which sub-paragraph (a) of regulation 6(2) applies, has been made by an independent producer,

(b) in the case of a programme to which sub-paragraph (b) of that provision applies, has been made by an independent producer together with any other person, or

(c) in the case of a programme to which sub-paragraph (c) of that provision applies, the part of the programme referred to in paragraph (iii) of that sub-paragraph has been made by an independent producer.

(4) Condition C is that the programme has been made in pursuance of a contract between a relevant broadcaster and a producer which—

(a) where any contractual obligations—

(i) concern directly or indirectly, the making of programmes (but not in respect of the use made of them), and

(ii) are capable of remaining in force for a period in excess of five years,

provides either side with the right to terminate those obligations at intervals of not more than five years (but without prejudice to any rights in respect of obligations that had not been discharged at the date of termination), and

(b) does not include a production facilities requirement.

Revocations

8. The following enactments are revoked—

(a) the Broadcasting (Independent Productions) Order 1991(**a**);

(b) the Broadcasting (Independent Productions) (Amendment) Order 1995(**b**);

(**a**) S.I. 1991/1408. Paragraph 34 of Schedule 18 to the Communications Act 2003 created transitional provisions for any Orders made under section 16(5)(a) of the Broadcasting Act 1990, meaning that any such Order would be treated as though made under the corresponding powers in sections 277, 309 and Schedule 12 to the Communications Act 2003.
(**b**) S.I. 1995/1925.

(c) paragraph 147 of Schedule 2 to the Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999(**a**);

(d) the Broadcasting (Independent Productions) (Amendment) Order 2003(**b**);

(e) articles 5 to 8 of the Broadcasting (Local Digital Television Programme Services and Independent Productions) (Amendment) Order 2012(**c**);

(f) regulation 5 of the Broadcasting and Communications (Amendment) Regulations 2013(**d**);

(g) the Broadcasting (Independent Productions) (Amendment) Order 2014(**e**).

Name
Minister of State
Department for Culture, Media and Sport

Date

(**a**) S.I. 1999/1820.
(**b**) S.I. 2003/1672.
(**c**) S.I. 2012/1842.
(**d**) S.I. 2013/2217.
(**e**) S.I. 2014/3137.

SCHEDULE

Regulation 5

Independent productions quotas for relevant providers

Relevant Provider	Independent productions quota (hours per year)
BBC	1675
The provider of any regional Channel 3 service where the provider of that service does not also provide, nor is an associate of the provider of, the national Channel 3 service	725
The provider of any regional Channel 3 service where the provider of that service also provides, or is an associate of the provider of, the national Channel 3 service	750
The provider of the national Channel 3 service where the provider of that service does not also provide, nor is an associate of the provider of, any regional Channel 3 service	25
C4C	600
S4C	375
The provider of Channel 5	350

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set definitions and quotas for broadcasters in relation to independent productions. They implement the amendments made to the regulatory regime for independent productions quotas for the BBC, S4C and Channels 3, 4 and 5 ("the public service broadcasters") in the Communications Act 2003 (c. 21) ("the 2003 Act") made by the Media Act 2024 (c. 15).

Regulation 3 defines "independent producer" for the purpose of independent productions quotas.

Regulation 4 defines "independent productions" for the purposes of the independent productions quotas that apply to the public services broadcasters under section 277 of, and Schedule 12 to, the 2003 Act. Regulation 5 and the Schedule specify the quotas, in number of hours, that apply to each of the public service broadcasters and makes provision about their fulfilment concerning the treatment of repeats.

Regulations 6 and 7 define "qualifying programmes" and "independent productions" for the purposes of the independent productions quotas that apply to other broadcasters under section 309 of the 2003 Act.

These Regulations replace the Broadcasting (Independent Productions) Order 1991 (S.I. 1991/1408). Regulation 8 revokes that Order and other enactments which amended it.

A full impact assessment has not been produced for this instrument as no, or no significant impact on the private, voluntary or community bodies is foreseen. Instead a de minimis assessment has been prepared as this instrument is likely to entail some costs for businesses, but the net impact is below £5 million per year.

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