EXPLANATORY MEMORANDUM TO

THE ENTERPRISE AND REGULATORY REFORM ACT 2013 (BROADCASTING CONSEQUENTIAL AMENDMENTS) ORDER 2013

2013 No. 1854

1. This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument makes amendments to the Communications (Television Licensing) Regulations 2004 and the Wireless Telegraphy (Control of Interference from Videosenders) Order 1998, in consequence of the repeal of the Wireless Telegraphy Act 1967.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The Enterprise and Regulatory Reform Act 2013 ("the ERR Act") made a number of repeals of legislation. This included the repeal of the Wireless Telegraphy Act 1967 at section 73 of and Schedule 21 to that Act.

4.2 The repeal of the Wireless Telegraphy Act 1967 ("the 1967 Act") renders certain definitions in other broadcasting legislation redundant. This Order removes the redundant definitions. The definitions of "television dealer" and "television set" in the Communications (Television Licensing) Regulations 2004 are removed; both of these definitions were made under section 6(1) of the 1967 Act and for the purposes of interpreting that Act.

4.3 The Wireless Telegraphy (Control of Videosenders) Order 1998 defined "television set" by reference to any definition made under section 6(1) of the 1967 Act. This Order is designed to prevent electromagnetic interference between videosenders and wireless TV broadcasting. The repeal of the 1967 Act means that a new definition is required in the 1998 Order. Accordingly, the definition of "television set" formerly used in the Communications (Television Licensing) Regulations 2004 is inserted into the 1998 Order.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Enterprise and Regulatory Reform Act 2013 (the "ERR Act") made provision for the reduction of legislative burdens, which included the repeal of the requirement for TV dealers to notify TV Licensing that a television set had been sold or rented.

7.2 Before this repeal, the 1967 Act required retailers to notify TV Licensing of any sales or rentals of television sets. The Act provided that a retailer must record specified information (including the name and address of the purchaser, and the address at which the set will be used, if different) from someone who buys or hires a television set, and then notify TV Licensing within 28 days of the purchase or rental date. Failure to notify was an offence under the 1967 Act. This requirement on retailers was originally intended as one of the ways to counter licence fee evasion. TV Licensing, which administers collection of TV Licence Fees on behalf of the BBC, bases its operations on a database of UK households. This database was kept up to date by returns from TV retailers and so made identification of addresses where there might be licence fee evasion simpler.

7.3 This repeal was announced as part of the Red Tape Challenge's review of rules and regulations affecting the retail sector, which looked at simplifying, amending or abolishing unnecessarily burdensome, overly bureaucratic or simply redundant regulation. The Government considered that the requirement on retailers to inform TV Licensing every time someone buys a TV was an disproportionate burden on retailers as it was time consuming to ensure that the forms were filled in correctly at the time of purchase by the customer, and collating and returning the forms or information to TV Licensing.

7.4 The repeal means that retailers no longer have to notify TV Licensing of the sale or hire of TV sets, thereby reducing costs for businesses and enabling the reallocation of resources to promote growth. This measure came into force on 25 June, two months after Royal Assent of the ERR Act. We do not envisage that the loss to the BBC will be significant (i.e. that there will be a rapid rise in evasion), however, we have agreed to monitor the impact on the BBC's revenue (see section 12 'Monitoring & Review').

8. Consultation outcome

8.1 There was no formal consultation process as part of the repeal of the TV Licensing notification requirement on retailers. However, DCMS worked closely with key

stakeholders including the BBC, TV Licensing, the British Retail Consortium and some large retail chains to ensure they were aware of this measure and its purpose.

9. Guidance

9.1 No guidance is needed.

10. Impact

10.1 The impact on business, charities and voluntary bodies is positive. This is a deregulatory measure which should benefit business by reducing costs.

10.2 The impact on the public sector is broadly neutral. For information on the impact on the BBC see paragraphs 7.4 and 12.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on the OPSI website.

11. Regulating small business

11.1 The legislation applies to small business. This is a deregulatory measure which will benefit small businesses. The impact assessment carried out during the passage of the ERR Act indicated that 'the removal of the notification requirement would reduce retailers' costs by more than £1.8 million per year'.

12. Monitoring & review

12.1 We will monitor the impact of the repeal on the BBC. TV Licensing have agreed to provide an update every six months on the estimated impact of the changes on the BBC's income and whether the repeal has led to increased evasion of the licence fee. The first update is due in November.

13. Contact

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