

Emergency Broadcasting System Bill

CONTENTS

- 1 Principal duty of the Secretary of State
 - 2 Meaning of “emergencies and potential emergencies”
 - 3 Communications providers to whom emergency broadcasting system applies
 - 4 Preparation of plan
 - 5 Function and meaning of relevant authority
 - 6 Circumstances where notice may be given
 - 7 Scope and effect of notices and directions
 - 8 Advance preparation of content to be transmitted or conveyed
 - 9 Promotion of awareness of emergency broadcasting system
 - 10 Reports and accountability
 - 11 Reimbursement of direct costs
 - 12 Expenses
 - 13 General interpretation
 - 14 Short title
-

A
B I L L

TO

Require the Secretary of State to co-ordinate the provision of a multi-media broadcasting system to provide information to the public about emergencies and potential emergencies.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Principal duty of the Secretary of State

- (1) It shall be the principal duty of the Secretary of State under this Act to co-ordinate the provision of a multi-media broadcasting system to provide information to the public about emergencies and potential emergencies.
- (2) The system secured as a result of the exercise by the Secretary of State of his functions under this Act shall be known as the “emergency broadcasting system”. 5

2 Meaning of “emergencies and potential emergencies”

- (1) For the purposes of this Act the term “emergencies and potential emergencies” means— 10
- (a) any period during which a proclamation of emergency is in force under section 1 of the Emergency Powers Act 1920 (c. 55) (issue of proclamations of emergency); or
- (b) an event or situation which presents a serious threat to— 15
- (i) the welfare of all or part of the population of the United Kingdom or of a Part or region,
- (ii) the environment of the United Kingdom or of a Part or region,
- (iii) the political, administrative or economic stability of the United Kingdom or of a Part or region, or
- (iv) the security of the United Kingdom or of a Part or region. 20
- (2) For the purposes of subsection (1)(b)(i) an event or situation presents a threat to the welfare of a population if, in particular, it involves, causes or may cause—

- (a) loss of human life,
 (b) human illness or injury,
 (c) homelessness,
 (d) damage to property,
 (e) disruption of a supply of food, water, energy, fuel or another essential commodity, 5
 (f) disruption of an electronic or other system of communication,
 (g) disruption of facilities for transport, or
 (h) disruption of medical, educational or other essential services.
- (3) For the purposes of subsection (1)(b)(ii) an event or situation presents a threat to the environment, if, in particular, it involves, causes or may cause – 10
 (a) contamination of land, water or air with –
 (i) harmful biological, chemical or radioactive matter, or
 (ii) fuel oils,
 (b) flooding, or 15
 (c) disruption or destruction of plant life or animal life.
- (4) For the purposes of subsection (1)(b)(iii) an event or situation presents a threat to political, administrative or economic stability if, in particular, it causes or may cause disruption of –
 (a) the activities of Her Majesty’s Government, 20
 (b) the performance of public functions, or
 (c) the activities of banks or other financial institutions.
- (5) For the purposes of subsection (1)(b)(iv) the following, in particular, present a threat to security –
 (a) war or armed conflict, and 25
 (b) terrorism, within the meaning given by section 1 of the Terrorism Act 2000 (c. 11) (terrorism: interpretation).
- (6) In this section –
 “Part” in relation to the United Kingdom means –
 (a) England, 30
 (b) Northern Ireland,
 (c) Scotland, and
 (d) Wales;
 “public functions” means –
 (a) functions conferred or imposed by or by virtue of an enactment, 35
 (b) functions of Ministers of the Crown (or their departments),
 (c) functions of persons holding office under the Crown,
 (d) functions of the Scottish Parliament or the Scottish Ministers,
 (e) functions of the Northern Ireland Assembly, of the Northern Ireland Ministers or of the Northern Ireland departments, and 40
 (f) functions of the National Assembly for Wales; and
 “region” means a region for the purposes of the Regional Development Agencies Act 1998 (c. 45).
- (7) The event or situation mentioned in subsection (1)(b) may occur or be inside or outside the United Kingdom. 45

3 Communications providers to whom emergency broadcasting system applies

- (1) The Secretary of State may make arrangements or require the Office of Communications (hereafter “OFCOM”) to make arrangements for the participation of any communications provider designated in subsections (2) to (4) in the emergency broadcasting system. 5
- (2) The provider of any –
 - (a) radio programme service,
 - (b) television programme service, or
 - (c) text serviceis designated in this subsection. 10
- (3) The British Broadcasting Corporation and the Welsh Authority are designated in this subsection.
- (4) The provider of any electronic communications network, electronic communications service or associated facility who is subject to conditions in accordance with the provisions of section 43 of the Communications Act 2003 (c. 00) (persons to whom conditions may apply) is designated in this subsection. 15
- (5) Any communications provider designated in accordance with the provisions of subsections (2) to (4) (hereafter “designated communications providers”) shall be informed as soon as practicable by OFCOM in writing that they have been so designated. 20
- (6) The terms used in subsections (2) and (3) shall have the same meanings as in Part 3 of the Communications Act 2003.
- (7) The terms used in subsection (4) shall have the same meanings as in Chapter 1 of Part 2 of that Act. 25

4 Preparation of plan

- (1) It shall be the duty of the Secretary of State, within a period of six months of the coming into force of this Act, to lay before Parliament and publish a plan setting out how he proposes to fulfil his functions under this Act.
- (2) The Secretary of State may from time to time thereafter lay before Parliament and publish a revised plan. 30
- (3) Before publishing a plan under subsections (1) or (2) the Secretary of State –
 - (a) must consult the persons specified in or under subsection (4), and
 - (b) may consult such other persons as he considers appropriateabout the proposed contents of the plan. 35
- (4) The persons specified in or under this subsection are –
 - (a) relevant authorities as defined in section 5;
 - (b) chief officers of police;
 - (c) fire authorities;
 - (d) NHS ambulance bodies;
 - (e) the Environment Agency;
 - (f) OFCOM; and
 - (g) designated communications providers who are, in the opinion of OFCOM, likely to be significantly affected by the implementation of the40

plan and who have been so specified for the purposes of this subsection by OFCOM.

5 Function and meaning of relevant authority

- (1) It shall be the duty of each relevant authority to designate at least one member of staff of that authority to exercise the function under section 6(3) in respect of that authority. 5
- (2) As soon as practicable after designating a person for the purpose of subsection (1), the relevant authority shall inform the Secretary of State of the name of, and the staff position held by, the person so designated.
- (3) In England, a “relevant authority” means – 10
- (a) a county council,
 - (b) a district council,
 - (c) a London borough council,
 - (d) the Common Council of the City of London, and
 - (e) the Council of the Isles of Scilly. 15
- (4) In Wales, a “relevant authority” means –
- (a) a county council, and
 - (b) a county borough council.
- (5) In Scotland, a “relevant authority” means a local council within the meaning of section 1 of the Local Government etc. (Scotland) Act 1994 (c. 39) (local government areas in Scotland). 20
- (6) In Northern Ireland, the “relevant authority” means the Northern Ireland Minister with responsibility for services similar to those provided by a county council in England.
- (7) In this section “Northern Ireland Minister” includes the First Minister, the deputy First Minister and a Northern Ireland department. 25

6 Circumstances where notice may be given

- (1) Where any one of the conditions set out in subsections (2) to (5) is met, the Secretary of State may by notice require OFCOM to give a direction under section 7. 30
- (2) The condition set out in this subsection is that the Secretary of State is satisfied that there is an emergency or potential emergency in respect of which use of the emergency broadcasting system would be of public benefit.
- (3) The condition set out in this subsection is that it has been represented to the Secretary of State by – 35
- (a) a chief officer of police, or
 - (b) a person designated by a relevant authority in accordance with the provisions of section 5(1)
- that there is an emergency or potential emergency in respect of which use of the emergency broadcasting system would be of public benefit and the Secretary of State does not have good reason not to accept that representation. 40
- (4) The condition set out in this subsection is that the Secretary of State considers it desirable for certain actions to be undertaken to assist in the development of

the emergency broadcasting system and has previously consulted OFCOM with regard to the extent and the timing of those actions.

- (5) The condition set out in this subsection is that the Secretary of State considers it desirable to test the functioning of the emergency broadcasting system and has previously consulted OFCOM with regard to the extent and the timing of the tests. 5

7 Scope and effect of notices and directions

- (1) Where any one of the conditions set out in section 6 is met, the Secretary of State may by notice require OFCOM to give a direction under this section.
- (2) A notice under subsection (1) shall be given in writing. 10
- (3) A direction under this section is a direction to a designated communications provider who is specified in the direction to do the things specified in the direction.
- (4) The things to be done specified in the direction may include the transmission or conveyance of— 15
- (a) any content prepared in accordance with the provisions of section 8;
 - (b) any content which is information or advice— 20
 - (i) which is of value to members of the public following the occurrence of an event or during the existence of a situation falling within the terms of section 2(1), and
 - (ii) which complies with the requirement in section 8(5); or
 - (c) any signal to be transmitted or conveyed for the purposes of section 8(3).
- (5) The direction may specify the times at which the things to be done are to be done. 25
- (6) The direction may specify the area in respect of which the content or signals or both specified in the direction are to be transmitted or conveyed.
- (7) Where a communications provider does anything in pursuance of a direction under this section, he may, subject to any restriction contained in the direction, announce that he is doing so in pursuance of such a direction. 30
- (8) Subject to—
- (a) OFCOM being satisfied that the conditions mentioned in subsection (4)(b) are met in any relevant case, and
 - (b) subsection (9)
- OFCOM must comply with every requirement contained in a notice under this section. 35
- (9) Subsection (8) does not impose any obligation on OFCOM to comply with any requirement, or any part thereof, to be placed upon the provider of any electronic communications network, electronic communications service or associated facility in relation to which OFCOM are satisfied that imposition of the requirement, or any part thereof, would fall outside the terms of the general conditions specified in section 48 of the Communications Act 2003 (c. 00) (matters to which general conditions may relate). 40
- (10) Where OFCOM are of the opinion that, in accordance with the provisions of subsection (9), they may not place a requirement, or any part thereof, upon the 45

provider of any electronic communications network, electronic communications service or associated facility, OFCOM shall make a request to the provider concerned in the same terms as the requirement contained in the relevant notice.

- (11) In this section “signal” includes – 5
- (a) anything comprising speech, music, sounds, visual images or communications or data of any description; and
 - (b) signals serving for the impartation of anything between persons, between a person and a thing or between things, or for the actuation or control of apparatus. 10

8 Advance preparation of content to be transmitted or conveyed

- (1) It shall be the duty of the Secretary of State to create, or secure the creation of, content to be transmitted or conveyed by means of the emergency broadcasting system in accordance with the provisions of subsections (2) to (6).
- (2) The content to be created in accordance with this subsection is factual information relating to the purposes and operation of the emergency broadcasting system. 15
- (3) The content to be created in accordance with this subsection is any signal to be transmitted or conveyed to signify the occurrence of an event or the existence of a situation falling within the terms of section 2(1). 20
- (4) The content to be created in accordance with this subsection is any information or advice which, in the opinion of the Secretary of State, would be of value to members of the public following the occurrence of an event or during the existence of a situation falling within the terms of section 2(1).
- (5) The Secretary of State shall ensure that content created in accordance with this section is prepared and presented with due impartiality. 25
- (6) Wherever practicable, the Secretary of State shall consult OFCOM about the preparation of content for the purposes of this section.
- (7) In this section “signal” shall have the same meaning as in section 7(11).

9 Promotion of awareness of emergency broadcasting system 30

- (1) The Secretary of State may take such actions as he considers appropriate to promote public awareness of the purposes and operation of the emergency broadcasting system.
- (2) In particular, he may arrange for the use of advertising to promote awareness of – 35
- (a) the circumstances in which the system may be used, and
 - (b) the content that may be conveyed or transmitted using the system.

10 Reports and accountability

- (1) The Secretary of State must prepare and lay before Parliament regular reports on the operation of this Act. 40
- (2) The first report under this section must relate to the period which –
- (a) begins with the date on which this Act comes into force; and

- (b) ends with 31st March 2004.
- (3) Every subsequent report must relate to the period of twelve months beginning with the end of the period to which the previous report related.
- (4) The obligation under this section to prepare and lay a report before Parliament is an obligation to do that as soon as reasonably practicable after the end of the period to which the report relates. 5
- (5) On each occasion where the Secretary of State issues a notice under section 7 (other than an occasion where only a condition mentioned in section 6(4) or (5) was met) he shall, as soon as practicable thereafter, lay a statement before Parliament. 10
- (6) A statement under subsection (5) shall summarise—
- (a) the condition under section 6 that was met;
 - (b) the emergency or potential emergency to which the condition related; and
 - (c) the terms of the notice given to OFCOM under section 7. 15

11 Reimbursement of direct costs

- (1) OFCOM shall prepare for each relevant period a statement of the direct costs incurred—
- (a) by them under this Act, and
 - (b) by designated communications providers in the development, testing and operation of the emergency broadcasting system. 20
- (2) The first relevant period under this section—
- (a) begins with the date on which this Act comes into force; and
 - (b) ends with 31st March 2004.
- (3) Every subsequent relevant period is the period of twelve months beginning with the end of the period to which the previous statement related. 25
- (4) OFCOM may require designated communications providers to provide them with such information as they consider relevant to the preparation of a statement under subsection (1).
- (5) *The Secretary of State may, with the consent of the Treasury, make grants to OFCOM of such sums as are specified in a statement prepared under subsection (1).* 30
- (6) *Grants under this section shall be paid out of money provided by Parliament.*
- (7) Except as provided for in subsection (8), OFCOM shall distribute sums received by them in accordance with subsection (5) to designated communications providers to meet the direct costs duly incurred by those providers and set out in a statement under subsection (1). 35
- (8) OFCOM may retain sums received by them in accordance with subsection (5) to meet the direct costs duly incurred by them and set out in a statement under subsection (1).
- (9) In this section “direct costs” do not include any advertising revenue or any other income lost or foregone by a designated communications provider as a result of the development, testing and operation of the emergency broadcasting system. 40

12 Expenses

There shall be paid out of money provided by Parliament –

- (a) *any expenditure incurred by the Secretary of State for or in connection with the carrying out of any of his functions under this Act; and*
- (b) *any increase attributable to this Act in the sums which are payable out of money so provided under any other enactment.* 5

13 General interpretation

In this Act –

“chief officer of police” means –

- (a) in England and Wales, a person so defined in section 101(1) of the Police Act 1996 (c. 16) (interpretation) or the Chief Constable of the British Transport Police Force, 10
- (b) in Scotland, a person appointed in accordance with the provisions of section 4 of the Police (Scotland) Act 1967 (c. 77) (chief constables) or the Chief Constable of the British Transport Police Force, and 15
- (c) in Northern Ireland, the Chief Constable of the Police Service of Northern Ireland;

“designated communications providers” has the meaning given in section 3; 20

“direction” means a direction under section 6;

“emergencies and potential emergencies” has the meaning given in section 2;

“emergency broadcasting system” has the meaning given in section 1;

“fire authority” means – 25

- (a) in England and Wales, an authority which is a fire authority within the meaning of the Fire Services Act 1947 (c. 41) (read with paragraph 2 of Schedule 11 to the Local Government Act 1985 (c. 51)),
- (b) in Scotland, an authority which is a fire authority within the meaning given in section 173 of the Local Government (Scotland) Act 1973 (c. 65) (fire services), and 30
- (c) in Northern Ireland, the Fire Authority for Northern Ireland;

“NHS ambulance body” means –

- (a) in England and Wales, a National Health Service trust established under section 5 of the National Health Service and Community Care Act 1990 (c. 19) the functions of which include the provision of ambulance services, 35
- (b) in Scotland, a Special Health Board established under section 2(1)(b) of the National Health Service (Scotland) Act 1978 (c. 29) the functions of which include the provision of ambulance services, and 40
- (c) in Northern Ireland, a part of the Northern Irish health service performing functions including the provision of ambulance services; 45

“notice” means a notice under section 6;

“OFCOM” means the Office of Communications;

“relevant authority” has the meaning given in section 5; and

“signal” has the meaning given in section 7(11).

14 Short title

This Act may be cited as the Emergency Broadcasting System Act 2003.

Emergency Broadcasting System Bill

A

B I L L

To require the Secretary of State to co-ordinate the provision of a multi-media broadcasting system to provide information to the public about emergencies and potential emergencies.

*Ordered to be brought in by Tom Brake,
Simon Hughes, Mr Don Foster, Mr Paul Keetch,
Vera Baird, Michael Fabricant, Richard Allan,
Mr Hugo Swire, Mr David Heath and
Mr Edward Davey*

*Ordered by The House of Commons
to be Printed, 1st April 2003.*

© Parliamentary copyright House of Commons 2003
*Applications for reproduction should be made in writing to the Copyright Unit,
Her Majesty's Stationery Office, St. Clements House, 2-16 Colegate, Norwich, NR3 1BQ*

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON: THE STATIONERY OFFICE
Printed in the United Kingdom by
The Stationery Office Limited
£x.xx net