

# Right of Reply and Press Standards Bill

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Schedule 1 – Constitution, etc., of the Board  
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**B I L L**

TO

Give persons a right of reply to correct factual inaccuracies in the press in specified circumstances; to establish and confer functions upon the Press Standards Board and the Press Standards Adjudicator; to create an offence in connection with non-compliance with an enforcement notice served by the Press Standards Board; and for connected purposes.

**B**E 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:—

*The Board and the Adjudicator: introductory provisions*

**1 Press Standards Board**

- (1) There shall be a body known as the Press Standards Board (referred to in this Act as “the Board”).
- (2) Schedule 1 (which makes provision about the Board’s constitution and related matters) has effect. 5

**2 Press Standards Adjudicator: appointment, etc.**

- (1) The Board shall appoint a person as Press Standards Adjudicator (referred to in this Act as “the Adjudicator”).
- (2) The first appointment of an Adjudicator shall be made within three months of the coming into force of section 1. 10
- (3) The Adjudicator may be appointed on such terms and conditions as the Board may determine.

**3 Duties and functions of the Board**

- (1) The duties of the Board shall be— 15
  - (a) to promote standards of factual accuracy in editorial material in relevant publications, and

- (b) (together with the Adjudicator), to ensure that appropriate redress is available to persons with a right of reply.
- (2) The Board shall have the following particular functions under this Act—
- (a) considering appeals in accordance with sections 14 and 15;
  - (b) securing enforcement where appropriate under section 16; 5
  - (c) establishing and maintaining the database under section 17;
  - (d) undertaking periodic reviews and arranging for research under section 18;
  - (e) undertaking compliance proceedings and securing enforcement under sections 19 to 22; 10
  - (f) issuing and revising codes of practice on the operation of the provisions of this Act under section 24;
  - (g) issuing notices of exemption under section 26;
  - (h) establishing and maintaining the register under section 28; and
  - (i) promoting awareness of the provisions of this Act amongst persons likely to be affected by them. 15
- (3) The Board may, for any purpose connected with the performance of its functions—
- (a) make proposals or give other advice to any Minister of the Crown as to any aspect of the law or a proposed change to the law relating to press standards, 20
  - (b) undertake, or arrange for or support (whether financially or otherwise), the carrying out of research or the provision of advice or information.
- (4) Nothing in subsection (2) or (3) is to be regarded as limiting the Board’s powers. 25
- (5) In this section, “the law” includes Community law and the international obligations of the United Kingdom.
- 4 Duties and functions of the Adjudicator**
- (1) The duty of the Adjudicator shall be (together with the Board) to ensure that appropriate redress is available to persons with a right of reply. 30
- (2) The Adjudicator shall have the functions of—
- (a) considering complaints made to him under section 10; and
  - (b) providing such information and assistance to the Board as it may require in the exercise of its functions under this Act.
- 5 Funding of the Board and the Adjudicator** 35
- (1) At least three months before the beginning of each relevant financial year, the Board shall prepare and send to the Secretary of State an estimate of—
- (a) its funding needs, and
  - (b) the funding needs of the Adjudicator, 40
- for that financial year.
- (2) An estimate prepared under subsection (1) shall specify the needs in relation to each of the functions of the Board and of the Adjudicator and the overall funding needs of the Board and of the Adjudicator.

- (3) *The Secretary of State may make payments to the Board out of money provided by Parliament of such amounts at such times as he considers appropriate.*
- (4) Where the Secretary of State considers that the payments to be made in respect of a relevant financial year under subsection (3) are likely not to be equal to or greater than the total funding needs of the Board and of the Adjudicator contained in the estimate relating to that financial year prepared under subsection (1), he shall –
- (a) provide to the Board, and
  - (b) lay before each House of Parliament,
- a statement of the reasons why he considers that will be the case.
- (5) In this section, “relevant financial year” means each financial year referred to in paragraph 16(7)(b) of Schedule 1.

### *The right of reply*

## **6 Right of reply**

- (1) Where editorial material in a relevant publication contains a factual inaccuracy –
- (a) which relates to a person; and
  - (b) which any reasonable person might deem to be a significant inaccuracy,
- the persons specified in subsection (2) shall have a right of reply which shall be enforced in accordance with the provisions of sections 7 to 16.
- (2) Those persons are –
- (a) a person to whom the editorial material relates, and
  - (b) a person with a legitimate interest in the editorial material.
- (3) For the purposes of subsection (2) “a person” includes –
- (a) a natural or legal person,
  - (b) a body, and
  - (c) a group of persons.

### *Initial complaints and agreed corrections*

## **7 Making of initial complaint**

- (1) Where a person believes that he has a right of reply, he may make an initial complaint to –
- (a) the editor of the relevant publication, or
  - (b) the person designated by that publication as being responsible for responding to complaints, or
  - (c) both of those persons.
- (2) A complaint under this section shall –
- (a) be made in writing, and
  - (b) include such information as the complainant considers necessary to establish that he has a right of reply.

- (3) A complaint under this section must be made within a period of 14 days beginning with—
- (a) the date of publication of the editorial material to which the complaint relates, or
  - (b) (where it was not reasonably practicable for the complainant to be aware of the publication of the editorial material to which the complaint relates on the date specified in paragraph (a)), the date on which the complainant first became aware of that editorial material, provided that no complaint may be made under this section after the end of a period of one year beginning with the date specified in paragraph (a).
- (4) In this Act, “an initial complaint” means a complaint made in accordance with the provisions of this section.

## 8 Response by relevant publication

- (1) Where—
- (a) the editor of the relevant publication, or
  - (b) the person designated by that relevant publication as being responsible for relevant complaints, or
  - (c) both of those persons,
- receives or receive an initial complaint, the relevant publication shall respond in accordance with the provisions of this section.
- (2) A response under this section shall be made in writing to the complainant and shall include such information as the person responding considers necessary to respond to the complainant.
- (3) A response under this section shall indicate whether or not the person responding agrees that the complainant has established his right of reply.
- (4) A response under this section must be made within a period of three days beginning with the date on which the relevant complaint was received by—
- (a) the person to whom it was made, or
  - (b) (where the complaint was made to more than one person), the first of those persons.
- (5) A response under this section must inform the complainant of the provisions of section 10.
- (6) In this Act, “a response by a relevant publication” means a response made in accordance with the provisions of this section.

## 9 Correction where right of reply established

- (1) Where a response by a relevant publication indicates agreement that a complainant has established his right of reply, the relevant publication shall proceed in accordance with the provisions of this section.
- (2) Where subsection (1) applies, the relevant publication shall publish a correction which corrects the factual inaccuracy giving rise to the initial complaint.
- (3) A correction shall be published in the relevant publication as soon as practicable after the response by the relevant publication has been made.

- (4) A correction must –
- (a) be published free of charge,
  - (b) appear in a prominent position in the news or editorial section of the relevant publication,
  - (c) be of such length as is necessary to provide an accurate account of the matters in respect of which the complainant has established his right of reply, and
  - (d) state that it is published following a complaint made under this Act.
- (5) A relevant publication must consult the complainant about the matters referred to in subsections (2) to (4) prior to the publication of the correction and must endeavour whenever it is practicable to do so to secure the agreement of the complainant about those matters. 10
- (6) This subsection applies where the editorial material giving rise to the initial complaint –
- (a) was contained in a website version of a newspaper or periodical, and
  - (b) that editorial material is still available on that website,
- and for the purpose of determining whether this subsection applies it is immaterial whether or not the initial complaint related to or referred to the website version of a newspaper or periodical. 15
- (7) Where subsection (6) applies, the relevant publication shall either –
- (a) make the correction in the editorial material available on the website version of the editorial material, or
  - (b) ensure that the existence and location of the correction on the website is prominently displayed at the location of the editorial material.
- (8) Where a correction has been published in accordance with the provisions of this section, the relevant publication shall, as soon as practicable after the publication of the correction, inform the Board of that publication so as to enable the relevant information to be added to the database. 20
- (9) In this section, “the relevant information” has the meaning given by section 17. 25

*Complaints to and decisions of the Adjudicator* 30

## 10 Making of complaint to the Adjudicator

- (1) This section applies where –
- (a) a person believes that he has a right of reply,
  - (b) that person has made an initial complaint in accordance with the provisions of section 7, and
  - (c) one of the conditions in subsection (2) is met.
- (2) Those conditions are that –
- (a) no response by the relevant publication has been made within the period specified in section 8(4),
  - (b) a response made in accordance with the provisions of section 8 indicates that the relevant publication does not agree that the complainant has established his right of reply, or
  - (c) the person who made the initial complaint considers that the requirements of section 9 in relation to a correction have not been met.
- 35 40

- (3) Where a person believes that this section applies to his circumstances, he may make a complaint to the Adjudicator.
- (4) A complaint under this section shall be made in writing to the Adjudicator and shall include such information as the complainant considers necessary to establish— 5
- (a) that he has a right of reply, and
  - (b) that this section applies.
- (5) A complaint under this section must be made within a period of 14 days beginning with the date on which one of the conditions in subsection (2) is met.
- 11 Proceedings of the Adjudicator 10**
- (1) Where—
- (a) the Adjudicator has received a complaint made in accordance with the provisions of section 10, and
  - (b) he is satisfied that the complaint is one to which that section applies, 15
- he shall take the steps specified in this section.
- (2) The first step is to inform the relevant publication that the complaint has been made about editorial material of that publication.
- (3) The second step is to request such information as he may require within such period as he may specify from any of the following— 20
- (a) the relevant publication,
  - (b) the complainant,
  - (c) such other persons as appear to him to hold information that will assist him in proceeding under this section.
- (4) The third step is to decide whether the complaint should be upheld.
- (5) The fourth step is to inform— 25
- (a) the relevant publication, and
  - (b) the complainant,
- of his decision under subsection (4).
- (6) The fifth step is to inform persons with a right of appeal to the Board under section 13 of their rights under that section. 30
- (7) The Adjudicator may take more than one of the steps specified in this section at the same time.
- (8) In taking those steps and specifying a period for the provision of information in accordance with subsection (3), the Adjudicator shall have regard to the desirability of ensuring that, wherever practicable, he comes to a decision under subsection (4) within a period of two weeks beginning with day on which he receives the complaint. 35
- 12 Actions arising from decision by the Adjudicator**
- (1) Where, in a decision made in accordance with the provisions of section 11, the Adjudicator has determined that a complainant has a right of reply, the Adjudicator shall require the relevant publication to proceed in accordance with the provisions of section 9 in relation to the correction of the factual inaccuracy. 40



- (2) Where, in a decision made in accordance with the provisions of section 11, the Adjudicator has decided that the requirements of section 9 have not been met in relation to the correction to which the complaint to him relates, he shall require the relevant publication to proceed in accordance with the provisions of section 9 in relation to the correction of the factual inaccuracy. 5
- (3) A requirement under subsection (1) or (2)—
- (a) shall be expressed in writing, and
  - (b) shall be specific about the matters referred to in section 9 that the Adjudicator considers relevant.
- (4) Any correction published in accordance with the provisions of section 9 that arises from a decision of the Adjudicator under section 11 shall— 10
- (a) state that it arises from such a decision, and
  - (b) include such information as the Adjudicator may require about his decision.
- (5) Where a correction is to be published in accordance with the provisions of section 9 that arises from a decision of the Adjudicator under section 11, the Adjudicator may, if he thinks fit, inform any other relevant publication prior to the publication of the correction that the correction is to be published and of any matters about the circumstances giving rise to his decision that he considers appropriate. 15  
20
- (6) This section is subject to sections 13 to 15.

#### *Appeals to the Board*

### **13 Appeal to the Board**

- (1) The following persons have a right of appeal to the Board under this section— 25
- (a) a person making a complaint to the Adjudicator under section 10, and
  - (b) the relevant publication to which a decision of the Adjudicator relates.
- (2) An appeal under this section may relate to the following matters—
- (a) a decision of the Adjudicator under section 11, or
  - (b) a requirement of the Adjudicator under section 12, or
  - (c) both of those things. 30
- (3) Where a person believes that this section applies to his circumstances, he may make an appeal to the Board.
- (4) An appeal under this section shall be made in writing to the Board and shall include such information as the appellant considers necessary to establish— 35
- (a) that he has a right of appeal, and
  - (b) that his appeal should be upheld.
- (5) An appeal under this section must be made within a period of 28 days beginning with the relevant date determined in accordance with the provisions of subsections (6) to (8).
- (6) Where the appeal does not relate to a requirement of the Adjudicator under section 12, the relevant date shall be that on which the person or relevant publication making the appeal was informed of the decision of the Adjudicator under section 11 to which the appeal relates. 40

- (7) Where –
- (a) the appeal relates in whole or in part to a requirement of the Adjudicator under section 12, and
  - (b) the appeal is made by the relevant publication,
- the relevant date shall be that on which the relevant publication was informed of the requirement to which the appeal relates. 5
- (8) Where –
- (a) the appeal relates in whole or in part to a requirement of the Adjudicator under section 12, and
  - (b) the appeal is made by the person making a complaint to the Adjudicator under section 10,
- the relevant date shall be that on which the correction arising from the requirement to which the appeal relates was published. 10

#### **14 Proceedings of the Board on appeal**

- (1) The Board may decide not to consider an appeal under section 13 if it thinks – 15
- (a) that the conditions in that section have not been met, or
  - (b) that the appeal is improper or vexatious.
- (2) Where the Board decides to consider an appeal, it shall take the steps specified in this section.
- (3) The first step is to inform the other party that an appeal has been made. 20
- (4) In the case of an appeal by a person making a complaint to the Adjudicator under section 10, “the other party” means the relevant publication to which the decision of the Adjudicator relates.
- (5) In the case of an appeal by the relevant publication to which a decision of the Adjudicator relates, “the other party” means the person making a complaint to the Adjudicator under section 10. 25
- (6) The second step is to request such information as the Board may require within such period as the Board may specify from any of the following –
- (a) the parties to the appeal, and
  - (b) such other persons as appear to the Board to hold information that will assist it in proceeding under this section. 30
- (7) The third step is to decide whether the appeal should be upheld.
- (8) The fourth step is to inform the parties to the appeal of its decision under subsection (7).
- (9) The Board may take more than one of the steps specified in this section at the same time. 35
- (10) In taking those steps and specifying a period for the provision of information in accordance with subsection (6), the Board shall have regard to the desirability of ensuring that, wherever practicable, it comes to a decision within a period of two weeks beginning with day on which it receives the appeal. 40

**15 Actions arising from decision by the Board**

- (1) Where, in a decision made in accordance with the provisions of section 14, the Board has determined that a complainant has a right of reply, it shall require the relevant publication to proceed in accordance with the provisions of section 9 in relation to the correction of the factual inaccuracy. 5
- (2) Where, in a decision made in accordance with the provisions of section 14, the Board has decided that the requirements of section 9 have not been met in relation to the correction to which the appeal to it relates, it shall require the relevant publication to proceed in accordance with the provisions of section 9 in relation to the correction of the factual inaccuracy. 10
- (3) A requirement under subsection (1) or (2) –
  - (a) shall be expressed in writing, and
  - (b) shall be specific about the matters referred to in section 9 that the Board considers relevant.
- (4) Any correction published in accordance with the provisions of section 9 that arises from a decision of the Board under section 14 shall – 15
  - (a) state that it arises from such a decision, and
  - (b) include such information as the Board may require about its decision.
- (5) Where a correction is to be published in accordance with the provisions of section 9 that arises from a decision of the Board under section 14, the Board may, if it thinks fit, inform any other relevant publication prior to the publication of the correction that the correction is to be published and of any matters about that the circumstances giving rise to its decision that the Board considers appropriate. 20

*Enforcement in individual cases* 25

**16 Enforcement of requirements arising from individual cases**

- (1) This section applies where –
  - (a) a relevant publication has been required by –
    - (i) the Adjudicator in exercise of his powers under section 12, or
    - (ii) the Board in exercise of its powers under section 15, 30to do any of the things to which the provisions of those sections or section 9 apply, and
  - (b) the relevant publication has not fulfilled that requirement.
- (2) Where this section applies, the Board may enforce a requirement by action – 35
  - (a) (in England and Wales and in Northern Ireland) in the High Court, or
  - (b) (in Scotland), in the Court of Session.
- (3) In enforcing a requirement under subsection (2), the Court may require the relevant publication to pay any or all of the costs incurred by the Board in proceeding under this section.
- (4) No action to enforce a requirement under this section may give rise to a sentence of imprisonment against any person. 40

*Database and periodic reviews***17 Database of corrections, etc.**

- (1) It shall be the duty of the Board to establish and maintain a publicly accessible database of relevant information about editorial material in respect of which –
- (a) a right of reply has been established in accordance with the provisions of section 8 and a correction has been published in accordance with the provisions of section 9; 5
  - (b) a right of reply has been determined by the Adjudicator in accordance with the provisions of section 11 and either –
    - (i) a correction has been published in accordance with a requirement under section 12, or 10
    - (ii) proceedings have been instituted under section 16; or
  - (c) a right of reply has been determined by the Board in accordance with the provisions of section 14 and either –
    - (i) a correction has been published in accordance a requirement under section 15, or 15
    - (ii) proceedings have been instituted under section 16.
- (2) Where a correction has been published in accordance with a requirement under section 12 or an order of the Court under section 16 arising from such a requirement, the Adjudicator shall inform the Board of the publication of the correction as soon as is practicable so as to enable the relevant information to be added to the database. 20
- (3) Where a correction has been published in accordance with a requirement under section 15 or an order of the Court under section 16 arising from such a requirement, the Board shall arrange for the relevant information to be added to the database. 25
- (4) Relevant information contained on the database may only be removed with the agreement of the person who made the initial complaint or (if he has died or lacks the capacity to decide) his next of kin.
- (5) In this section, “relevant information” means such information as the Board considers appropriate relating to – 30
- (a) the relevant publication in which the factual inaccuracy giving rise to the initial complaint was made,
  - (b) the location within a relevant publication of a correction, and
  - (c) the reasons why a right of reply was established or determined. 35

**18 Periodic reviews and research**

- (1) The Board shall prepare and publish periodic reviews of the matters specified in subsections (3) to (5) and (7).
- (2) Periodic reviews shall be published with such frequency as the Board may determine, but at least one review shall be published in the course of each calendar year. 40
- (3) The matters specified in this subsection are the Board’s observations on –
- (a) the overall number of initial complaints; and
  - (b) the number of initial complaints in relation to particular –
    - (i) relevant publications, 45

- (ii) persons, and
- (iii) issues.
- (4) The matter specified in this subsection is any information held on the database which, in the opinion of the Board, ought to be brought to the attention of the public. 5
- (5) The matters specified in this subsection are the Board’s observations on—
  - (a) the handling of complaints by relevant publications,
  - (b) the activities of the Adjudicator under sections 10 to 12,
  - (c) the activities of the Board under sections 13 to 15, and
  - (d) enforcement under section 16. 10
- (6) Observations under subsection (5) may be in general terms or may relate to a particular relevant publication.
- (7) The matters specified in this subsection are—
  - (a) trends in news coverage,
  - (b) trends in journalism, and 15
  - (c) trends in the readership of relevant publications.
- (8) For the purposes of preparing that part of a periodic review that relates to matters specified in subsection (7), the Board may arrange for or support (whether financially or otherwise) the carrying out of research by others.

*Compliance proceedings and enforcement* 20

## 19 Initial compliance proceedings

- (1) The Board may initiate compliance proceedings under this section (“initial compliance proceedings”) where the Board considers that any one or more of the following conditions are met—
  - (a) that the number of initial complaints that has been made in respect of a particular relevant publication in respect of which a right of reply has subsequently been established in accordance with the provisions of this Act is excessive, 25
  - (b) that a relevant publication has failed to put in place systems to verify the factual accuracy of editorial material and in particular to check the database and periodic reviews, 30
  - (c) that a relevant publication has persistently and negligently published editorial material containing factual inaccuracies in respect of which a right of reply has previously been established.
- (2) Where the Board decides to initiate compliance proceedings under this section, the Board shall serve a notice of that decision on the relevant publication. 35
- (3) At the conclusion of compliance proceedings under this section, the Board may—
  - (a) publish a report containing recommendations for action by the relevant publication on any of the matters to which the compliance proceedings relates within a specified period, and 40
  - (b) provide such other information as it considers appropriate to the relevant publication.

**20 Issue of enforcement notice**

- (1) This section applies where –
- (a) the Board has undertaken initial compliance proceedings in accordance with the provisions of section 19 in relation to a relevant publication,
  - (b) a report published under subsection (3)(a) of that section contained recommendations for action by the relevant publication within a specified period, and
  - (c) the Board considers that the relevant publication has not complied with those recommendations within that specified period.
- (2) Where this section applies, the Board may, if it thinks fit, serve on the relevant publication a notice (“an enforcement notice”) requiring the relevant publication –
- (a) to comply with such recommendations of the report published under section 19(3)(a) within such period as may be specified in the notice, and
  - (b) to take such other actions relating to the matters referred to in that report as may be specified in the notice.
- (3) An enforcement notice may also require the relevant publication on whom it is served to furnish the Board with such information as may be reasonably required by the notice in order to verify that the notice has been complied with.
- (4) The Board shall not serve an enforcement notice in respect of a relevant publication unless they have first –
- (a) given the relevant publication notice that it is minded to issue an enforcement notice in respect of that publication, specifying the grounds on which the Board contemplates doing so,
  - (b) offered the relevant publication an opportunity of making oral or written representations in the matter (or both oral and written representations if the relevant publication thinks fit) within a period of not less than 28 days specified in the notice, and
  - (c) taken account of any representations so made by the relevant publication.

**21 Appeal against enforcement notice**

- (1) Not later than six weeks after an enforcement notice is served on any relevant publication, that publication may appeal against any requirement of the notice –
- (a) (in England and Wales and in Northern Ireland) to the High Court, or
  - (b) (in Scotland), to the Court of Session.
- (2) Where the Court considers a requirement in respect of which an appeal is brought under subsection (1) to be unreasonable because it is based on an incorrect finding of fact or for any other reason, the Court shall quash the requirement.
- (3) On quashing a requirement under subsection (2), the Court may direct that the enforcement notice shall be treated as if, in place of the requirement quashed, it had contained a requirement in terms specified in the direction.
- (4) Subsection (1) does not apply to a requirement treated as included in an enforcement notice by virtue of a direction under subsection (3).

**22 Further compliance proceedings**

- (1) The Board may initiate compliance proceedings under this section (“further compliance proceedings”) where the Board considers that a relevant publication has failed to comply with a requirement of an enforcement notice that is in force. 5
- (2) A requirement is in force for the purposes of this section if—
- (a) the period for an appeal specified in section 21(1) has elapsed and the relevant publication has not appealed against the requirement, or
  - (b) the requirement has been the subject of an appeal, but has not been quashed by the Court. 10
- (3) For the purposes of this section, a requirement of an enforcement notice includes a matter that is to be treated as if it were a requirement of an enforcement notice in accordance with a direction of a Court under section 21(3).
- (4) Where the Board decides to initiate compliance proceedings under this section, the Board shall serve a notice of that decision on the relevant publication. 15
- (5) At the conclusion of compliance proceedings under this section, the Board may—
- (a) publish a report containing recommendations for action by the relevant publication on any of the matters to which the requirement of an enforcement notice that is in force relates within a specified period, and 20
  - (b) provide such other information as it considers appropriate to the relevant publication.

**23 Offence of non-compliance and penalty**

- (1) It shall be an offence for a relevant publication to fail to comply with the recommendation of a report under section 22(5)(a). 25
- (2) A relevant publication guilty of an offence under subsection (1) shall be subject to a fine.

*Other functions of the Board***24 Codes of practice**

- (1) The Board shall prepare and issue codes of practice for the purpose of giving practical guidance to—
- (a) editors and others responsible for editorial material in relevant publications, and
  - (b) other persons carrying on activities to which the provisions of this Act apply. 35
- (2) The Board shall deal in particular under subsection (1) with—
- (a) matters to be considered in determining whether or not a person has a right of reply,
  - (b) the interpretation of “relevant information” for the purposes of section 17. 40
- (3) The Board shall deal in particular under subsection (1)(a) with—

- (a) procedures for checking facts in editorial material, including checking information contained in the database established and maintained by the Board and in periodic reviews published by the Board, and
  - (b) the handling of initial complaints under this Act.
- (4) The Board shall – 5
  - (a) keep any code of practice under this section under review, and
  - (b) prepare a revised code of practice when appropriate.
- (5) Before preparing a code of practice under this section, the Board shall consult – 10
  - (a) the Secretary of State, and
  - (b) such other persons as the Board considers appropriate.
- (6) The Board shall publish a code of practice issued under this section in such a way as, in its opinion, is likely to bring the code of practice to the attention of those interested.
- (7) A code of practice issued under this section shall come into effect on such day as may be appointed in the code of practice. 15

## 25 Annual report

- (1) The Board shall prepare a report for – 20
  - (a) the first twelve months of its existence, and
  - (b) each succeeding period of twelve months.
- (2) A report under this section shall deal with the activities of the Board in the period to which the report relates.
- (3) A report under this section shall include an account of the activities of the Adjudicator prepared by the Adjudicator.
- (4) The Authority shall send each report under this section to – 25
  - (a) the Secretary of State,
  - (b) the Scottish Ministers, and
  - (c) the National Assembly for Wales,

as soon as practicable after the end of the period to which the report relates.
- (5) The Secretary of State shall lay a copy of each report received by him under this section before each House of Parliament. 30

### *Relevant publications, website versions and the register*

## 26 Meaning of “relevant publication” and notices of exemption

- (1) In this Act “relevant publication” means – 35
  - (a) a newspaper,
  - (b) a periodical, or
  - (c) a website version of a newspaper or periodical,

that is not exempted from the provisions of this Act in accordance with the provisions of subsection (2).
- (2) The Board may by notice exempt from the provisions of this Act a newspaper or periodical if the Board is satisfied that – 40



- (a) the timing of the publication of the newspaper or periodical is irregular, or
  - (b) the readership of the newspaper or periodical is insignificant.
- (3) Where a notice of exemption is issued under subsection (2), the Board shall—
- (a) send a copy of the notice to the editor of the newspaper or periodical concerned, and
  - (b) cause an entry relating to the exemption to be made in the register.
- (4) The editor of a newspaper or periodical may at any time apply to the Board for the issue of a notice of exemption in respect of the newspaper or periodical of which he is editor.
- (5) Where a newspaper or periodical is exempted from the provisions of this Act by a notice of exemption in accordance with the provisions of subsection (2), a website version of that newspaper or periodical shall also be so exempted.

## 27 Website versions of a newspaper or periodical

- (1) In this Act, “a website version of a newspaper or periodical” means a website which is—
- (a) maintained and operated by the same company or organisation as that which is responsible for the publication of a newspaper or periodical, and
  - (b) concerned in whole or in part with making available editorial material of that newspaper or periodical.
- (2) The matter of whether a website constitutes a website version of a newspaper or periodical shall be determined by the Board.
- (3) In determining whether a website constitutes a website version of a newspaper or periodical it is immaterial—
- (a) whether there is a charge for accessing editorial material on the website,
  - (b) whether the website contains material which does not appear in the newspaper or periodical, and
  - (c) whether the address of the website clearly identifies it as relating to the newspaper or periodical.
- (4) The Board shall, as soon as is reasonably practicable after coming to a determination under subsection (2), inform the editor of the newspaper or periodical concerned of that determination.
- (5) When the Board makes a determination under subsection (2) it shall cause an appropriate entry to be made in the register.
- (6) When the Board makes a determination under subsection (2), the persons who are for the time being entered in the register as—
- (a) the editor of the newspaper or periodical of which the website is the website version,
  - (b) the person designated by that newspaper or periodical as being responsible for responding to complaints,
- shall also be deemed to have the same function in relation to the website version of the newspaper or periodical.

**28 Register**

- (1) It shall be the duty of the Board to establish and maintain a publicly accessible register of information about relevant publications.
- (2) In relation to each newspaper and periodical, the register shall specify –
- (a) the name of the editor, 5
  - (b) the name of the person designated by that newspaper or periodical as being responsible for responding to complaints,
  - (c) the ways in which the persons specified in paragraphs (a) and (b) may be contacted (which shall include a postal address in respect of at least one of them), and 10
  - (d) the website address of any website version of the newspaper or periodical.
- (3) The register shall include a list of newspapers and periodicals in respect of which a notice of exemption has been issued under section 26(2).

*Miscellaneous and final provisions* 15

**29 Orders and regulations**

- (1) Any power of the Secretary of State to make orders or regulations under this Act includes power –
- (a) to make different provision for different cases, and
  - (b) to make incidental, supplementary, consequential or transitional provision or savings. 20
- (2) The power of the Secretary of State to make orders and regulations under this Act is exercisable by statutory instrument.
- (3) No statutory instrument (other than an order under section 33) may be made unless a draft of the instrument has been laid before and approved by each House of Parliament. 25

**30 Interpretation**

- (1) In this Act –
- “the Adjudicator” means the Press Standards Adjudicator appointed in accordance with the provisions of section 2; 30
  - “the Board” means the Press Standards Board established under section 1;
  - “the database” means the database maintained in accordance with the provisions of section 17;
  - “editor”, in relation to a newspaper or periodical, means a person having editorial or equivalent responsibility for the editorial material of the newspaper or periodical; 35
  - “editorial material” means all content of the relevant publication except advertisements (other than advertisements to which subsection (2) applies);
  - “enforcement notice” has the meaning given by section 20; 40
  - “further compliance proceedings” has the meaning given by section 22;
  - “an initial complaint” has the meaning given by section 7;
  - “initial compliance proceedings” has the meaning given by section 19;

- “newspaper” means a daily, Sunday or local (other than daily or Sunday) newspaper circulating wholly or mainly in the United Kingdom;
- “notice of exemption” means a notice issued in accordance with the provisions of section 26;
- “the register” (other than in paragraph 15(2) of Schedule 1) means the register established and maintained in accordance with the provisions of section 28; 5
- “relevant publication” has the meaning given by section 26;
- “a response by a relevant publication” has the meaning given by section 8;
- “right of reply” has the meaning given by section 6; 10
- “a website version of a newspaper or periodical” has the meaning given by section 27.
- (2) This subsection applies to advertisements—
- (a) for other editions of the relevant publication in which the advertisement appears, or 15
- (b) for a relevant publication which is part of the same newspaper enterprise as the relevant publication in which the advertisement appears.
- (3) In subsection (2), “newspaper enterprise” has the same meaning as in section 58A(3) of the Enterprise Act 2002 (c. 40) (meaning of newspaper enterprise). 20
- 31 Expenses**
- There shall be paid out of money provided by Parliament—*
- (a) *any expenditure incurred by a Minister of the Crown in consequence of this Act, and*
- (b) *any increase attributable to this Act in the sums payable out of money so provided under any other Act.* 25
- 32 Consequential amendments**
- Schedule 2 (which makes consequential amendments of other Acts) has effect.
- 33 Short title and commencement**
- (1) This Act may be cited as the Right of Reply and Press Standards Act 2005. 30
- (2) This Act (other than sections 29 to 31 and this section) shall come into force on such date as the Secretary of State may by order determine.

## SCHEDULES

### SCHEDULE 1

Section 1

#### CONSTITUTION, ETC., OF THE BOARD

##### *Status*

- |   |   |   |
|---|---|---|
| 1 | (1) The Board is a body corporate.  | 5 |
|   | (2) The Board is not the servant or agent of the Crown, it does not enjoy any status, immunity or privilege of the Crown and its property is not to be regarded as property of or as held on behalf of the Crown. |   |

##### *Membership*

- |   |  |    |
|---|--|----|
| 2 | (1) The Board shall consist of members appointed in accordance with the provisions of this paragraph.  | 10 |
|   | (2) The Secretary of State shall appoint five members of the Board.  |    |
|   | (3) In making appointments under sub-paragraph (2), the Secretary of State shall seek to secure that, at any time, two members of the Board are persons who appear to him to represent the interests of relevant publications. | 15 |
|   | (4) Each of the following shall appoint one member of the Board –<br>(a) the Scottish Ministers,<br>(b) the National Assembly for Wales.   |    |
| 3 | The Chairman of the Board shall be elected by the Board from amongst its members.  | 20 |

##### *Disqualification*

- |   |   |    |
|---|---|----|
| 4 | A person is disqualified for being appointed as a member of the Board if he holds office as or is appointed an editor of a relevant publication.  |    |
| 5 | (1) A person is disqualified for being appointed as chairman or other member of the Board if –  | 25 |
|   | (a) he is the subject of a bankruptcy restrictions order or interim order,  |    |
|   | (b) a bankruptcy order has been made against him by a court in Northern Ireland, his estate has been sequestrated by a court in Scotland or, under the law of Northern Ireland or Scotland, he has made a composition or arrangement with, or granted a trust deed for, his creditors, or | 30 |
|   | (c) in the last five years he has been convicted in the United Kingdom, the Channel Islands or the Isle of Man of an offence and has had a qualifying sentence passed on him.   |    |

- (2) Where a person is disqualified under sub-paragraph (1)(b) because a bankruptcy order has been made against him or his estate has been sequestered, the disqualification shall cease –
- (a) on his obtaining a discharge, or
  - (b) if the bankruptcy order is annulled or the sequestration of his estate is recalled or reduced, on the date of that event. 5
- (3) Where a person is disqualified under sub-paragraph (1)(b) because of his having made a composition or arrangement with, or granted a trust deed for, his creditors, the disqualification shall cease –
- (a) at the end of the period of five years beginning with the date on which the terms of the deed of composition or arrangement or trust deed are fulfilled, or 10
  - (b) if, before then, he pays his debts in full, on the date on which the payment is completed.
- (4) For the purposes of sub-paragraph (1)(c), the date of conviction shall be taken to be the ordinary date on which the period allowed for making an appeal or application expires or, if an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of its non-prosecution. 15
- (5) In sub-paragraph (1)(c), the reference to a qualifying sentence is to a sentence of imprisonment for a period of not less than three months (whether suspended or not) without the option of a fine. 20

*Tenure of office*

- 6 (1) Subject to the provisions of paragraphs 7 to 9, the members of the Board shall hold and vacate office in accordance with the terms of their respective appointments. 25
- (2) The terms of appointment of the members of the Board shall be such as the person making the appointment may determine.
- 7 A person holding office as a member of the Board may resign that office by giving notice in writing to the person who appointed him. 30
- 8 A person holding office as a member of the Board shall cease to hold that office if he ceases to be qualified for appointment to it by reason of paragraph 4 or 5.
- 9 A person holding office as a member of the Board who is not at that time chairman may be removed from office by the person who appointed him if the person who appointed him is satisfied that the member of the Board – 35
- (a) has been absent from meetings of the Board for six consecutive months, or longer, without the permission of the Board, or
  - (b) is unable or unfit to carry out his functions as a member of the Board.
- 10 (1) The chairman shall be elected for a period of three years. 40
- (2) A person may be elected on more than one occasion to the position of chairman, but may not be elected for more than two successive periods of three years.
- (3) A person may be removed from office as chairman by a decision of the Board if he is unable or unfit to carry out his functions as chairman. 45

*Remuneration, pensions etc. of members*

- 11 (1) *The Board may pay to the chairman or any of the other members of the Board such remuneration as the Secretary of State may determine.*
- (2) *The Board may pay, or make provision for paying, to or in respect of the chairman or any of the other members of the Board such pensions, allowances, fees, expenses or gratuities as the Secretary of State may determine.* 5
- (3) *The Board may make a payment to a person who ceases to hold office as chairman or other member of the Board otherwise than on the expiry of his term of office if it appears to the Secretary of State that there are special circumstances which make it right for that person to receive compensation.* 10
- (4) *A payment under sub-paragraph (3) shall be of such amount as the Secretary of State may determine.*

*Staff*

- 12 *The Board may appoint such staff as it considers appropriate, on such terms and conditions as it may determine.* 15

*Proceedings*

- 13 Subject to any provision of this Act, the Board may regulate its own procedure (including quorum).
- 14 The validity of any proceedings of the Board shall not be affected by – 20
- (a) any vacancy in the office of –
- (i) chairman,
- (ii) a member to be appointed by a particular provision of paragraph 2,
- (b) any defect in a person's appointment as chairman or other member, or 25
- (c) the composition for the time being of the membership of the Board.

*Members' interests*

- 15 (1) The Board shall establish and maintain a system for the declaration and registration of private interests of its members.
- (2) The Board shall publish entries recorded in the register of members' interests. 30

*Accounts and audit*

- 16 (1) The Board shall keep proper accounts and proper records in relation to its accounts.
- (2) The Board shall prepare a statement of accounts in respect of each of its financial years. 35
- (3) Any such statement of accounts must comply with any directions given by the Secretary of State with the approval of the Treasury as to –
- (a) the information to be contained in the statement,
- (b) the manner in which that information is to be presented, and 40

- (c) the methods and principles according to which the statement is to be prepared.
- (4) The Board shall send a copy of each statement of accounts required by sub-paragraph (2) to –
  - (a) the Secretary of State, 5
  - (b) the Scottish Ministers,
  - (c) the National Assembly for Wales, and
  - (d) the Comptroller and Auditor General,before the end of such period after the end of the financial year to which the statement relates as the Secretary of State may specify by notice given to the Board. 10
- (5) The Comptroller and Auditor General shall –
  - (a) examine, certify and report on each statement of accounts received by him under sub-paragraph (4)(d), and
  - (b) lay a copy of each such statement of accounts, and of his report on it, before each House of Parliament. 15
- (6) The power under sub-paragraph (3) to give directions includes power to vary or revoke directions given in previous exercise of the power.
- (7) In this paragraph, “financial year” means –
  - (a) the period beginning with the date on which the Board is established and ending with the next 31st March, and 20
  - (b) each successive period of 12 months ending with 31st March.

#### *Instruments*

- 17 The application of the seal of the Board shall be authenticated by the signature of any member of the Board or of any other person who has been authorised for the purpose by the Board, whether generally or specially. 25
- 18 A document purporting –
  - (a) to be duly executed under the seal of the Board, or
  - (b) to be signed on its behalf,shall be received in evidence and be taken, without further proof, to be so executed or signed unless the contrary is shown. 30

#### *Supplementary powers*

- 19 The Board may do anything which is calculated to facilitate, or is conducive or incidental to, the carrying out of its functions, but may not borrow money.
- 20 The Board may delegate any of its functions (to such extent as it may determine) –
  - (a) to any member of the Board,
  - (b) to any member of staff of the Board, or
  - (c) to a committee consisting of persons each of whom is –
    - (i) a member of the Board, or 40
    - (ii) a member of the staff of the Board.

## SCHEDULE 2

Section 32

## CONSEQUENTIAL AMENDMENTS

*Public records*

- 1 In Schedule 1 to the Public Records Act 1958 (c. 51) (definition of public records), in Part 2 of the Table at the end of paragraph 3, at the appropriate place, insert the following entry – 5  
“Press Standards Board.”

*Investigation by Parliamentary Commissioner*

- 2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (c. 13) (departments and authorities subject to investigation), at the appropriate place, insert the following entry – 10  
“Press Standards Board.”

*House of Commons Disqualification*

- 3 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies of which all members are disqualified), at the appropriate place, insert the following entry – 15  
“Press Standards Board.”

*Northern Ireland Assembly Disqualification*

- 4 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (bodies of which all members are disqualified), at the appropriate place, insert the following entry – 20  
“Press Standards Board.”

*Race relations: general statutory duty*

- 5 In Schedule 1A to the 1976 Act (bodies subject to general statutory duty), under the heading “Other Bodies, Etc.”, at the appropriate place, insert the following entry – 25  
“The Press Standards Board.”

*Freedom of Information*

- 6 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (public authorities), at the appropriate place, insert the following entry – 30  
“Press Standards Board.”

*Bankruptcy*

- 7 (1) Paragraphs 5(1)(b), (2) and (3) of Schedule 1 shall be taken to be within the definition of “provision” in section 268 of the Enterprise Act 2002 (c. 40) (power to remove bankruptcy disqualifications under pre-8th November 2002 provisions or extend them to, or replace them with disqualifications of, persons subject to bankruptcy restrictions regimes). 35



(2) In its application by virtue of sub-paragraph (1), section 268 of the Enterprise Act 2002 (c. 40) shall have effect with the following modifications –

(a) subsections (5)(d), (6) to (8) and (15) (power to make application of disqualification provision subject to person’s discretion) are omitted, and

5

(b) for subsection (13) (order under section to be made by statutory instrument after parliamentary approval of a draft) there is substituted –

“(13) An order under this section –

(a) must be made by statutory instrument,

10

(b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

# Right of Reply and Press Standards Bill

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A

## B I L L

To give persons a right of reply to correct factual inaccuracies in the press in specified circumstances; to establish and confer functions upon the Press Standards Board and the Press Standards Adjudicator; to create an offence in connection with non-compliance with an enforcement notice served by the Press Standards Board; and for connected purposes.

*Presented by Peter Bradley  
supported by  
Mr Clive Soley, Ann Clwyd, Tony Wright,  
Angela Eagle, Tony Worthington,  
Sir Sydney Chapman, Mr Paul Tyler,  
Mr Robert Walter, Martin Linton,  
Dr Alan Whitehead and Mr Siôn Simon.*

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