



Broadcasting Act 1990

1990 CHAPTER 42

PART X

MISCELLANEOUS AND GENERAL

Matters relating to telecommunication systems

189 Sharing of apparatus by operators of telecommunication systems

(1) Where—

- (a) the telecommunications code contained in Schedule 2 to the 1984 Act expressly or impliedly imposes any limitation on the use to which any telecommunication apparatus installed by a person (“the operator”) may be put, and
- (b) the operator is a party to a relevant agreement,

that limitation shall not have effect so as to preclude the doing of anything which is done in relation to that apparatus in pursuance of that agreement; and anything which is so done shall be disregarded in determining, for the purposes of the telecommunications code as it applies in relation to the operator, the purposes for which that apparatus is used.

(2) In this section “relevant agreement”, in relation to any telecommunication apparatus, means an agreement in writing—

- (a) to which the parties are either—
 - (i) two or more persons to whom this section applies, or
 - (ii) one or more persons to whom this section applies and one or more telecommunications operators who are not such persons; and
- (b) which relates to the sharing by those persons of the use of that apparatus.

(3) Subsection (1) shall not be construed, in relation to a person who is authorised by a relevant agreement to share the use of any apparatus installed by another party to the agreement, as affecting any requirement on him (whether imposed by any statutory provision or otherwise) to obtain any consent or permission in connection with the

Status: This is the original version (as it was originally enacted).

installation by him of any apparatus, or the doing by him of any other thing, in pursuance of the agreement.

- (4) This section applies to—
- (a) the holder of a licence to provide a local delivery service within the meaning of Part II of this Act;
 - (b) the holder of any licence to provide a prescribed diffusion service continued in force by, or granted under, Part II of Schedule 12 to this Act;
 - (c) a telecommunications operator in his capacity as a person providing the means of delivery for the service provided under his licence by a person falling within paragraph (a) or (b) above; and
 - (d) the company nominated for the purposes of section 127(1).
- (5) In this section—
- “the 1984 Act” means the Telecommunications Act 1984;
- “statutory provision” means any provision of an enactment or of an instrument having effect under an enactment;
- “telecommunication apparatus” has the same meaning as in Schedule 2 to the 1984 Act;
- “telecommunications operator” means a person who runs a telecommunication system the running of which is, or is not required to be, licensed under Part II of the 1984 Act.

190 Modification of certain references in Telecom- munications Act licences

- (1) This section applies to licences which have been granted under section 7 of the Telecommunications Act 1984 (licensing of telecommunication systems) before the transfer date and continue in force on or after that date.
- (2) In any licence to which this section applies, any reference (however expressed) to a cable programme service sent under a licence granted under section 4 of the Cable Act shall be construed, as from the transfer date, as a reference to a licensable service within the meaning of Part I of that Act (other than an exempt service), whether sent—
- (a) under a diffusion licence which is continued in force by, or granted under, Part II of Schedule 12 to this Act, or
 - (b) under a local delivery licence granted under this Act,
- or otherwise.
- (3) Where any licence to which this section applies (“the telecommunications licence”) authorises the Secretary of State to revoke that licence in the event of the revocation of a licence granted under section 4 of the Cable Act in respect of the licensed systems (“the cable licence”), he may similarly revoke the telecommunications licence in the event of the revocation of any licence granted in respect of the licensed systems, in succession to the cable licence, under or in pursuance of any of paragraphs 2 to 4 in Part II of Schedule 12 to this Act.
- (4) Where any licence to which this section applies (“the telecommunications licence”) provides for that licence to remain in force so long as there remains in force in respect of the licensed systems a licence granted under section 4 of the Cable Act (“the cable licence”), then if a local delivery licence is granted in respect of the licensed system, in succession to the cable licence, in pursuance of paragraph 6 in Part II of Schedule 12

to this Act, the telecommunications licence shall (subject to the terms contained in it) remain in force so long as that local delivery licence remains in force.

(5) In this section—

“the Cable Act” means the Cable and Broadcasting Act 1984;

“diffusion licence” means a licence to provide a prescribed diffusion service or other diffusion service within the meaning of Part I of the Cable Act;

“exempt service” means a service falling within any description of services exempted from licensing under Part I of the Cable Act by virtue of an order in force under section 3 of that Act immediately before the transfer date;

“the licensed systems”, in relation to a licence to which this section applies, means the telecommunication systems the running of which is authorised by the licence;

“local delivery licence” has the same meaning as in Part II of this Act;

“the transfer date” means the day appointed under section 127(1);

and any reference to a licence granted under section 4 of the Cable Act includes, in relation to a licence to which this section applies (“the relevant licence”), a reference to a licence granted under section 58 of the Telecommunications Act 1984 (whether described in the relevant licence in those terms or in any other way).

191 Revocation of class licence to run broadcast relay systems

The licence entitled “Class Licence to run Broadcast Relay Systems”, which was granted by the Secretary of State on 25th November 1986 under section 7 of the Telecommunications Act 1984, is hereby revoked.