



Broadcasting Act 1996

1996 CHAPTER 55

PART I

DIGITAL TERRESTRIAL TELEVISION BROADCASTING

Miscellaneous and supplemental

32 Digital broadcasting of Gaelic programmes.

- (1) The Secretary of State may by order provide for [^{F1}OFCOM to include in no more than one relevant multiplex licence] such conditions relating to the broadcasting of programmes in Gaelic for reception wholly or mainly in Scotland as may be specified in, or determined by them under, the order.
- (2) The Secretary of State may by order require the holder of a multiplex licence (“the holder”), in complying with any such conditions, to broadcast programmes in Gaelic supplied by each of the persons mentioned in subsection (4) (“the suppliers”) amounting to such minimum number of hours (if any) of transmission time per year as may be specified in the order in relation to that supplier.
- (3) For the purpose of enabling the holder to comply with any such conditions and any obligation imposed by virtue of subsection (2), it shall be the duty of each supplier to provide the holder, free of charge, with such programmes in Gaelic which have been broadcast by the supplier as the holder may request.
- (4) The suppliers are—
 - (a) the BBC,
 - (b) the Channel Four Television Corporation,
 - (c) any holder of a Channel 3 licence to provide a regional Channel 3 service (within the meaning of Part I of the 1990 Act) for reception wholly in Scotland, and
 - (d) such other persons providing television broadcasting services as may be specified by order by the Secretary of State.

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- (5) Subsection (3) shall not apply in relation to any programme first broadcast by the supplier concerned—
- (a) before 1st January 1993, or
 - (b) in the period beginning on 1st January 1993 and ending on 31st March 1997, if the supplier has no right to broadcast it again or has such a right but is not entitled to transfer it to the holder.
- (6) The holder may broadcast any programme supplied by virtue of subsection (3) on one occasion only.
- (7) The holder shall consult [^{F2}Seirbheis nam Meadhanan Gàidhlig] and the suppliers about—
- (a) the quantity of programmes likely to be requested by the holder from each supplier by virtue of subsection (3), and
 - (b) the schedules proposed for the broadcast by the holder of programmes supplied by virtue of that subsection,
- and shall have regard to any comments made as a result of such consultation.
- (8) Any order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[^{F3}(9) In this section—

“Gaelic” means the Gaelic language as spoken in Scotland;

“relevant multiplex licence” means a multiplex licence in respect of which the Secretary of State has made an order under section 243(3) of the Communications Act 2003;

“television broadcasting service” has the same meaning as in Part 3 of the Communications Act 2003.]

Textual Amendments

- F1** Words in s. 32(1) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 97\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F2** Words in s. 32(7) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 97\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F3** S. 32(9) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 97\(4\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

33 Review of digital television broadcasting.

- (1) For the purpose of considering for how long it would be appropriate for television broadcasting services to continue to be provided in analogue form, the Secretary of State—
- (a) shall keep under review the extent of—
 - (i) the provision in the United Kingdom of multiplex services,
 - (ii) the availability in the United Kingdom in digital form of the [^{F4}following services, namely, Channel 3 services, Channel 4, Channel 5, the public television services of the Welsh Authority (within the meaning of Part 2 of Schedule 12 to the Communications

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- Act 2003), the digital public teletext service] , and the television broadcasting services of the BBC, and
- (iii) the ownership or possession in the United Kingdom of equipment capable of receiving the services referred to in sub-paragraph (ii) when broadcast or transmitted in digital form,
- and the likely future extent of such provision, such availability and such ownership or possession, and
- (b) shall, on or before the fourth anniversary of the day on which the first multiplex licence is granted under section 8, and at such time or times thereafter as he thinks fit, require [F5OFCOM] and the BBC to report to him on the matters referred to in paragraph (a).
- (2) If [F5OFCOM] or the BBC are required to submit a report under subsection (1)(b), they shall submit the report within twelve months of the date of the requirement.
- (3) Before making any report under subsection (1)(b), [F5OFCOM] shall consult—
- (a) the holders of all multiplex licences,
- (b) the holders of digital programme licences who are providing digital programme services which are being broadcast,
- (c) such other persons providing services licensed by the Commission under this Part or Part I F6... of the 1990 Act as [F5OFCOM] think fit, and
- (d) the Welsh Authority;
- and [F5OFCOM] shall include in their report a summary of representations made to them by the persons consulted.
- (4) For the purpose mentioned in subsection (1), the Secretary of State shall, on requiring reports under subsection (1)(b), consult—
- (a) such persons appearing to him to represent viewers as he thinks fit, and
- (b) such other persons as he thinks fit,
- in connection with the matters referred to in subsection (1)(a) and also, if the Secretary of State thinks fit, as to the likely effects on viewers of any television broadcasting service ceasing to be broadcast in analogue form.
- (5) In this section “television broadcasting service” has the same meaning as in Part I of the 1990 Act.

Textual Amendments

- F4** Words in s. 33(1)(a)(ii) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 98\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F5** Words in s. 33 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 98\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F6** Words in s. 33(3)(c) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

Modifications etc. (not altering text)

- C1** Pt. 1: transfer of functions (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 1 para. 3\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- C2** Pt. 1 modified (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 215\(10\)\(c\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- C3** Pt. 1 modified (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 241\(1\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

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C4 S. 33: transfer of functions (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 1 para. 11** (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

F7 34 Promotion of equal opportunities and fair treatment.

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Textual Amendments

F7 S. 34 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 19(1)** Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

35 Enforcement of licences held by BBC companies.

Where [^{F8}OFCOM] —

- (a) give a direction to a BBC company under section 40(1) of the 1990 Act as applied by section 23(8) or 27(8),
- (b) serve a notice on a BBC company under any provision of section 17, 23 or 27, or
- (c) receive any representations from a BBC company under section 17(4), 23(6) or 27(6) or under section 42 of the 1990 Act as so applied,

[^{F8}OFCOM] shall send a copy of the direction, notice or representations to the Secretary of State.

Textual Amendments

F8 Word in s. 35 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 15 para. 99** (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

36 Power to vary amount of financial penalties.

- (1) The Secretary of State may by order amend any of the provisions specified in subsection (2) by substituting a different sum for the sum for the time being specified there.

[^{F9}(2) The provisions referred to in subsection (1) are—

- (a) section 11(5B)(a) and (5C)(a);
- (b) section 17(2A)(a);
- (c) section 23(2A)(a); and
- (d) section 27(2A)(a).

- (3) No order is to be made under subsection (1) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.]

Textual Amendments

F9 S. 36(2)(3) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 13 para. 16** (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

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37 Computation of multiplex revenue.

Part I of Schedule 1 (which contains provisions relating to the computation of multiplex revenue for the purposes of this Part) shall have effect.

^{F10}38 Certain receipts of Commission to be paid into Consolidated Fund.

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Textual Amendments

F10 S. 38 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

39 Interpretation of Part I.

(1) In this Part—

“ancillary service” has the meaning given by section 24(2);

“a Channel 3 licence” has the same meaning as in Part I of the 1990 Act and “a Channel 3 service” means a regional or national Channel 3 service (within the meaning of that Part);

“Channel 4”, “Channel 5” and “a Channel 5 licence” have the same meaning as in Part I of the 1990 Act;

^{F11} ...

“digital additional service” has the meaning given by section 24(1), and “digital additional services licence” means a licence to provide such services;

“digital programme service” has the meaning given by section 1(4), and “digital programme licence” means a licence to provide such services;

[^{F12}“ digital public teletext service ” has the same meaning as in Part 3 of the Communications Act 2003;

“digital sound programme service” has the same meaning as in Part 2 of this Act;

“general multiplex service” has the same meaning as in that Part;]

“independent analogue broadcaster” has the meaning given by section 2(1);

“licence” means a licence under this Part, and “licensed” shall be construed accordingly;

“multiplex service” has the meaning given by section 1(1), and “multiplex licence” means a licence to provide such a service;

[^{F13}“public teletext provider” means the person for the time being licensed under Part 1 of the 1990 Act to provide the public teletext service (within the meaning of Part 3 of the Communications Act 2003);]

“qualifying service” has the meaning given by section 2(2);

^{F11} ...

[^{F14}“S4C” and “S4C Digital” each has the same meaning as in Part 3 of the Communications Act 2003;]

“technical service” has the meaning given by section 24(3).

[^{F15}“television licensable content service” has the meaning given by section 232 of the Communications Act 2003;]

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[^{F16c} television multiplex service]” has the meaning given by section 241 of the Communications Act 2003.

- (2) Where the person who is for the time being the holder of any licence (“the present licence holder”) is not the person to whom the licence was originally granted, any reference in this Part (however expressed) to the holder of the licence shall be construed, in relation to any time falling before the date when the present licence holder became the holder of it, as including a reference to a person who was previously the holder of the licence.

Textual Amendments

- F11** Words in s. 39(1) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F12** Words in s. 39(1) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 100\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F13** Words in s. 39(1) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 100\(b\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F14** Words in s. 39(1) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 100\(c\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F15** Words in s. 39(1) inserted (25.7.2006) by [The Television Licensable Content Services Order 2006 \(S.I. 2006/2131\)](#), arts. 1(1), [5\(2\)](#)
- F16** Words in s. 39(1) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 100\(d\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

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