

## SCHEDULES

### SCHEDULE 15

#### AMENDMENTS OF BROADCASTING ACTS

##### PART 2

##### AMENDMENTS OF THE 1996 ACT

###### *Multiplex services and digital programme services*

- 74 (1) Section 1 of the 1996 Act (interpretation) shall be amended as follows.
- (2) For subsection (1) there shall be substituted—
- “(1) In this Part “multiplex service” means (except where the context otherwise requires) a television multiplex service.”
- (3) In subsection (4), for “for general reception” there shall be substituted “so as to be available for reception by members of the public”.
- (4) For subsection (4A) there shall be substituted—
- “(4A) In subsection (4), “available for reception by members of the public” means available for reception by members of the public (within the meaning of Part 3 of the Communications Act 2003) in the United Kingdom or another EEA State, or in an area of the United Kingdom or of such a State.”
- (5) For subsection (7) of that section there shall be substituted—
- “(7) In this section “broadcast” means broadcast otherwise than from a satellite.”

###### *Meaning of qualifying service*

- 75 In section 2 of the 1996 Act (meaning of “qualifying service” etc.), for subsections (2) to (6) there shall be substituted—
- “(2) In this Part “qualifying service” means any of the following, so far as they are provided with a view to their being broadcast in digital form—
- (a) a television broadcasting service included in Channel 3;
  - (b) Channel 4;
  - (c) Channel 5;
  - (d) S4C Digital;
  - (e) a television programme service provided by the Welsh Authority with the approval of the Secretary of State under section 205 of the Communications Act 2003;
  - (f) the digital public teletext service.”

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### *Licences under Part 1*

- 76 (1) Section 3 of the 1996 Act (licences under Part 1 of that Act) shall be amended as follows.
- (2) In subsection (1), for “the Independent Television Commission (in this Part referred to as the “the Commission”)” there shall be substituted “OFCOM”.
- (3) In subsections (3) to (7), for “The Commission” and “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (4) For subsection (8) there shall be substituted—
- “(8) The holding by a person of a licence under this Part shall not relieve him of—
- (a) any liability in respect of a failure to hold a licence under section 1 of the Wireless Telegraphy Act 1949; or
- (b) any obligation to comply with requirements imposed by or under Chapter 1 of Part 2 of the Communications Act 2003 (electronic communications networks and electronic communications services).”

### *Licence conditions*

- 77 (1) Section 4 of the 1996 Act (general licence conditions) shall be amended as follows.
- (2) For “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (1), in each of paragraphs (a) and (c), for “the 1990 Act or this Act” there shall be substituted “this Act, the 1990 Act or the Communications Act 2003”.
- (4) In subsection (3) (fixing fees), the words from “and the amount” onwards shall be omitted.

### *Restrictions on digital licence holding*

- 78 (1) Section 5 of the 1996 Act (restrictions on holding licences) shall be amended as follows.
- (2) For “The Commission” and “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (2) (incidental requirements to provide information), after paragraph (d) there shall be inserted—
- “(da) impose conditions in a licence requiring the licence holder, if a body corporate, to give OFCOM notice, after they have occurred and irrespective of whether proposals for them have fallen to be notified, of changes, transactions or events affecting—
- (i) shareholdings in the body; or
- (ii) the directors of the body;
- (db) impose conditions in a licence enabling OFCOM to require the licence holder to provide them with such information as they may reasonably require for determining—
- (i) whether the licence holder is a disqualified person in relation to that licence by virtue of Part 2 of Schedule 2 to the 1990 Act; or

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(ii) whether any such requirements as are mentioned in subsection (1)(b) have been and are being complied with by or in relation to the licence holder;”.

(4) In subsection (6)—

- (a) in paragraph (a), for “complained of” there shall be substituted “constituting their grounds for revoking the licence”.
- (b) in paragraph (b)(i), for “Parts III and IV of Schedule 2 to the 1990 Act” there shall be substituted “the requirements imposed by or under Schedule 14 to the Communications Act 2003”.

(5) In subsection (7)—

- (a) paragraph (a) shall cease to have effect; and
- (b) in paragraph (b), for “Part IV of that Schedule” there shall be substituted “Part 1 of Schedule 14 to the Communications Act 2003”.

(6) In subsection (8), for the words from “a failure” to the end of paragraph (c) there shall be substituted “a disqualification under Part 2 of Schedule 2 to the 1990 Act or a contravention of a requirement imposed by or under Schedule 14 to the Communications Act 2003,”.

#### *Multiplex licences*

- 79 (1) Section 7 of the 1996 Act (multiplex licences) shall be amended as follows.
- (2) For “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (4)—
- (a) after paragraph (c) there shall be inserted—
    - “(ca) the applicant’s proposals as to the number (if any) of digital sound programmes services which are to be broadcast, as to the characteristics of each of those services and as to the areas in which they would be provided;”
  - (b) in paragraph (d) for “those services” there shall be substituted “the services mentioned in paragraphs (c) and (ca)”.

#### *Award of multiplex licences*

- 80 (1) Section 8 of the 1996 Act (award of multiplex licences) shall be amended as follows.
- (2) For “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (2)(f), after “digital programme service” there shall be inserted “, digital sound programme service”.

#### *Power to require two or more multiplex licences to be granted to one person*

- 81 In section 9 of the 1996 Act (grant of two or more multiplex licences to one person), for “The Commission” and “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

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*Award of multiplex licences subject to conditions*

- 82 (1) Section 10 of the 1996 Act (award of multiplex licences subject to conditions) shall be amended as follows.
- (2) For “The Commission” and “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (1)(a), for “the 1990 Act or this Act” there shall be substituted “this Act, the 1990 Act or Part 3 of the Communications Act 2003”.

*Failure to provide licensed service and revocation*

- 83 In section 11 of the 1996 Act (failure to provide licensed service and revocation), for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

*Conditions attached to multiplex licences*

- 84 In section 12 of the 1996 Act (conditions attached to multiplex licences), for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

*Additional payments in respect of multiplex licences*

- 85 In section 13 of the 1996 Act (additional payments in respect of multiplex licences), for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

*Multiplex revenue*

- 86 (1) Section 14 of the 1996 Act (multiplex revenue) shall be amended as follows.
- (2) In subsection (1)—
- (a) for “section 13(1)” there shall be substituted “this Part”;
  - (b) for “the holder of a multiplex licence” there shall be substituted “the person who is the multiplex provider in relation to any television multiplex service or any general multiplex service”;
  - (c) in paragraph (a), for “the multiplex service to which the licence relates” there shall be substituted “the relevant multiplex”;
  - (d) in paragraph (b) for “of any qualifying service by means of the multiplex service” there shall be substituted “by means of the multiplex service of any service which is a qualifying service or which (without being a qualifying service) is provided by the BBC”;
  - (e) in paragraphs (c) and (d), for “the holder of the multiplex licence” and “the multiplex service”, in each place where they occur there shall be substituted, respectively, “the multiplex provider” and “the relevant multiplex”.
- (3) In subsections (2) to (8)—
- (a) for the words “the holder of the multiplex licence” and “the licence holder”, wherever occurring, there shall be substituted, in each case, “the multiplex provider”; and
  - (b) for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (4) In subsection (9)—

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- (a) for “a multiplex licence”, in each place, there shall be substituted “a television multiplex service or a general multiplex service”;
- (b) for “the multiplex service to which the licence relates”, in each place, there shall be substituted “that multiplex service”;
- (c) after the definition of “additional services provider” there shall be inserted—
  - ““multiplex provider”—
  - (a) in relation to a television multiplex service for which a person holds a licence under this Part, means the licence holder; and
  - (b) in relation to a television multiplex service which is not licensed under this Part or a general multiplex service, means the person who provides that service;”
- (d) after the definition of “programme provider” there shall be inserted—
  - ““the relevant multiplex”—
  - (a) in relation to a multiplex provider falling within paragraph (a) of the definition of that expression, means the television multiplex service to which his licence relates; and
  - (b) in relation to any other multiplex provider, means the television multiplex service or general multiplex service which is provided by him;and this section and section 15 shall have effect as if references in this section to digital programme services included references to digital sound programme services and references to digital additional services included references to digital additional services within the meaning of Part 2.”

#### *Attribution of multiplex revenue to multiplex providers*

- 87 (1) Section 15 of the 1996 Act (attribution of multiplex revenue to licence holder) shall be amended as follows.
- (2) In subsection (1)—
    - (a) for “the holder of a multiplex licence” there shall be substituted “the person who is the multiplex provider in relation to any television multiplex service”;
    - (b) for “of multiplex services in that period,” there shall be substituted “in that period of television multiplex services,”;
    - (c) for “the holder of the multiplex licence” there shall be substituted, “the multiplex provider”.
  - (3) In subsection (2)—
    - (a) for “a multiplex service” there shall be substituted “a television multiplex service or a general multiplex service”;
    - (b) for “the holder of the multiplex licence”, wherever occurring, there shall be substituted “the multiplex provider”.
  - (4) In subsection (3)—
    - (a) for “the Commission” there shall be substituted “OFCOM”; and
    - (b) for “the holder of the multiplex licence” there shall be substituted “the multiplex provider”.

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(5) In subsection (4)—

- (a) after “additional services provider” there shall be inserted “, ‘multiplex provider’”; and
- (b) for “a multiplex licence” there shall be substituted “a television multiplex service or a general multiplex service”.

*Duration of multiplex licences*

- 88 (1) Section 16 of the 1996 Act (duration and renewal of multiplex licences) shall be amended as follows.
- (2) For “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (3), after “not later than” there shall be inserted “the day falling three months before”.
- (4) After subsection (12), there shall be inserted—
- “(12A) A determination for the purposes of subsection (12)—
- (a) must be made at least one year before the date determined; and
  - (b) must be notified by OFCOM to the person who holds the licence in question.”

*Enforcement of multiplex licences*

- 89 In section 17 of the 1996 Act (enforcement of multiplex licences), for “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.

*Licensing of digital programme services*

- 90 (1) Section 18 of the 1996 Act (licensing of digital programme services) shall be amended as follows.
- (2) In subsections (1) to (4), for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) Subsections (5) and (6) (application of sections 6 to 12 of the 1990 Act) shall cease to have effect.

*Conditions of licences for digital programme services*

- 91 (1) Section 19 of the 1996 Act (conditions of licences for digital programme services) shall be amended as follows.
- (2) In subsection (3)—
- (a) for “the Commission”, wherever occurring, there shall be substituted “OFCOM”;
  - (b) in paragraphs (a) and (c), for “the holder of a multiplex licence” there shall be substituted, in each case, “the provider of a television multiplex service or general multiplex service”;
  - (c) in paragraph (a), for “by means of a multiplex service” there shall be substituted “by means of that provider’s service”; and

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(d) in paragraph (a)(i), for “the identity of the multiplex service” there shall be substituted “the identity of the service by means of which it will be broadcast”.

(3) Subsections (2) and (4) to (10) of that section shall cease to have effect.

#### *Duration and enforcement of multiplex licenses*

92 (1) Section 23 of the 1996 Act (enforcement of digital programme licences) shall be amended as follows.

(2) For “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.

(3) In subsection (4), for the words from “multiplex service” onwards there shall be substituted “television multiplex service or general multiplex service, means the last accounting period of the multiplex provider”.

(4) In subsection (5), for “multiplex service, the first accounting period of the holder of the multiplex licence” there shall be substituted “television multiplex service or general multiplex service, the first accounting period of the multiplex provider”.

(5) After that subsection there shall be inserted—

“(5A) In subsections (4) and (5) “multiplex provider” has the same meaning as in section 14.”

(6) In subsection (8) for “apology” there shall be substituted “statement of findings”.

#### *Digital additional services*

93 (1) Section 24 of the 1996 Act (digital additional services) shall be amended as follows.

(2) In subsection (1), for paragraphs (a) and (b) there shall be substituted—

“(a) is provided by a person with a view to its being broadcast in digital form (whether by him or some other person) so as to be available for reception by members of the public;

(b) is so provided with a view either—

(i) to the broadcasting being by means of a television multiplex service or by means of a general multiplex service; or

(ii) to the members of the public in question being or including members of the public in an EEA State other than the United Kingdom, or in an area of such a State;

and

(c) is not a Channel 3 service, Channel 4, Channel 5, a public television service of the Welsh Authority, the digital public teletext service, a digital programme service, a digital sound programme service, an ancillary service or a technical service.”

(3) In subsection (2) (meaning of ancillary service)—

(a) for “an independent analogue broadcaster” there shall be substituted “a relevant public service broadcaster”; and

(b) for paragraphs (a) and (b) there shall be substituted—

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- “(a) assistance for disabled people in relation to some or all of the programmes included in a digital programme service or qualifying service provided by him;
- (b) a service (apart from advertising) that relates to the promotion or listing of programmes included in such a service or in a digital sound programme service so provided; or
- (c) any other service (apart from advertising) that is ancillary to one or more programmes so included, and relates directly to their contents.”

(4) In subsection (3)(a), after “digital programme services” there shall be inserted “, digital sound programme services”.

(5) After subsection (3) there shall be inserted—

“(3A) In this section—

“assistance for disabled people” has the same meaning as in Part 3 of the Communications Act 2003;

“available for reception by members of the public” shall be construed in accordance with section 361 of that Act;

“public television service of the Welsh Authority” means—

- (a) S4C Digital; or
- (b) any television programme service the provision of which by the Authority is authorised by or under section 205 of that Act and which is provided in digital form;

“relevant public service broadcaster” means any of the following—

- (a) a person licensed under Part 1 of the 1990 Act to provide a Channel 3 service;
- (b) the Channel 4 Corporation;
- (c) a person licensed under Part 1 of the 1990 Act to provide Channel 5;
- (d) the BBC;
- (e) the Welsh Authority;
- (f) the public teletext provider.”

#### *Licensing of digital additional services*

94 (1) Section 25 of the 1996 Act (licensing of digital additional services) shall be amended as follows.

(2) In subsections (1) to (4), for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

(3) After subsection (4) there shall be inserted—

“(4A) A digital additional services licence is not required for a service that is or is comprised in a qualifying service.”

(4) Subsections (5) and (6) (application of sections 6 to 12 of the 1990 Act) shall cease to have effect.



*Conditions of digital additional services licence*

- 95 (1) Section 26 of the 1996 Act (conditions of licences for digital additional services) shall be amended as follows.
- (2) In subsection (2)—
- (a) for “the Commission”, wherever occurring, there shall be substituted “OFCOM”;
  - (b) in paragraphs (a) and (c), for “the holder of a multiplex licence” there shall be substituted, in each case, “the provider of a television multiplex service or general multiplex service”;
  - (c) in paragraph (a), for “by means of a multiplex service” there shall be substituted “by means of that provider’s service”; and
  - (d) in paragraph (a)(i), for “the identity of the multiplex service” there shall be substituted “the identity of the service by means of which it will be broadcast”.

*Enforcement of digital additional television services licences*

- 96 (1) Section 27 of the 1996 Act (enforcement of digital additional television services licences) shall be amended as follows.
- (2) For “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (4), for the words from “multiplex service” onwards there shall be substituted “television multiplex service or general multiplex service, means the last accounting period of the multiplex provider”.
- (4) In subsection (5), for “multiplex service, the first accounting period of the holder of the multiplex licence” there shall be substituted “television multiplex service or general multiplex service, the first accounting period of the multiplex provider”.
- (5) After that subsection there shall be inserted—
- “(5A) In subsections (4) and (5) “multiplex provider” has the same meaning as in section 14.”

*Digital broadcasting of Gaelic programmes*

- 97 (1) Section 32 of the 1996 Act (digital broadcasting of Gaelic programmes) shall be amended as follows.
- (2) In subsection (1), for “the Commission to include in any multiplex licence granted in respect of one frequency to which section 28 applies” there shall be substituted “OFCOM to include in no more than one relevant multiplex licence”.
- (3) In subsection (7), for “Comataidh Craolaidh Gaidhlig” there shall be substituted “Seirbheis nam Meadhanan Gàidhlig”.
- (4) For subsection (9) there shall be substituted—
- “(9) In this section—
- “Gaelic” means the Gaelic language as spoken in Scotland;

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“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.”

*Review of digital television broadcasting*

- 98 (1) Section 33 of the 1996 Act (review of digital television broadcasting) shall be amended as follows.
- (2) For “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (1)(a)(ii), for the words “services specified in section 2(3), S4C Digital, the qualifying teletext service” there shall be substituted “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 Act 2003), the digital public teletext service”.

*Enforcement of licences held by BBC companies*

- 99 In section 35 of the 1996 Act (enforcement of licences held by BBC companies), for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

*Interpretation of Part 1*

- 100 In section 39(1) (interpretation of Part 1)—
- (a) after the definition of “digital programme service” there shall be inserted—
- ““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;”.
- (b) for the definition of “public teletext provider” there shall be substituted—
- ““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);”
- (c) for the definitions of “S4C” and “on S4C” and of “S4C Digital” and “on S4C Digital” there shall be substituted—
- ““S4C” and “S4C Digital” each has the same meaning as in Part 3 of the Communications Act 2003;”.
- (d) after the definition of “technical service” there shall be inserted—
- ““television multiplex service” has the meaning given by section 241 of the Communications Act 2003.”

### *Radio multiplex services*

- 101 (1) Section 40 of the 1996 Act (radio multiplex services) shall be amended as follows.
- (2) For subsections (1) to (3) there shall be substituted—
- “(1) In this Part “radio multiplex service” means a radio multiplex service within the meaning of Part 3 of the Communications Act 2003.”
- (3) In subsection (4) (local and national multiplex services), the words “provided on a frequency or frequencies assigned to the Authority under section 45(1)” shall be omitted.
- (4) In subsection (5), for “for general reception” there shall be substituted “so as to be available for reception by members of the public”.
- (5) For subsection (8) of that section there shall be substituted—
- “(8) In this section—
- “available for reception by members of the public” shall be construed in accordance with section 361 of the Communications Act 2003;
- “broadcast” means broadcast otherwise than from a satellite.”

### *Licences under Part 2 of the 1996 Act*

- 102 (1) Section 42 of the 1996 Act (licences under Part 2) shall be amended as follows.
- (2) In subsection (1), for “the Radio Authority (in this Part referred to as “the Authority”)” there shall be substituted “OFCOM”.
- (3) In subsections (2), (5) and (6), for “The Authority” and “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
- (4) For subsection (3) (variation of licences) there shall be substituted—
- “(3) OFCOM may vary a licence by a notice served on the licence holder.
- (3A) OFCOM shall not vary—
- (a) the period for which a licence having effect for a specified period is to continue in force, or
- (b) increase the total amount of digital capacity specified in a national radio multiplex licence for the purposes of section 48(1A),
- unless the licence holder consents.
- (3B) OFCOM shall not make any other variation of a licence unless the licence holder has been given a reasonable opportunity of making representations to OFCOM about the variation.”
- (5) In subsection (4) (exceptions from power to vary licences), for “Paragraph (a) of subsection (3)” there shall be substituted “Paragraph (a) of subsection (3A)”.
- (6) For subsection (7) there shall be substituted—
- “(7) The holding of a licence by a person shall not relieve him—
- (a) of any liability in respect of a failure to hold a licence under section 1 of the Wireless Telegraphy Act 1949; or

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- (b) of any obligation to comply with requirements imposed by or under Chapter 1 of Part 2 of the Communications Act 2003 (electronic communications networks and electronic communications services).”

*General licence conditions*

- 103 (1) Section 43 of the 1996 Act (general licence conditions) shall be amended as follows.
- (2) For “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
  - (3) In subsection (1) (conditions may include conditions to give effect to duties imposed by or under 1990 Act or 1996 Act)—
    - (a) in paragraph (a), for “the 1990 Act or this Act” there shall be substituted “this Act, the 1990 Act or the Communications Act 2003”; and
    - (b) in paragraph (d), after “this Act” there shall be inserted “, the 1990 Act or the Communications Act 2003”.
  - (4) In subsection (2), sub-paragraph (ii) of paragraph (b) and the word “or” immediately preceding it shall be omitted.
  - (5) In subsection (3) (fixing of fees), the words from “and the amount” onwards shall be omitted.

*Restrictions on holding licences*

- 104 (1) Section 44 of the 1996 Act (restrictions on the holding of licences) shall be amended as follows.
- (2) For “The Authority” and “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
  - (3) In subsection (2) (incidental requirements to provide information), after paragraph (d) there shall be inserted—
    - “(da) impose conditions in a licence requiring the licence holder, if a body corporate, to give OFCOM notice, after they have occurred and irrespective of whether proposals for them have fallen to be notified, of changes, transactions or events affecting—
      - (i) shareholdings in the body; or
      - (ii) the directors of the body;
    - (db) impose conditions in a licence enabling OFCOM to require the licence holder to provide them with such information as they may reasonably require for determining—
      - (i) whether the licence holder is a disqualified person in relation to that licence by virtue of Part 2 of Schedule 2 to the 1990 Act; or
      - (ii) whether any such requirements as are mentioned in subsection (1)(b) have been and are being complied with by or in relation to the licence holder;”.
  - (4) In subsection (6)—
    - (a) in paragraph (a), for “complained of” there shall be substituted “constituting their grounds for revoking the licence”; and

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- (b) in paragraph (b)(i), for “Parts III and IV of Schedule 2 to the 1990 Act” there shall be substituted “the requirements imposed by or under Schedule 14 to the Communications Act 2003”.
- (5) In subsection (7)—
  - (a) paragraph (a) shall cease to have effect; and
  - (b) in paragraph (b), for “Part IV of that Schedule” there shall be substituted “Part 1 of Schedule 14 to the Communications Act 2003”.
- (6) In subsection (8), for the words from “a failure” to the end of paragraph (c) there shall be substituted “a disqualification under Part 2 of Schedule 2 to the 1990 Act or a contravention of a requirement imposed by or under Schedule 14 to the Communications Act 2003,”.

#### *National radio multiplex licences*

- 105 (1) Section 46 of the 1996 Act (national radio multiplex licences) shall be amended as follows.
- (2) For “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.
  - (3) In subsection (1)(d), for “a direction” there shall be substituted “a condition”.

#### *Award of national radio multiplex licences*

- 106 In section 47 of the 1996 Act (award of national radio multiplex licences), for “the Authority”, wherever occurring, there shall be substituted “OFCOM”.

#### *Reservation of capacity for independent national broadcasters*

- 107 (1) Section 48 of the 1996 Act (reservation of digital capacity for independent broadcasters) shall be amended as follows.
- (2) For subsections (1) to (3) there shall be substituted—
    - “(1A) OFCOM must ensure that the conditions included in national radio multiplex licences (taken together) secure that an amount of digital capacity on the multiplex frequencies is reserved for every independent national broadcaster for the broadcasting of a simulcast radio service provided by that broadcaster.
    - (1B) Where the conditions of a licence for a national radio multiplex service reserve capacity on the frequency made available for that service for the broadcasting of a simulcast radio service provided by an independent national broadcaster, those conditions must also include the condition specified in subsection (1C).
    - (1C) That condition is the condition that OFCOM consider appropriate for securing that, in consideration of the making by the independent national broadcaster of the payments which —
      - (a) are agreed from time to time between him and the licence holder, or
      - (b) in default of agreement, are determined under this section,

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the licence holder uses, for the broadcasting of a simulcast radio service provided by that broadcaster, such of the reserved digital capacity as may be requested, from time to time, by that broadcaster.

(1D) Where conditions are included under this section in a national radio multiplex licence reserving capacity for an independent national broadcaster, OFCOM may include conditions relating to the broadcasting of the simulcast radio service in the licence for the national service provided by that broadcaster.”

(3) In subsections (4) to (6), for “the Authority”, wherever occurring, there shall be substituted “OFCOM”.

(4) In subsection (4), for “subsection (3)(a)” there shall be substituted “subsection (1C)”.

(5) After subsection (6) there shall be inserted—

“(7) In this section “the multiplex frequencies” means the frequencies made available for the purposes of licensed national radio multiplex services.”

#### *Reservation of digital capacity for BBC*

108 (1) Section 49 of the 1996 Act (reservation of digital capacity for BBC) shall be amended as follows.

(2) In subsections (1) to (3) and (6), for “the Authority”, wherever occurring, there shall be substituted “OFCOM”.

(3) In subsection (4) (determination of capacity to be reserved), for the words from “If the BBC” to “the Secretary of State, who may” there shall be substituted “If the BBC do not give their consent to the proposals within such period as OFCOM may specify in their notice under subsection (3), OFCOM shall”.

(4) In subsection (5), for words from “the Secretary of State” onwards there shall be substituted “OFCOM shall give the BBC an opportunity of making representations to them about their proposals.”

(5) In subsection (6), after “and the BBC” there shall be inserted “or (in default of agreement) determined under this section”.

(6) After that subsection there shall be inserted—

“(7) Where the holder of the licence and the BBC fail to agree—

(a) the payments to be made under a condition included in the licence in accordance with subsection (6), or

(b) the other terms that are to apply in relation to the use of digital capacity in accordance with such a condition,

either of them may refer the matter to OFCOM for determination.

(8) Before making a determination under subsection (7), OFCOM must give the licence holder and the BBC an opportunity of making representations to them about the matter.

(9) In making any determination under subsection (7), OFCOM shall have regard to—

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- (a) the expenses incurred, or likely to be incurred, by the licence holder in providing the local radio multiplex service in question, and
- (b) the terms on which persons providing local radio multiplex services contract with persons providing local digital additional services for the broadcasting of those services.”

#### *Local radio multiplex licences*

- 109 (1) Section 50 of the 1996 Act (local radio multiplex licences) shall be amended as follows.
- (2) For “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.
  - (3) In subsection (1)(b), for “the Secretary of State has” there shall be substituted “OFCOM have”.
  - (4) In subsection (2)(d), for “direction under section 49” substitute “determination under section 49(4)”.

#### *Award of local multiplex licences*

- 110 (1) Section 51 of the 1996 Act (award of local multiplex licences) shall be amended as follows.
- (2) For “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
  - (3) In subsection (2), for paragraph (f) there shall be substituted—
    - “(f) the extent to which there is evidence that, amongst persons living in that area or locality, there is a demand for, or support for, the provision of the proposed service; and”.

#### *Power to require two or more local radio multiplex licences to be granted to one person*

- 111 In section 52 of the 1996 Act (power to require two or more local radio multiplex licences to be granted to one person), for “The Authority” and “the Authority” there shall be substituted “OFCOM”.

#### *Failure to begin to provide licensed service*

- 112 In section 53 of the 1996 Act (failure to provide licensed service), for “the Authority”, wherever occurring, there shall be substituted “OFCOM”.

#### *Conditions which may be attached to radio multiplex licences*

- 113 In section 54 of the 1996 Act (conditions which may be attached to a radio multiplex licence), for “the Authority”, wherever occurring, there shall be substituted “OFCOM”.

#### *Additional payments to be made in respect of national radio multiplex licences*

- 114 In section 55 of the 1996 Act (additional payments to be made in respect of national radio multiplex licences) for “the Authority”, wherever occurring, there shall be substituted “OFCOM”.

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### *Multiplex revenue*

- 115 (1) Section 56 of the 1996 Act (multiplex revenue) shall be amended as follows.
- (2) In subsection (1)—
- (a) for “section 55(1)” there shall be substituted “this Part”;
  - (b) for “the holder of a national radio multiplex licence” there shall be substituted “the person who is the multiplex provider in relation to a national radio multiplex service”;
  - (c) in paragraph (a)(i), “to which the licence relates” shall be omitted;
  - (d) in paragraphs (c) and (d), for “the holder of the radio multiplex licence” there shall be substituted “the multiplex provider”.
- (3) In subsections (2) to (8)—
- (a) for “the holder of the radio multiplex licence”, “the licence holder” and “the holder of the multiplex licence”, wherever occurring, there shall be substituted, in each case, “the multiplex provider”; and
  - (b) for “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
- (4) In subsection (9)—
- (a) for “a national radio multiplex licence”, in each place, there shall be substituted “a national radio multiplex service”;
  - (b) for “the radio multiplex service to which the licence relates”, in each place, there shall be substituted “that radio multiplex service”;
  - (c) after the definition of “additional services provider” there shall be inserted—
    - “multiplex provider”—
    - (a) in relation to a national radio multiplex service for which a person holds a licence under this Part, means the licence holder; and
    - (b) in relation to a national radio multiplex service which is not licensed under this Part, means the person who provides that service.”

### *Attribution of radio multiplex revenue*

- 116 (1) Section 57 of the 1996 Act (attribution of radio multiplex revenue) shall be amended as follows.
- (2) In subsection (1)—
- (a) for “the holder of a national radio multiplex licence” there shall be substituted “the person who is the multiplex provider in relation to a national radio multiplex service”; and
  - (b) for “the holder of the national radio multiplex licence” there shall be substituted “the multiplex provider”.
- (3) In subsection (2), for “the holder of the radio multiplex licence”, wherever occurring, there shall be substituted “the multiplex provider”.
- (4) In subsection (3)—
- (a) for “the Authority” there shall be substituted “OFCOM”; and



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- (b) for “the holder of the national radio multiplex licence” there shall be substituted “the multiplex provider”.
- (5) In subsection (4)—
  - (a) after ““additional services provider”” there shall be inserted ““, multiplex provider””; and
  - (b) for “a national radio multiplex licence” there shall be substituted “a national radio multiplex service”.

#### *Duration and renewal of radio multiplex licences*

- 117 (1) Section 58 of the 1996 Act (duration and renewal of radio multiplex licences) shall be amended as follows.
- (2) For “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.
  - (3) In subsection (3), after “not later than” there shall be inserted “the day falling three months before”.
  - (4) Subsection (5) (consent of the Secretary of State for exercise of certain powers in connection with renewal) shall cease to have effect.
  - (5) After subsection (12) there shall be inserted—
    - “(12A) A determination for the purposes of subsection (12)—
      - (a) must be made at least one year before the date determined; and
      - (b) must be notified by OFCOM to the person who holds the licence in question.”

#### *Enforcement of radio multiplex licences*

- 118 In section 59 of the 1996 Act (enforcement of radio multiplex licences), for “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.

#### *Digital sound programme licensing*

- 119 (1) Section 60 of the 1996 Act (digital sound programme licensing) shall be amended as follows.
- (2) For “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
  - (3) After subsection (6), there shall be inserted—
    - “(6A) Section 89 of the 1990 Act (disqualification from being licence holder or concerned with the provision of a programme service if convicted of a transmitting offence) shall apply in relation to a licence under this section as it applies to a licence under Part 3 of that Act, but with the omission of paragraph (b) of subsection (3) of that section and of the word “or” immediately before that paragraph.”
  - (4) Sub-paragraph (3) does not impose a disqualification in respect of any offence committed before the commencement of that sub-paragraph.

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*Conditions of digital sound programme licences*

120 (1) Section 61 of the 1996 Act (conditions of licences for digital sound programme services) shall be amended as follows.

(2) In subsection (2)—

- (a) for “the Authority”, wherever occurring, there shall be substituted “OFCOM”;
- (b) in paragraphs (a) and (c), for “the holder of a radio multiplex licence”, there shall be substituted, in each case, “the provider of a radio multiplex service, of a television multiplex service or of a general multiplex service”;
- (c) in paragraph (a) for “by means of a radio multiplex service” there shall be substituted “by means of the multiplex service”; and
- (d) in paragraph (a)(i) for “radio multiplex service” there shall be substituted “multiplex service”.

*Enforcement of digital sound programme licences*

121 (1) Section 62 of the 1996 Act (enforcement of digital sound programme licences) shall be amended as follows.

(2) For “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.

(3) In subsection (4), for the words from “national radio multiplex service” onwards there shall be substituted “relevant multiplex service, means the last accounting period of the multiplex provider”.

(4) In subsection (5)—

- (a) for “national radio multiplex service” there shall be substituted “relevant multiplex service”;
- (b) for “holder of the national radio multiplex licence” there shall be substituted “multiplex provider”; and
- (c) for “the radio multiplex service” and “that radio multiplex service” there shall be substituted “that relevant multiplex service”.

(5) After subsection (5A) (inserted by Schedule 13) there shall be inserted—

“(5B) For the purposes of this section, a service is a relevant multiplex service if it is—

- (a) a national radio multiplex service;
- (b) a television multiplex service; or
- (c) a general multiplex service.

(5C) In this section, “multiplex provider”—

- (a) in relation to a national radio multiplex service, means the multiplex provider within the meaning of section 56; and
- (b) in relation to a television multiplex service or a general multiplex service, means the multiplex provider within the meaning of section 14.”

(6) In subsection (10) for “apology” there shall be substituted “statement of findings”.

*Digital additional sound services*

- 122 In section 64 of the 1996 Act (licensing of digital additional sound services), for “the Authority”, wherever occurring, there shall be substituted “OFCOM”.

*Conditions of digital additional sound service*

- 123 (1) Section 65 of the 1996 Act (conditions of licences for digital additional sound services) shall be amended as follows.
- (2) In subsection (2)—
- (a) for “the Authority”, wherever occurring, there shall be substituted “OFCOM”;
  - (b) in paragraphs (a) and (c), for “the holder of a radio multiplex licence”, there shall be substituted, in each case, “the provider of a radio multiplex service or of a general multiplex service”;
  - (c) in paragraph (a) for “by means of a radio multiplex service” there shall be substituted “by means of the multiplex service”; and
  - (d) in paragraph (a)(i) for “radio multiplex service” there shall be substituted “multiplex service”.

*Enforcement of digital additional sound services licences*

- 124 (1) Section 66 of the 1996 Act (enforcement of digital additional services licences) shall be amended as follows.
- (2) For “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (4), for “national radio multiplex service” there shall be substituted “relevant multiplex service”.
- (4) In subsection (5), for the words from “national radio multiplex service” onwards there shall be substituted “relevant multiplex service, means the last accounting period of the multiplex provider”.
- (5) In subsection (6)—
- (a) for “national radio multiplex service” there shall be substituted “relevant multiplex service”;
  - (b) for “holder of the national radio multiplex licence” there shall be substituted “multiplex provider”; and
  - (c) for “the radio multiplex service” and “that radio multiplex service” there shall be substituted “that relevant multiplex service”.
- (6) After subsection (6A) (inserted by Schedule 13) there shall be inserted—
- “(6B) For the purposes of this section, a service is a relevant multiplex service if it is—
- (a) a national radio multiplex service; or
  - (b) a general multiplex service.
- (6C) In this section, “multiplex provider”—
- (a) in relation to a national radio multiplex service, means the multiplex provider within the meaning of section 56; and

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(b) in relation to a general multiplex service, means the multiplex provider within the meaning of section 14.”

(7) In subsection (10) for “apology” there shall be substituted “statement of findings”.

#### *Review of digital radio broadcasting*

125 In section 67 of the 1996 Act (review of digital radio broadcasting), for “the Authority”, wherever occurring, there shall be substituted “OFCOM”.

#### *Interpretation*

126 In section 72(1) of the 1996 Act (interpretation), for the definition of “radio multiplex service” there shall be substituted—

““radio multiplex service” means a radio multiplex service within the meaning of Part 3 of the Communications Act 2003;

“the radio transfer date” has the same meaning as in the Communications Act 2003;”.

#### *Listed events*

127 (1) Section 98 of the 1996 Act (categories of service for the purposes of Part 4 of that Act) shall be amended as follows.

(2) In subsection (3), for the words from “television” onwards there shall be substituted “licence for the purposes of section 363 of the Communications Act 2003”.

(3) In subsection (5), for “The Commission” there shall be substituted “OFCOM”.

(4) In subsection (6), for “transmission for general reception of television programmes by satellite” there shall be substituted “broadcasting of television programmes from a satellite so as to be available for reception by members of the public (within the meaning of Part 3 of the Communications Act 2003)”.

128 In sections 101, 101B, 102 and 103 of the 1996 Act (restrictions on, and penalties for, televising listed and designated events), for “The Commission” and “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

129 (1) Section 104 of the 1996 Act (code of guidance) shall be amended as follows.

(2) For “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

(3) In subsection (4)(d), the words “by the Commission” and “by them” shall be omitted.

130 In section 104A of the 1996 Act (provision of information about listed and designated events), for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

131 In section 105(1) of the 1996 Act (interpretation of Part 4 etc.), the definition of “the Commission” shall be omitted.

#### *Broadcasting standards*

132 (1) Part 5 of the 1996 Act (the Broadcasting Standards Commission) shall be amended as follows.

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- (2) For “the BSC” and “The BSC”, wherever occurring in any of sections 107, 110, 111, 114, 115, 118 to 121 there shall be substituted “OFCOM”.
- 133 In section 107(5)(b) of the 1996 Act (code relating to avoidance of unjust or unfair treatment etc.), for “the service referred to in section 57(1A)(a) of the 1990 Act” there shall be substituted “any public service of the Welsh Authority (within the meaning of Part 2 of Schedule 12 to the Communications Act 2003)”.
- 134 In section 115 of the 1996 Act (consideration of fairness complaints)
- (a) in subsection (2)(d), for “to (c)” there shall be substituted “or (b)”; and
  - (b) in subsection (8), for “they shall send a statement of” there shall be substituted “OFCOM shall send a copy of”.
- 135 In section 117 of the 1996 Act (duty of broadcasting body to retain recordings of programmes), for “sections 115 and 116” there shall be substituted “section 115”.
- 136 (1) For subsections (1) and (2) of section 119 of the 1996 Act there shall be substituted—
- “(1) Where OFCOM have considered and adjudicated upon a fairness complaint, they may direct the relevant person to publish the matters mentioned in subsection (3) in such manner, and within such period, as may be specified in the directions.”
- (2) In that section—
- (a) in subsection (4), for “subsection (2)” there shall be substituted “subsection (1)”;
  - (b) in subsection (5), for “(3)(a), (b) or (c)” there shall be substituted “(3)(a) or (b)”;
  - (c) in subsection (6), for “broadcasting or regulatory body” there shall be substituted “relevant person” and for “them” there shall be substituted “him”;
  - (d) in subsection (8), the words “or standards complaint” and in paragraph (c) the words “, a regulatory body” shall be omitted;
  - (e) in subsection (10), for paragraphs (a) and (b) there shall be substituted “a relevant person”; and
  - (f) subsection (12) shall cease to have effect.
- (3) After subsection (11) of that section there shall be inserted—
- “(11A) In this section “relevant person” means—
    - (a) in a case where the relevant programme was broadcast by a broadcasting body, that body; and
    - (b) in a case where the relevant programme was included in a licensed service, the licence holder providing that service.”
- 137 In section 130(1) of the 1996 Act (interpretation of Part 5), for paragraphs (b) and (c) of the definition of “licensed service” there shall be substituted—
- “(aa) the public teletext service,
  - (b) any relevant independent radio service (within the meaning of section 85 of the 1990 Act),
  - (c) any additional service (within the meaning of Part 1 of the 1990 Act) which is licensed under that Part.”

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*Disqualification on grounds related to political objects*

- 138 (1) Section 143 of the 1996 Act (disqualification on grounds related to political objects) shall be amended as follows.
- (2) In each of subsections (1) and (2)—
- (a) for “the Independent Television Commission” and “the Commission” there shall be substituted “OFCOM”; and
- (b) for “section 5(1) of the 1990 Act, or as the case may be section 5(1) of this Act” there shall be substituted “section 5(1) or 88(1) of the 1990 Act or section 5(1) or 44(1) of this Act”.
- (3) In subsection (1), for “Part I or II of the 1990 Act or Part I of this Act” there shall be substituted “Part 1 or 3 of the 1990 Act or Part 1 or 2 of this Act”.
- (4) In subsection (2), for “Parts I or II of the 1990 Act or Part I of this Act” there shall be substituted “Part 1 or 3 of the 1990 Act or Part 1 or 2 of this Act”.
- (5) Subsections (3) and (4) shall cease to have effect.
- (6) In subsection (5), for “to (4)” there shall be substituted “and (2)”.
- (7) In subsection (6), for paragraphs (a) and (b) there shall be substituted “the duties imposed on OFCOM by sections 5(1) and 88(1) of the 1990 Act and sections 5(1) and 44(1) of this Act.”

*Offence of providing false information*

- 139 (1) Section 144 of the 1996 Act (offence of providing false information) shall be amended as follows.
- (2) In subsection (1), for “to the relevant authority a statement”, in each place, there shall be substituted “a statement to OFCOM”.
- (3) In subsection (2), for “the relevant authority” there shall be substituted “OFCOM”.
- (4) Subsection (5) shall cease to have effect.

*Disqualification for supplying false information*

- 140 (1) Section 145 of the 1996 Act (disqualification for offence of supplying false information) shall be amended as follows.
- (2) In subsection (5), for “the relevant authority” there shall be substituted “OFCOM”.
- (3) In subsection (7)—
- (a) for “5(1)(a) and 88(1)(a)” there shall be substituted “5(1)(a) and (2)(db), 32(12) and 88(1)(a) and (2)(db)”; and
- (b) for “5(1)(a) and 44(1)(a)” there shall be substituted “5(1)(a) and (2)(db) and 44(1)(a) and (2)(db)”.
- (4) In subsection (8) of that section, for the definition of “licence” there shall be substituted—
- ““licence” means a licence under Part 1 or 3 of the 1990 Act or under Part 1 or 2 of this Act;”.

*Interpretation*

141 In section 147(1) of the 1996 Act (general interpretation), after the definition of “the BBC” there shall be inserted—

““OFCOM” means the Office of Communications;”.

*Computation of qualifying revenue*

142 (1) Schedule 1 to the 1996 Act (computation of “multiplex revenue” etc.) shall be amended as follows.

(2) In Part 1, for “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.

(3) In Part 2, for “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.