

SCHEDULES

SCHEDULE 1

Section 2

FUNCTIONS TRANSFERRED TO OFCOM

Wireless telegraphy functions

- 1 (1) Subject to sub-paragraphs (2) and (3), the functions of the Secretary of State under the following enactments are transferred to OFCOM—
- (a) the Wireless Telegraphy Act 1949 (c. 54);
 - (b) section 7 of the Wireless Telegraphy Act 1967 (c. 72) (restriction on dealings in, and custody of, certain apparatus);
 - (c) Part 6 of the Telecommunications Act 1984 (c. 12) (provisions relating to wireless telegraphy);
 - (d) the Wireless Telegraphy Act 1998 (c. 6).
- (2) The following functions remain functions of the Secretary of State—
- (a) his functions under section 5 of the Wireless Telegraphy Act 1949 (misleading messages and interception and disclosure of wireless telegraphy messages);
 - (b) his functions under section 6 of that Act (regulations about apparatus on board ships etc.);
 - (c) his functions under section 7 of that Act (powers as to wireless personnel).
- (3) The functions of the Secretary of State under section 84 of the Telecommunications Act 1984 (approval of wireless telegraphy apparatus)—
- (a) if an order made by the Secretary of State under subsection (8A) of that section is in force, shall be exercisable by him and by OFCOM in accordance with that order; and
 - (b) if there is no such order, shall be exercisable by OFCOM.
- 2 (1) The functions of the Secretary of State under section 7A of the Marine, &c., Broadcasting (Offences) Act 1967 (c. 41) (powers of enforcement of marine offences under that Act) shall (with the following exception) be exercisable concurrently by the Secretary of State and OFCOM.
- (2) The exception is the functions of the Secretary of State under that section so far as they relate to powers exercisable by virtue of subsection (7) of that section.

Functions in relation to the licensing etc. of television services

- 3 The following functions of the Independent Television Commission are transferred to OFCOM—
- (a) the function of granting or awarding licences under Part 1 of the 1990 Act (independent television services) and Part 1 of the 1996 Act (digital television broadcasting);

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- (b) the Commission's functions under those Parts in relation to, and to applications for, licences under either of those Parts;
- (c) the function of securing the provision of a nationwide system of television broadcasting services known as Channel 3;
- (d) the function of securing the provision of the television broadcasting service known as Channel 5.

Functions in relation to C4C

- 4 The functions conferred on the Independent Television Commission by or under section 23 of the 1990 Act and under Schedule 3 to that Act (appointment of members of C4C and related administrative functions) are transferred to OFCOM.

Functions in relation to the licensing of radio services

- 5 The following functions of the Radio Authority are transferred to OFCOM—
- (a) the function of granting or awarding licences under Part 3 of the 1990 Act (independent radio services) and Part 2 of the 1996 Act (digital sound broadcasting); and
 - (b) the Authority's functions under those Parts in relation to licences granted or awarded under those Parts.

Functions in relation to the proscription of foreign satellite services

- 6 The functions of the Independent Television Commission and of the Radio Authority under section 177 of the 1990 Act (proscription of foreign satellite services) are transferred to OFCOM.

Functions in relation to Gaelic broadcasting

- 7 The functions of the Independent Television Commission under sections 183 and 184 of the 1990 Act and the functions of that Commission and of the Radio Authority under Schedule 19 to that Act (Gaelic broadcasting) are transferred to OFCOM.

Functions in relation to the national television archive

- 8 The functions of the Independent Television Commission under section 185 of the 1990 Act (maintenance of the national television archive) are transferred to OFCOM.

Warrants to enter and search premises to enforce broadcasting licences provisions

- 9 The functions of the Independent Television Commission and of the Radio Authority under section 196(1) of the 1990 Act (entry and search for the purposes of enforcing licensing provisions of the 1990 and 1996 Acts) are transferred to OFCOM.

Variation of existing Channel 3 and Channel 5 licences

- 10 Any power to vary licences which is conferred on the Independent Television Commission by an order under section 28 of the 1996 Act is transferred to OFCOM.

Reports for the purposes of the review of digital broadcasting

- 11 The functions of the Independent Television Commission and of the Radio Authority under sections 33 and 67 of the 1996 Act (reports to the Secretary of State for the purposes of his review of digital broadcasting) are transferred to OFCOM.

Functions in relation to reservation of digital capacity to the BBC

- 12 The function of the Secretary of State under section 49(4) of the 1996 Act (reserving digital capacity on a local radio multiplex service for the BBC) is transferred to OFCOM.

Functions in relation to listed events

- 13 The functions of the Independent Television Commission under Part 4 of the 1996 Act (functions in connection with listed events) are transferred to OFCOM.

Functions relating to fairness and privacy in broadcasting

- 14 The following functions of the Broadcasting Standards Commission under Part 5 of the 1996 Act are transferred to OFCOM—
- (a) the Commission's function of drawing up and from time to time revising a code of practice under section 107 of that Act (codes of practice relation to fairness and privacy); and
 - (b) their functions in relation to fairness complaints under that Part.

SCHEDULE 2

Section 30

TRANSFER SCHEMES

Contents of transfer scheme

- 1 (1) A transfer scheme—
- (a) shall set out the property, rights and liabilities to be transferred by the scheme; and
 - (b) may make incidental, supplemental, consequential and transitional provision in connection with the transfer of that property and of those rights and liabilities.
- (2) The provisions of the scheme setting out the property, rights and liabilities to be transferred may do so in either or both of the following ways—
- (a) by specifying them or describing them in particular; or
 - (b) by identifying them generally by reference to, or to a specific part of, an undertaking from which they are to be transferred.
- (3) The property, rights and liabilities that are to be capable of being transferred by a transfer scheme include—
- (a) property, rights and liabilities that would not otherwise be capable of being transferred or assigned by the person from whom they are transferred;
 - (b) property acquired and rights and liabilities arising in the period after the making of the scheme and before it comes into force;

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- (c) rights and liabilities arising subsequently in respect of matters occurring in that period;
 - (d) property situated anywhere in the United Kingdom or elsewhere and rights and liabilities under the law of any part of the United Kingdom or of any place outside the United Kingdom; and
 - (e) rights and liabilities under an enactment.
- (4) The provision that may be made under sub-paragraph (1)(b) includes provision for the creation in favour of a pre-commencement regulator, the Secretary of State or OFCOM of rights or liabilities over or in respect of property transferred to OFCOM or property retained by a pre-commencement regulator or the Secretary of State.
- (5) The transfers to which effect may be given by a transfer scheme, and the rights that may be created by means of such a scheme, include transfers that are to take effect, and rights that are to arise, in accordance with the scheme as if there were—
- (a) no such requirement to obtain a person's consent or concurrence,
 - (b) no such liability in respect of any contravention of any other requirement, and
 - (c) no such interference with any interest or right,
- as there would be, in the case of a transaction apart from this Act (whether under any enactment or agreement or otherwise), by reason of any provision having effect in relation to the terms on which a pre-commencement regulator or the Secretary of State is entitled or subject to any property, right or liability.

Effect of transfer scheme

- 2 (1) Property transferred by a transfer scheme shall, on the coming into force of the scheme, vest in OFCOM without further assurance.
- (2) Where any transfer scheme comes into force, any agreement made, transaction effected or other thing done by or in relation to the person from whom any transfers for which the scheme provides are made shall have effect, so far as necessary for the purposes of those transfers, as if—
- (a) it had been made, effected or done by or in relation to OFCOM; and
 - (b) OFCOM were the same person in law as the person from whom the transfer is made.
- (3) Accordingly, references in any agreement, document, process or instrument of any description to the person from whom anything is transferred by means of a transfer scheme shall have effect, so far as necessary for the purpose of giving effect to the transfer from the coming into force of the scheme, as references to OFCOM.
- (4) Where any agreement, document, process or instrument of any description has effect, in relation to anything transferred by means of a transfer scheme, as referring (whether expressly or by implication)—
- (a) to a member or to an officer of a pre-commencement regulator, or
 - (b) to an officer of the Secretary of State,
- that agreement, document, process or instrument shall have effect so far as necessary for the purposes of the transfers effected by the scheme and in consequence of them, as referring instead to the person mentioned in sub-paragraph (5).
- (5) That person is—

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- (a) the person nominated for the purposes of the transfer by OFCOM; or
 - (b) in default of a nomination, the member or employee of OFCOM who most closely corresponds to the member or officer originally referred to.
- (6) Nothing in sub-paragraph (3) or (4) is to apply in relation to any reference in an enactment or in subordinate legislation.

Retrospective modification of a transfer scheme

- 3
- (1) If at any time after the coming into force of a transfer scheme it appears to the Secretary of State that it is appropriate to do so, he may by order provide for the scheme to be deemed to have come into force with such modifications (including modifications retrospective to the time of the coming into force of the scheme) as may be provided for in the order.
 - (2) The power under this paragraph to provide by order for the modification of a transfer scheme shall be exercisable for the purpose only of making provision that could have been made by the scheme.
 - (3) Before making an order under this paragraph the Secretary of State must consult OFCOM.

Compensation

- 4
- (1) Where, in consequence of any provision included in a transfer scheme, the interests, rights or liabilities of a third party are modified as mentioned in sub-paragraph (2), the third party is to be entitled to such compensation as may be just in respect of—
 - (a) any diminution in the value of any of his interests or rights, or
 - (b) any increase in the burden of his liabilities,which is attributable to that modification.
 - (2) The modifications mentioned in sub-paragraph (1) are modifications by virtue of which—
 - (a) an interest of the third party in any property is transformed into, or replaced by—
 - (i) an interest in only part of that property; or
 - (ii) separate interests in different parts of that property;
 - (b) a right of the third party against any of the pre-commencement regulators or against the Secretary of State is transformed into, or replaced by, two or more rights which do not include a right which, on its own, is equivalent (disregarding the person against whom it is enforceable) to the right against that regulator or (as the case may be) against the Secretary of State; or
 - (c) a liability of the third party to any of the pre-commencement regulators or to the Secretary of State is transformed into, or replaced by, two or more separate liabilities at least one of which is a liability enforceable by a person other than the person by whom it was enforceable before being so transformed.
 - (3) Where—
 - (a) a third party would, apart from any provision of a transfer scheme, have become entitled to, or to exercise, any interest or right arising or exercisable in respect of the transfer or creation in accordance with such a scheme of any property, rights or liabilities, and

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- (b) the provisions of that scheme have the effect of preventing that person's entitlement to, or to exercise, that interest or right from arising on any occasion in respect of anything mentioned in paragraph (a), and
- (c) provision is not made by a transfer scheme for securing that an entitlement to, or to exercise, that interest or right or an equivalent interest or right, is preserved or created so as to arise in respect of the first occasion when corresponding circumstances next occur after the coming into force of the transfers for which the scheme provides,

the third party is to be entitled to such compensation as may be just in respect of the extinguishment of the interest or right.

- (4) A liability to pay compensation under this paragraph shall fall on the persons mentioned in sub-paragraph (5) who (as the case may be)—
 - (a) have interests in the whole or any part of the property affected by the modification in question,
 - (b) are subject to the rights of the person to be compensated which are affected by the modification in question,
 - (c) are entitled to enforce the liabilities of the person to be compensated which are affected by that modification, or
 - (d) benefit from the extinguishment of the entitlement mentioned in sub-paragraph (3),

and that liability shall be apportioned between those persons in such manner as may be appropriate having regard to the extent of their respective interests, rights or liabilities or the extent of the benefit they respectively obtain from the extinguishment.

- (5) Those persons are the pre-commencement regulators and the Secretary of State.
- (6) Sub-paragraph (4) shall have effect subject to so much of any transfer scheme (including the one that gives rise to the liability) as makes provision for the transfer of any liability under that sub-paragraph to OFCOM.
- (7) Any dispute as to whether, or as to the person by whom, any compensation is to be paid under this paragraph, and any dispute as to the amount of compensation to be paid by a person, shall be referred to and determined—
 - (a) where the claimant requires the matter to be determined in England and Wales or in Northern Ireland, by an arbitrator appointed by the Lord Chancellor, or
 - (b) where the claimant requires the matter to be determined in Scotland, by an arbiter appointed by the Lord President of the Court of Session.
- (8) In this paragraph “third party”, in relation to provisions capable of giving rise to compensation under this paragraph, means any person other than—
 - (a) a pre-commencement regulator; and
 - (b) the Secretary of State.

Stamp duty

- 5 (1) Stamp duty is not to be chargeable—
 - (a) on a transfer scheme; or

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- (b) on an instrument or agreement certified by the Secretary of State to the Commissioners of Inland Revenue as made for the purposes of a transfer scheme, or as made for purposes connected with such a scheme.
- (2) But a transfer scheme, or an instrument or agreement so certified, is to be treated as duly stamped only if—
- (a) in accordance with section 12 of the Stamp Act 1891 (c. 39) it has been stamped with a stamp denoting either that it is not chargeable to duty or that it has been duly stamped; or
 - (b) it is stamped with the duty to which it would be chargeable apart from this paragraph.

Interpretation of Schedule

- 6 In this Schedule “transfer scheme” means a scheme made by a pre-commencement regulator or by the Secretary of State under section 30.

SCHEDULE 3

Section 106

AMENDMENTS OF SCHEDULE 2 TO THE TELECOMMUNICATIONS ACT 1984

Introductory

- 1 Schedule 2 to the Telecommunications Act 1984 (c. 12) (the telecommunications code) shall be amended as follows.

Meaning of conduit system and electronic communications apparatus, network or service

- 2 (1) In sub-paragraph (1) of paragraph 1 (interpretation of the code), after the definitions of “bridleway” and “footpath” there shall be inserted—

““conduit” includes a tunnel, subway, tube or pipe;

“conduit system” means a system of conduits provided so as to be available for use by providers of electronic communications networks for the purposes of the provision by them of their networks;”.

- (2) In that sub-paragraph, after the definition of “the court” there shall be inserted—

““electronic communications apparatus” means—

- (a) any apparatus (within the meaning of the Communications Act 2003) which is designed or adapted for use in connection with the provision of an electronic communications network;
- (b) any apparatus (within the meaning of that Act) that is designed or adapted for a use which consists of or includes the sending or receiving of communications or other signals that are transmitted by means of an electronic communications network;
- (c) any line;
- (d) any conduit, structure, pole or other thing in, on, by or from which any electronic communications apparatus is or may be installed, supported, carried or suspended;

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and references to the installation of electronic communications apparatus are to be construed accordingly;

“electronic communications network” has the same meaning as in the Communications Act 2003, and references to the provision of such a network are to be construed in accordance with the provisions of that Act;

“electronic communications service” has the same meaning as in the Communications Act 2003, and references to the provision of such a service are to be construed in accordance with the provisions of that Act;”.

(3) In that sub-paragraph, for the definition of “line” there shall be substituted—

““line” means any wire, cable, tube, pipe or similar thing (including its casing or coating) which is designed or adapted for use in connection with the provision of any electronic communications network or electronic communications service;”.

(4) In that sub-paragraph, after the definition of “road” there shall be inserted—

““signal” has the same meaning as in section 32 of the Communications Act 2003;”.

Meaning of operator and operator’s system

3 (1) In sub-paragraph (1) of paragraph 1 for the definitions of “the operator” and “the operator’s system” there shall be substituted—

““the operator” means—

- (a) where the code is applied in any person’s case by a direction under section 106 of the Communications Act 2003, that person; and
- (b) where it applies by virtue of section 106(3)(b) of that Act, the Secretary of State or (as the case may be) the Northern Ireland department in question;

“the operator’s network” means—

- (a) in relation to an operator falling within paragraph (a) of the definition of “operator”, so much of any electronic communications network or conduit system provided by that operator as is not excluded from the application of the code under section 106(5) of the Communications Act 2003; and
- (b) in relation to an operator falling within paragraph (b) of that definition, the electronic communications network which the Secretary of State or the Northern Ireland department is providing or proposing to provide;”.

(2) In that sub-paragraph—

- (a) in the definition of “emergency works”, in paragraph (b), for “the operator’s system” there shall be substituted “the operator’s network”; and
- (b) in the definition of “the statutory purposes” for “establishing and running the operator’s system” there shall be substituted “the provision of the operator’s network”.

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Provision of a conduit system

- 4 After sub-paragraph (3) of paragraph 1 there shall be inserted—
- “(3A) References in this code to the provision of a conduit system include references to establishing or maintaining such a system.”

General amendments

- 5 In paragraphs 2 to 28—
- (a) for the words “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
 - (b) for the words “telecommunication services”, wherever occurring, there shall be substituted “electronic communications services”;
 - (c) for the words “a telecommunication system”, wherever occurring, there shall be substituted “an electronic communications network or to electronic communications services”; and
 - (d) for the word “system”, wherever occurring (otherwise than in the expression “telecommunication system”), there shall be substituted “network”.

Power to fly lines

- 6 In paragraph 10 (power to fly lines), after sub-paragraph (2) there shall be inserted—
- “(3) In this paragraph “business” includes a trade, profession or employment and includes any activity carried on by a body of persons (whether corporate or unincorporate).”

Power to require alteration of apparatus

- 7 In paragraph 20(4)(b) (alteration not to interfere with service provided by the operator’s network), for “provided by” there shall be substituted “which is or is likely to be provided using”.

Undertaker’s works

- 8 In paragraph 23(10) (interpretation of provisions relating to undertakers’ works), in paragraph (b) of the definition of “relevant undertaker”, for the words “by a licence under section 7 of this Act” there shall be substituted “by a direction under section 106 of the Communications Act 2003”.

Notices under the code

- 9 (1) In sub-paragraph (1) of paragraph 24 (notices in a form approved by the Director), for “the Director” there shall be substituted “OFCOM”.
- (2) For sub-paragraphs (2) to (4) of that paragraph there shall be substituted—
- “(2) A notice required to be given to any person for the purposes of any provision of this code is not to be sent to him by post unless it is sent by a registered post service or by recorded delivery.

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(2A) For the purposes, in the case of such a notice, of section 394 of the Communications Act 2003 and the application of section 7 of the Interpretation Act 1978 in relation to that section, the proper address of a person is—

- (a) if the person to whom the notice is to be given has furnished the person giving the notice with an address for service under this code, that address; and
- (b) only if he has not, the address given by that section of the Act of 2003.”

(3) In sub-paragraph (6) of that paragraph—

- (a) for “purporting to be signed by the Director” there shall be substituted “issued by OFCOM”; and
- (b) for “him” there shall be substituted “them”.

Application of code to the Crown

10 In paragraph 26(4) (Crown application provision not to apply where the telecommunication system is being provided or is to be provided by the Secretary of State or a Northern Ireland department), for “has effect by virtue of section 10(1)(b) of this Act” there shall be substituted “applies in the case of the Secretary of State or a Northern Ireland department by virtue of section 106(3)(b) of the Communications Act 2003”.

Effect of agreements concerning sharing of apparatus

11 After paragraph 28, there shall be inserted—

“Effect of agreements concerning sharing of apparatus

29 (1) This paragraph applies where—

- (a) this code has been applied by a direction under section 106 of the Communications Act 2003 in a person’s case;
- (b) this code expressly or impliedly imposes a limitation on the use to which electronic communications apparatus installed by that person may be put or on the purposes for which it may be used; and
- (c) that person is a party to a relevant agreement or becomes a party to an agreement which (after he has become a party to it) is a relevant agreement.

(2) The limitation is not to preclude—

- (a) the doing of anything in relation to that apparatus, or
- (b) its use for particular purposes,

to the extent that the doing of that thing, or the use of the apparatus for those purposes, is in pursuance of the agreement.

(3) This paragraph is not to be construed, in relation to a person who is entitled or authorised by or under a relevant agreement to share the use of apparatus installed by another party to the agreement, as affecting

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any consent requirement imposed (whether by a statutory provision or otherwise) on that person.

(4) In this paragraph—

“consent requirement”, in relation to a person, means a requirement for him to obtain consent or permission to or in connection with—

- (a) the installation by him of apparatus; or
- (b) the doing by him of any other thing in relation to apparatus the use of which he is entitled or authorised to share;

“relevant agreement” means an agreement in relation to electronic communications apparatus which—

- (a) relates to the sharing by different parties to the agreement of the use of that apparatus; and
- (b) is an agreement that satisfies the requirements of sub-paragraph (5);

“statutory provision” means a provision of an enactment or of an instrument having effect under an enactment.

(5) An agreement satisfies the requirements of this sub-paragraph if—

- (a) every party to the agreement is a person in whose case this code applies by virtue of a direction under section 106 of the Communications Act 2003; or
- (b) one or more of the parties to the agreement is a person in whose case this code so applies and every other party to the agreement is a qualifying person.

(6) A person is a qualifying person for the purposes of sub-paragraph (5) if he is either—

- (a) a person who provides an electronic communications network without being a person in whose case this code applies; or
- (b) a designated provider of an electronic communications service consisting in the distribution of a programme service by means of an electronic communications network.

(7) In sub-paragraph (6)—

“designated” means designated by an order made by the Secretary of State;

“programme service” has the same meaning as in the Broadcasting Act 1990.”

SCHEDULE 4

Section 118

COMPULSORY PURCHASE AND ENTRY FOR EXPLORATORY PURPOSES

Interpretation

1 In this Schedule—

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“code operator” means a provider of an electronic communications network in whose case the electronic communications code is applied by a direction under section 106; and

“the operator’s network”, in relation to a code operator, means so much of the electronic communications network provided by the operator as is not excluded from the application of the electronic communications code under section 106(5).

General duties with respect to powers under Schedule

- 2 In exercising his powers under this Schedule it shall be the duty of the Secretary of State to have regard, in particular, to each of the following—
- (a) the duties imposed on OFCOM by sections 3 and 4;
 - (b) the need to protect the environment and, in particular, to conserve the natural beauty and amenity of the countryside;
 - (c) the need to ensure that highways are not damaged or obstructed, and traffic not interfered with, to any greater extent than is reasonably necessary;
 - (d) the need to encourage the sharing of the use of electronic communications apparatus.

Compulsory purchase of land: England and Wales

- 3 (1) Subject to sub-paragraph (2), the Secretary of State may authorise a code operator to purchase compulsorily any land in England and Wales which is required by the operator—
- (a) for, or in connection with, the establishment or running of the operator’s network; or
 - (b) as to which it can reasonably be foreseen that it will be so required.
- (2) No order is to be made authorising a compulsory purchase under this paragraph by a code operator except with OFCOM’s consent.
- (3) This power to purchase land compulsorily includes power to acquire an easement or other right over land by the creation of a new right.
- (4) The Acquisition of Land Act 1981 (c. 67) is to apply to any compulsory purchase under this paragraph as if the code operator were a local authority within the meaning of that Act.
- (5) The provisions of the Town and Country Planning Act 1990 (c. 8) specified in sub-paragraph (6) have effect in relation to land acquired compulsorily by a code operator under this paragraph as they have effect in relation to land acquired compulsorily by statutory undertakers.
- (6) Those provisions are—
- (a) sections 238 to 240 (use and development of consecrated land and burial ground);
 - (b) section 241 (use and development of land for open spaces); and
 - (c) sections 271 to 274 (extinguishment of rights of way, and rights as to apparatus, of statutory undertakers).
- (7) Where a code operator has acquired land under this paragraph, he must not dispose of that land, or of an interest or right in or over it, except with OFCOM’s consent.

Compulsory purchase of land: Scotland

- 4 (1) Subject to sub-paragraph (2), the Secretary of State may authorise a code operator to purchase compulsorily any land in Scotland which is required by the operator—
- (a) for, or in connection with, the establishment or running of the operator's network; or
 - (b) as to which it can reasonably be foreseen that it will be so required.
- (2) No order is to be made authorising a compulsory purchase under this paragraph except with OFCOM's consent.
- (3) This power to purchase land compulsorily includes power to acquire a servitude or other right over land by the creation of a new right.
- (4) The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42) applies to any compulsory purchase under this paragraph as if—
- (a) the code operator were a local authority within the meaning of that Act; and
 - (b) this paragraph had been in force immediately before the commencement of that Act.
- (5) The provisions of the Town and Country Planning (Scotland) Act 1997 (c. 8) specified in sub-paragraph (6) have effect in relation to land acquired compulsorily by a code operator under this paragraph as they have effect in relation to land acquired compulsorily by statutory undertakers.
- (6) Those provisions are—
- (a) section 197 (provisions as to churches and burial grounds);
 - (b) section 198 (use and development of land for open spaces); and
 - (c) sections 224 to 227 (extinguishment of rights of way, and rights as to apparatus, of statutory undertakers).
- (7) Where a code operator has acquired land under this paragraph, he must not dispose of that land, or of any interest or right in or over it, except with OFCOM's consent.

Compulsory purchase of land: Northern Ireland

- 5 (1) Where a code operator proposes to acquire, otherwise than by agreement, any land in Northern Ireland required by him—
- (a) for, or in connection with, the establishment or running of the operator's network, or
 - (b) as to which it can reasonably be foreseen that it will be so required,
- he may, with OFCOM's consent, apply to the Secretary of State for an order vesting that land in him.
- (2) On such an application the Secretary of State is to have power to make such an order.
- (3) This power to acquire land compulsorily includes power to acquire an easement or other right over land by the creation of a new right.
- (4) Where a code operator has acquired land under this paragraph, he must not dispose of that land, or of any interest or right in or over it, except with OFCOM's consent.
- (5) The following provisions—
- (a) Schedule 6 to the Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.)) (acquisition of land by vesting order), and

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- (b) Schedule 8 to the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)) (provisions as to inquiries), have effect for the purposes of the acquisition of land by means of a vesting order under this paragraph as they have effect for the purposes of that Act and that Order but subject to the modifications set out in sub-paragraph (6).
- (6) Those modifications are—
- (a) for any reference to the Department substitute a reference to the Secretary of State;
 - (b) for any reference to the Act or Order in question substitute a reference to this Act;
 - (c) for any reference in Schedule 6 to the Local Government Act (Northern Ireland) 1972 to a council substitute a reference to the code operator;
 - (d) in paragraph 6(2) of that Schedule, for the words from “the fund” onwards substitute “funds of the code operator (in this Schedule referred to as “the compensation fund”) and shall be discharged by payments made by the code operator”; and
 - (e) in paragraph 12(2) of that Schedule for “the clerk of the council” substitute “such person as may be designated for the purposes of this Schedule by the code operator”.
- (7) The enactments for the time being in force relating to the assessment of compensation in respect of land vested in a district council by an order made under Schedule 6 to the Local Government Act (Northern Ireland) 1972 are to apply, subject to any necessary modifications, in relation to land vested in a code operator by an order made under this paragraph.
- (8) In this paragraph, “land” has the meaning assigned to it by section 45(1)(a) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)).

Entry on land for exploratory purposes: England and Wales

- 6 (1) A person—
- (a) nominated by a code operator, and
 - (b) duly authorised in writing by the Secretary of State,
- may, at any reasonable time, enter upon and survey land in England and Wales for the purpose of ascertaining whether the land would be suitable for use by the code operator for, or in connection with, the establishment or running of the operator’s network.
- (2) This paragraph does not apply in relation to land covered by buildings or used as a garden or pleasure ground.
- (3) Sections 324(8) and 325(1) to (5), (8) and (9) of the Town and Country Planning Act 1990 (c. 8) (supplementary provisions relating to powers of entry) have effect in relation to the power conferred by this paragraph—
- (a) as they have effect in relation to the powers conferred by section 324 of that Act; but
 - (b) subject to the modifications set out in sub-paragraph (4).
- (4) Those modifications are—

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- (a) in section 324(8) (power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals) omit “or the presence of minerals therein”; and
 - (b) in section 325(1) (24 hours' notice to be given of an intended entry upon occupied land) for “24 hours” substitute “28 days”.
- (5) Where, in an exercise of the power conferred by this paragraph, any damage is caused to land or to chattels, the code operator must—
- (a) make good the damage; or
 - (b) pay compensation in respect of the damage to every person interested in the land or chattels.
- (6) Where, in consequence of an exercise of the power conferred by this paragraph, a person is disturbed in his enjoyment of land or chattels, the code operator must pay that person compensation in respect of the disturbance.
- (7) Section 118 of the Town and Country Planning Act 1990 (c. 8) (determination of disputes as to compensation) applies to any question of disputed compensation under this paragraph as it applies to such questions under Part 4 of that Act.

Entry on land for exploratory purposes: Scotland

- 7 (1) A person—
- (a) nominated by a code operator, and
 - (b) duly authorised in writing by the Secretary of State,
- may, at any reasonable time, enter upon and survey any land in Scotland for the purpose of ascertaining whether the land would be suitable for use by the code operator for, or in connection with, the establishment or running of the operator's network.
- (2) This paragraph does not apply in relation to land covered by buildings or used as a garden or pleasure ground.
- (3) Sections 269(6) and 270(1) to (5), (8) and (9) of the Town and Country Planning (Scotland) Act 1997 (c. 8) (supplementary provisions relating to powers of entry) have effect in relation to the power conferred by this paragraph—
- (a) as they have effect in relation to the powers conferred by section 269 of that Act; but
 - (b) subject to the modifications set out in sub-paragraph (4).
- (4) Those modifications are—
- (a) in section 269(6) (power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals), omit “or the presence of minerals therein”; and
 - (b) in section 270(1) (24 hours' notice to be given of an intended entry upon occupied land) for “24 hours” substitute “28 days”.
- (5) Where, in an exercise of the power conferred by this paragraph, damage is caused to land or to corporeal moveables, the code operator must—
- (a) make good the damage; or
 - (b) pay compensation in respect of the damage to every person interested in the land or corporeal moveables.

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

- (6) Where, in consequence of an exercise of the power conferred by this paragraph, a person is disturbed in his enjoyment of any land or corporeal moveables, the code operator must pay that person compensation in respect of the disturbance.
- (7) A dispute arising under this paragraph—
 - (a) as to the effect of damage, or
 - (b) as to the amount of compensation,
 must be determined by arbitration by a single arbiter appointed by agreement between the parties or, in default of an agreement, by the Secretary of State.

Entry on land for exploratory purposes: Northern Ireland

- 8 (1) A person—
- (a) nominated by a code operator, and
 - (b) duly authorised in writing by the Secretary of State,
- may, at any reasonable time, enter upon and survey any land in Northern Ireland for the purpose of ascertaining whether the land would be suitable for use by the code operator for, or in connection with, the establishment or running of the operator's network.
- (2) This paragraph does not apply in relation to land covered by buildings or used as a garden or pleasure ground.
 - (3) Subsections (2) to (5) and (8) of section 40 of the Land Development Values (Compensation) Act (Northern Ireland) 1965 (c. 23 (N.I.)) (supplementary provisions relating to powers of entry) have effect in relation to the power of entry conferred by this paragraph—
 - (a) as they have effect in relation to the power conferred by that section; but
 - (b) subject to the modifications set out in sub-paragraph (4).
 - (4) Those modifications are—
 - (a) in section 40(2) (power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals) omit “or the presence of minerals therein”; and
 - (b) in section 40(3)(b) (three days' notice to be given of an intended entry upon occupied land) for the word “three” substitute “twenty eight”.
 - (5) Where, in an exercise of the power conferred by this paragraph, damage is caused to land or to chattels, the code operator must—
 - (a) make good the damage; or
 - (b) pay compensation in respect of the damage to every person interested in the land or chattels.
 - (6) Where, in consequence of an exercise of the power conferred by this paragraph, a person is disturbed in his enjoyment of any land or chattels, the code operator must pay that person compensation in respect of the disturbance.
 - (7) Section 31 of the Land Development Values (Compensation) Act (Northern Ireland) 1965 (determination of disputes as to compensation) applies to any question of disputed compensation under this paragraph as it applies to such questions under Part 3 of that Act.

Acquisition of land by agreement

- 9 (1) For the purpose of the acquisition by agreement by a code operator of land in England and Wales, the provisions of Part 1 of the Compulsory Purchase Act 1965 (c. 56) (so far as applicable), other than sections 4 to 8 (time limits, notices to treat etc.) and section 31 (ecclesiastical property), apply as they apply for the purposes of that Act.
- (2) For the purpose of the acquisition by agreement by a code operator of land in Scotland, section 109(2) of the Town and Country Planning (Scotland) Act 1972 (c. 52) (incorporation of Lands Clauses Acts) applies, with any necessary modifications, for the purposes of this Act as it applies for the purposes of that Act.
- (3) For the purpose of the acquisition by agreement by a code operator of land in Northern Ireland, the Lands Clauses Acts, except for sections 127 to 132 (sale of superfluous land) and sections 150 and 151 (access to the special Act) of the Lands Clauses Consolidation Act 1845 (c. 18), apply as they apply for the purposes of those Acts.

SCHEDULE 5

Section 159

PROCEDURE FOR GRANTS OF RECOGNISED SPECTRUM ACCESS

General procedure for applications

- 1 (1) An application for a grant of recognised spectrum access shall be determined in accordance with procedures prescribed in regulations made by OFCOM.
- (2) Section 403 applies to regulations made under this paragraph.
- (3) The procedures must include provision for—
- (a) time limits for dealing with applications for a grant of recognised spectrum access;
 - (b) requirements which must be met before a grant is made;
 - (c) the restrictions and conditions to which a grant may be made subject.

Information to be provided in connection with applications

- 2 The grounds on which a grant of recognised spectrum access may be refused by OFCOM include a failure by the applicant to provide information which OFCOM reasonably require in order to satisfy themselves that the applicant is able to comply with restrictions or conditions to which the grant may be made subject.

Notice of proposed refusal of application

- 3 (1) Where OFCOM propose to refuse an application for a grant of recognised spectrum access, they shall give notice to the applicant—
- (a) stating the reasons for their proposal; and
 - (b) specifying a period within which representations may be made about the proposal.
- (2) That period must be a period ending not less than one month after the day of the giving of the notice.

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

Duration of grant

- 4 A grant of recognised spectrum access continues in force, unless previously revoked by OFCOM, for such period as may be specified in the notification by which the grant is made.

Revocation or modification

- 5 OFCOM may revoke or modify a grant of recognised spectrum access, or the restrictions or conditions to which such a grant is subject, by a notice to the person to whom the grant was made.

Notice of proposed revocation or modification

- 6 (1) Where OFCOM propose to revoke or modify a grant of recognised spectrum access or a restriction or condition to which such a grant is subject, they shall give a notification to the holder of the grant—
- (a) stating the reasons for their proposal; and
 - (b) specifying the period during which the person notified has an opportunity to do the things specified in sub-paragraph (2).
- (2) Those things are—
- (a) making representations about the proposal; and
 - (b) if the proposal is the result of a contravention of a restriction or condition of the grant, complying with it.
- (3) Subject to sub-paragraphs (4) to (6), the period for doing those things must be the period of one month beginning with the day after the one on which the notification was given.
- (4) OFCOM may, if they think fit, allow a longer period for doing those things either—
- (a) by specifying a longer period in the notification; or
 - (b) by subsequently, on one or more occasions, extending the specified period.
- (5) The person notified shall have a shorter period for doing those things if a shorter period is agreed between OFCOM and the person notified.
- (6) The person notified shall also have a shorter period if—
- (a) OFCOM have reasonable grounds for believing that the case is a case of serious and repeated contravention or an urgent case;
 - (b) they have determined that, in the circumstances, a shorter period would be appropriate; and
 - (c) the shorter period has been specified in the notification.
- (7) A case is an urgent case if the failure to revoke or modify the grant will result in, or create an immediate risk of—
- (a) a serious threat to the safety of the public, to public health or to national security; or
 - (b) serious economic or operational problems for persons, other than the person in contravention, who—
 - (i) use stations or apparatus for wireless telegraphy; or
 - (ii) are communications providers or make associated facilities available.

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- (8) For the purposes of this paragraph a contravention of a restriction or condition of a grant of recognised spectrum access is a repeated contravention, in relation to a proposal to revoke or modify the grant, if it falls within sub-paragraph (9).
- (9) A contravention falls within this sub-paragraph if—
- (a) a previous notification under sub-paragraph (1) has been given in respect of the same contravention or in respect of any other contravention of a restriction or condition of the same grant; and
 - (b) the subsequent notification under that sub-paragraph is given no more than twelve months after the day of the making by OFCOM of a determination for the purposes of sub-paragraph (10) that the contravention to which the previous notification related did occur.
- (10) Where OFCOM have given a notification under sub-paragraph (1), they shall, within the period of one month beginning with the end of the period for the making of representations about the proposal contained in that notification—
- (a) decide whether or not to revoke or modify the grant of recognised spectrum access in accordance with their proposal, or in accordance with that proposal but with modifications; and
 - (b) give the holder of the grant a notification of their decision.
- (11) The notification under sub-paragraph (10)—
- (a) must be given no more than one week after the making of the decision to which it relates; and
 - (b) must, in accordance with that decision, either revoke or modify the grant or withdraw the proposal for revocation or modification.
- (12) Nothing in this paragraph is to apply to—
- (a) a revocation or modification to be made at the request or with the consent of the holder of the grant; or
 - (b) a revocation or modification that appears to OFCOM to be necessary or expedient for the purpose of securing compliance with an international obligation of the United Kingdom.
- (13) The reference in sub-paragraph (9) to a contravention of a restriction or condition of a grant includes a reference to a contravention of a restriction or condition contained in any previous grant of which the grant in question is a direct or indirect renewal.

Restriction on powers of revocation and modification

- 7 (1) The conditions that OFCOM may include in a grant of recognised spectrum access include conditions restricting the exercise by them of their power to revoke or modify that grant.
- (2) Those conditions include, in particular, conditions providing that the grant may not be revoked or modified except—
- (a) with the consent of the holder of the grant; or
 - (b) in such other circumstances, and on such grounds, as may be specified in the conditions.
- (3) The circumstances or grounds—
- (a) may relate to matters relevant for the purposes of any enactment (whether relating to wireless telegraphy or not); and

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- (b) may, in particular, be made dependent on the exercise of a statutory discretion under any enactment.
- (4) Nothing in any condition included in a grant of recognised spectrum access shall restrict the power of OFCOM to revoke or modify a grant of recognised spectrum access if it appears to OFCOM to be necessary or appropriate to do so—
- (a) in the interests of national security;
 - (b) in the interests of the safety of the public or public health; or
 - (c) for the purpose of securing compliance with any international obligation of the United Kingdom.

Interpretation

- 8 In this Schedule, “stations for wireless telegraphy” and “apparatus for wireless telegraphy” each has the same meaning as in the Wireless Telegraphy Act 1949 (c. 54).

SCHEDULE 6

Section 180

FIXED PENALTIES FOR WIRELESS TELEGRAPHY OFFENCES

Offences to which this Schedule applies

- 1 (1) This Schedule applies to an offence under the Wireless Telegraphy Act 1949 which—
- (a) is a summary offence; and
 - (b) is committed after the coming into force of section 180.
- (2) Such an offence is referred to in this Schedule as a “relevant offence”.

Fixed penalties and fixed penalty notices

- 2 (1) The fixed penalty for a relevant offence is such amount as may be prescribed in relation to that offence by regulations made by the Secretary of State.
- (2) The amount prescribed by regulations under sub-paragraph (1) is not to be more than 25 per cent. of the maximum fine on summary conviction for the offence in question.
- (3) In this Schedule “fixed penalty notice” means a notice offering the opportunity of the discharge of any liability to conviction of the offence to which the notice relates by payment of a fixed penalty in accordance with this Schedule.

Issuing of fixed penalty notice

- 3 (1) If OFCOM have reason to believe that a person has committed a relevant offence, they may send a fixed penalty notice to that person.
- (2) If a procurator fiscal receives a report that a person has committed a relevant offence in Scotland, he also shall have power to send a fixed penalty notice to that person.
- (3) If an authorised person has, on any occasion, reason to believe that a person—
- (a) is committing a relevant offence, or

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- (b) has on that occasion committed a relevant offence,
he may hand that person a fixed penalty notice.
- (4) In this paragraph “authorised person” means a person authorised by OFCOM, for the purposes of sub-paragraph (3), to issue fixed penalty notices on OFCOM’s behalf.
- (5) References in this Schedule to the person by whom a fixed penalty notice is issued, in relation to a notice handed to a person in accordance with sub-paragraph (3), are references to OFCOM.

Content of fixed penalty notice

- 4 (1) A fixed penalty notice must—
- (a) state the alleged offence;
 - (b) give such particulars of the circumstances alleged to constitute that offence as are necessary for giving reasonable information about it;
 - (c) state the fixed penalty for that offence;
 - (d) specify the relevant officer to whom the fixed penalty may be paid and the address at which it may be paid;
 - (e) state that proceedings against the person to whom it is issued cannot be commenced in respect of the offence until the end of the suspended enforcement period;
 - (f) state that such proceedings cannot be commenced if the penalty is paid within the suspended enforcement period;
 - (g) inform the person to whom it is issued of his right to ask to be tried for the alleged offence; and
 - (h) explain how that right may be exercised and the effect of exercising it.
- (2) The suspended enforcement period for the purposes of this Schedule is—
- (a) the period of one month beginning with the day after that on which the fixed penalty notice was issued; or
 - (b) such longer period as may be specified in the notice.

Withdrawal of fixed penalty notice

- 5 If it appears to a person who has issued a fixed penalty notice that it was wrongly issued—
- (a) he may withdraw the notice by a further notice to the person to whom it was issued; and
 - (b) if he does so, the relevant officer must repay any amount paid in respect of the penalty.

Notification to person to whom payment is to be made

- 6 A person who issues or withdraws a fixed penalty notice shall send a copy of the notice or (as the case may be) of the notice of withdrawal to the relevant officer specified in the notice being issued or withdrawn.

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Effect of fixed penalty notice

- 7 (1) This paragraph applies if a fixed penalty notice is issued to a person (“the alleged offender”).
- (2) Proceedings for the offence to which the notice relates cannot be brought against the alleged offender until the person who issued the notice has been notified by the relevant officer specified in the notice that payment of the fixed penalty has not been made within the suspended enforcement period.
- (3) If the alleged offender asks to be tried for the alleged offence—
- (a) sub-paragraph (2) does not apply; and
 - (b) proceedings may be brought against him.
- (4) Such a request must be made by a notice given by the alleged offender—
- (a) in the manner specified in the fixed penalty notice; and
 - (b) before the end of the suspended enforcement period.
- (5) A request which is made in accordance with sub-paragraph (3) is referred to in this Schedule as a “request to be tried”.

Payment of fixed penalty

- 8 (1) If the alleged offender decides to pay the fixed penalty, he must pay it to the relevant officer specified in the notice.
- (2) Payment of the penalty may be made by properly addressing, pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise).
- (3) Sub-paragraph (4) applies if a person—
- (a) claims to have made payment by that method; and
 - (b) shows that his letter was posted.
- (4) Unless the contrary is proved, payment is to be regarded as made at the time at which the letter would be delivered in the ordinary course of post.
- (5) Sub-paragraph (2) is not to be read as preventing the payment of a penalty by other means.
- (6) A letter is properly addressed for the purposes of sub-paragraph (2) if it is addressed in accordance with the requirements specified in the fixed penalty notice.

Effect of payment

- 9 If the fixed penalty specified in a fixed penalty notice is paid within the period specified in that notice, no proceedings for the offence to which that notice relates may be brought against the alleged offender.

Service of statement and proof of service

- 10 (1) This paragraph applies to proceedings for a relevant offence.
- (2) A certificate by OFCOM—
- (a) that a copy of a statement by a person authorised by OFCOM was included in, or given with, a fixed penalty notice,

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(b) that the notice was a notice with respect to the relevant offence, and
(c) that that notice was issued to the accused on a date specified in the certificate,
is evidence that a copy of the statement was served on the alleged offender by delivery
to him on that date.

(3) The statement is to be treated as properly served for the purposes of—
(a) section 9 of the Criminal Justice Act 1967 (c. 80) (proof by written
statement), and
(b) section 1 of the Criminal Justice (Miscellaneous Provisions) Act (Northern
Ireland) 1968 (c. 28 (N.I.)) (which contains corresponding provision for
Northern Ireland),
even though the manner of service is not authorised by subsection (8) of either of
those sections.

(4) Sub-paragraphs (5) and (6) apply to any proceedings in which service of a statement
is proved by a certificate under this paragraph.

(5) For the purposes of—
(a) section 9(2)(c) of the Criminal Justice Act 1967 (copy of statement to be
tendered in evidence to be served before hearing on other parties to the
proceedings by or on behalf of the party proposing to tender it), and
(b) section 1(2)(c) of the Criminal Justice (Miscellaneous Provisions) Act
(Northern Ireland) 1968 (which contains corresponding provision for
Northern Ireland),
service of the statement is to be taken to have been effected by or on behalf of the
prosecutor.

(6) If the alleged offender makes a request to be tried—
(a) section 9(2)(d) of the Criminal Justice Act 1967 (time for objection), and
(b) section 1(2)(d) of the Criminal Justice (Miscellaneous Provisions) Act
(Northern Ireland) 1968 (which contains corresponding provision for
Northern Ireland),
are to apply with the substitution, for the reference to seven days from the service of
the copy of the statement, of a reference to seven days beginning with the day after
the one on which the request to be tried was made.

(7) This paragraph does not extend to Scotland.

Certificate about payment

11 In any proceedings, a certificate—
(a) that payment of a fixed penalty was, or was not, received by the relevant
officer specified in the fixed penalty notice by a date specified in the
certificate, or
(b) that a letter containing an amount sent by post in payment of a fixed penalty
was marked as posted on a date specified in the certificate,
shall, if the certificate purports to be signed by that officer, be evidence (and in
Scotland sufficient evidence) of the facts stated.

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Regulations

- 12 The Secretary of State may by regulations make provision as to any matter incidental to the operation of this Schedule, and in particular—
- (a) for prescribing any information or further information to be provided in a notice, notification, certificate or receipt;
 - (b) for prescribing the duties of relevant officers and the information to be supplied to and by them.

Interpretation

- 13 In this Schedule “relevant officer” means—
- (a) in relation to England and Wales, the justices' chief executive;
 - (b) in relation to Scotland, the clerk of court; and
 - (c) in relation to Northern Ireland, the clerk of petty sessions.

SCHEDULE 7

Section 182

SEIZURE AND FORFEITURE OF APPARATUS

Application of Schedule

- 1 (1) This Schedule applies to restricted apparatus seized, after the coming into force of this Schedule—
- (a) in pursuance of a warrant granted under section 15(1) of the Wireless Telegraphy Act 1949 (c. 54); or
 - (b) in the exercise of the power conferred by section 79(3) of the Telecommunications Act 1984 (c. 12).
- (2) Apparatus is restricted apparatus for the purposes of this Schedule if custody or control of apparatus of any class or description to which it belongs is for the time being restricted by an order under section 7 of the Wireless Telegraphy Act 1967 (c. 72).

Notice of seizure

- 2 (1) OFCOM must give notice of the seizure of the restricted apparatus to every person who, to their knowledge, was at the time of the seizure the owner or one of the owners of the apparatus.
- (2) The notice must set out the grounds of the seizure.
- (3) Where there is no proper address for the purposes of the service of a notice under subparagraph (1) in a manner authorised by section 394, the requirements of that subparagraph shall be satisfied by the publication of a notice of the seizure (according to the part of the United Kingdom where the seizure took place) in the London, Edinburgh or Belfast Gazette.
- (4) Apparatus may be condemned or taken to have been condemned under this Schedule only if the requirements of this paragraph have been complied with in the case of that apparatus.

Notice of claim

- 3 A person claiming that the restricted apparatus is not liable to forfeiture must give written notice of his claim to OFCOM.
- 4 (1) A notice of claim must be given within one month after the day of the giving of the notice of seizure.
- (2) A notice of claim must specify—
- (a) the name and address of the claimant; and
 - (b) in the case of a claimant who is outside the United Kingdom, the name and address of a solicitor in the United Kingdom who is authorised to accept service of process and to act on behalf of the claimant.
- (3) Service of process upon a solicitor so specified is to be taken to be proper service upon the claimant.

Condemnation

- 5 The restricted apparatus is to be taken to have been duly condemned as forfeited if—
- (a) by the end of the period for the giving of a notice of claim in respect of the apparatus, no such notice has been given to OFCOM; or
 - (b) a notice of claim is given which does not comply with the requirements of paragraphs 3 and 4.
- 6 (1) Where a notice of claim in respect of the restricted apparatus is duly given in accordance with paragraphs 3 and 4, OFCOM may take proceedings for the condemnation of that apparatus by the court.
- (2) In any such proceedings—
- (a) if the court finds that the apparatus was liable to forfeiture at the time of seizure, it must condemn the apparatus as forfeited unless cause is shown why it should not; and
 - (b) if the court finds that the apparatus was not liable to forfeiture at that time, or cause is shown why it should not be forfeited, the court must order the return of the apparatus to the person appearing to the court to be entitled to it.
- (3) If OFCOM decide not to take proceedings for condemnation in a case in which a notice of claim has been so given, they must return the apparatus to the person appearing to them to be the owner of the apparatus, or to one of the persons appearing to them to be the owners of it.
- (4) Apparatus required to be returned in accordance with sub-paragraph (3) must be returned as soon as reasonably practicable after the decision not to take proceedings for condemnation.
- (5) OFCOM's decision whether to take such proceedings must be taken as soon as reasonably practicable after the receipt of the notice of claim.
- 7 Where the restricted apparatus is condemned or taken to have been condemned as forfeited, the forfeiture is to have effect as from the time of the seizure.

Proceedings for condemnation by court

- 8 Proceedings for condemnation are civil proceedings and may be instituted—
- (a) in England or Wales, either in the High Court or in a magistrates' court;

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- (b) in Scotland, either in the Court of Session or in the sheriff court;
 - (c) in Northern Ireland, either in the High Court or in a court of summary jurisdiction.
- 9 Proceedings for the condemnation of restricted apparatus instituted in a magistrates' court in England or Wales, in the sheriff court in Scotland or in a court of summary jurisdiction in Northern Ireland may be so instituted—
- (a) in any such court having jurisdiction in a place where an offence under section 7 of the Wireless Telegraphy Act 1967 (c. 72) involving that apparatus was committed;
 - (b) in any such court having jurisdiction in proceedings for such an offence;
 - (c) in any such court having jurisdiction in the place where the claimant resides or, if the claimant has specified a solicitor under paragraph 4, in the place where that solicitor has his office; or
 - (d) in any such court having jurisdiction in the place where that apparatus was seized or to which it was first brought after being seized.
- 10 (1) In proceedings for condemnation that are instituted in England and Wales or Northern Ireland, the claimant or his solicitor must make his oath that the seized apparatus was, or was to the best of his knowledge and belief, the property of the claimant at the time of the seizure.
- (2) In proceedings for condemnation instituted in the High Court—
- (a) the court may require the claimant to give security for the costs of the proceedings as may be determined by the court; and
 - (b) the claimant must comply with any such requirement.
- (3) If a requirement of this paragraph is not complied with, the court shall give judgment for OFCOM.
- 11 (1) In the case of proceedings for condemnation instituted in a magistrates' court in England or Wales, either party may appeal against the decision of that court to the Crown Court.
- (2) In the case of proceedings for condemnation instituted in a court of summary jurisdiction in Northern Ireland, either party may appeal against the decision of that court to the county court.
- (3) This paragraph does not affect any right to require the statement of a case for the opinion of the High Court.
- 12 Where an appeal has been made (whether by case stated or otherwise) against the decision of the court in proceedings for the condemnation of restricted apparatus, that apparatus is to be left with OFCOM pending the final determination of the matter.

Disposal of unclaimed property

- 13 (1) This paragraph applies where a requirement is imposed by or under this Schedule for apparatus to be returned to a person.
- (2) If the apparatus is still in OFCOM's possession after the end of the period of twelve months beginning with the day after the requirement to return it arose, OFCOM may dispose of it in any manner they think fit.

- (3) OFCOM may exercise their power under this paragraph to dispose of apparatus only if it is not practicable at the time when the power is exercised to dispose of the apparatus by returning it immediately to the person to whom it is required to be returned.

Provisions as to proof

- 14 In proceedings arising out of the seizure of restricted apparatus, the fact, form and manner of the seizure is to be taken, without further evidence and unless the contrary is shown, to have been as set forth in the process.
- 15 In any proceedings, the condemnation by a court of restricted apparatus as forfeited may be proved by the production of either—
- (a) the order or certificate of condemnation; or
 - (b) a certified copy of the order purporting to be signed by an officer of the court by which the order or certificate was made or granted.

Special provisions as to certain claimants

- 16 (1) This paragraph applies for the purposes of a claim to the restricted apparatus, and of proceedings for its condemnation.
- (2) Where, at the time of the seizure, the apparatus is—
- (a) the property of a body corporate,
 - (b) the property of two or more partners, or
 - (c) the property of more than five persons,
- the oath required by paragraph 10 to be taken by the claimant, and any other thing required by this Schedule or by rules of court to be done by the owner of the apparatus, may be done by a person falling within sub-paragraph (3) or by a person authorised to act on his behalf.
- (3) The persons falling within this sub-paragraph are—
- (a) where the owner is a body corporate, the secretary or some duly authorised officer of that body;
 - (b) where the owners are in partnership, any one or more of the owners;
 - (c) where there are more than five owners and they are not in partnership, any two or more of the owners acting on behalf of themselves and any of their co-owners who are not acting on their own behalf.

Saving for owner's rights

- 17 Neither the imposition of a requirement by or under this Schedule to return apparatus to a person nor the return of apparatus to a person in accordance with such a requirement affects—
- (a) the rights in relation to that apparatus of any other person; or
 - (b) the right of any other person to enforce his rights against the person to whom it is returned.

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SCHEDULE 8

Section 192

DECISIONS NOT SUBJECT TO APPEAL

Prosecutions and civil proceedings

- 1 A decision to institute, bring or carry on any criminal or civil proceedings.
- 2 A decision (other than one under section 119) to take preliminary steps for the purpose of enabling any such proceedings to be instituted.

This Act

- 3 A decision relating to the making or revision of a statement under section 38.
- 4 A decision required to be published in a notification under section 44(4).
- 5 A decision given effect to by an order under section 55.
- 6 A decision given effect to by regulations under section 66.
- 7 A decision given effect to by regulations under section 71.
- 8 A decision required to be published in a notification under section 108(4).
- 9 A decision given effect to by an order under section 122.
- 10 A decision relating to the making or revision of a statement under section 131.
- 11 A decision given effect to by an order under section 134(6).
- 12 A decision relating to the making or revision of a statement under section 145.
- 13 A decision relating to the publication of the United Kingdom Plan for Frequency Authorisation.
- 14 A decision in exercise of the functions conferred on OFCOM by section 152 as to—
 - (a) the services, records and advice to be provided, maintained or given by them;
 - (b) the research to be carried out or the arrangements made for carrying it out; or
 - (c) the making or terms of any grant.
- 15 A decision under section 155.
- 16 A decision under section 158.
- 17 A decision given effect to by regulations under section 159.
- 18 A decision given effect to by regulations under section 162.
- 19 A decision given effect to by an order under section 164.
- 20 A decision given effect to by regulations under section 168.
- 21 A decision given effect to by regulations under section 170 and any decision under any such regulations.
- 22 A decision to impose a penalty under section 175(1).
- 23 A decision relating to the making or revision of a statement under section 177.
- 24 A decision given effect to by regulations under paragraph 1 of Schedule 5.

25 A decision under any provision of Schedule 6.

26 A decision under any provision of Schedule 7.

Wireless Telegraphy Act 1949

27 A decision given effect to by regulations under the proviso to section 1(1) of the Wireless Telegraphy Act 1949 (c. 54).

28 A decision given effect to by regulations under section 1D(3) of that Act.

29 A decision given effect to by regulations under section 3 of that Act.

30 A decision given effect to by regulations under section 10 of that Act.

31 A decision relating to the making or revision of a statement under section 13B of that Act.

32 A decision for the purposes of section 15 of that Act.

Wireless Telegraphy Act 1998

33 A decision given effect to by regulations under section 1 of the Wireless Telegraphy Act 1998 (c. 6).

34 A decision given effect to by regulations under section 3 of that Act.

35 A decision given effect to by regulations under section 3A of that Act.

36 A decision relating to the recovery of a sum payable to OFCOM under section 4A of that Act.

SCHEDULE 9

Section 199

ARRANGEMENTS ABOUT CARRYING ON OF C4C’S ACTIVITIES

Notification of requirement to submit proposals

- 1 (1) It shall be the duty of OFCOM to give a notification under this paragraph to C4C—
- (a) as soon as practicable after the commencement of this Schedule, and
 - (b) as soon as practicable in the last twelve months preceding each date on which the replacement licence granted in accordance with section 231 would expire if not renewed.
- (2) A notification under this paragraph is one requiring C4C to submit proposals to OFCOM in accordance with this Schedule for the relevant licence period.
- (3) A notification under this paragraph must specify the period within which C4C must submit their proposals.
- (4) The period specified under sub-paragraph (3) must be a period ending not less than three months after the day of the giving of the notification.

Submission of proposed arrangements

- 2 (1) This paragraph applies where C4C have received a notification under paragraph 1.

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

- (2) C4C must, within the period set out in the notification, submit proposals to OFCOM for the arrangements under which they are proposing to secure, so far as reasonably practicable, that all significant risks that their other activities will have an adverse effect on the carrying out, during the relevant licence period, of their primary functions are—
 - (a) identified;
 - (b) evaluated; and
 - (c) properly managed.
- (3) The proposals must include proposals for the arrangements that C4C consider appropriate for securing the transparency objectives during the relevant licence period.
- (4) For the purposes of this Schedule the transparency objectives are—
 - (a) an appropriate financial and organisational separation between the activities of C4C that relate to the carrying out of their primary functions and their other activities; and
 - (b) an appropriate degree of transparency in financial and other reporting where resources are shared between separated activities or where there is some other financial or practical connection between otherwise separated activities.
- (5) The matters to which the proposals submitted under this paragraph may relate include, in particular, the procedures and other practices to be followed by C4C in the case of—
 - (a) the initiation and management of new ventures;
 - (b) the exercise of particular powers;
 - (c) the assessment of risks;
 - (d) the imposition of charges; and
 - (e) the keeping of records.
- (6) The determination of what is appropriate for the purposes of sub-paragraphs (3) and (4) is not to be confined to a determination of what is appropriate for securing the matters mentioned in sub-paragraph (2).
- (7) The arrangements proposed by C4C must contain provision for compliance with the arrangements to be checked regularly by a person appointed in accordance with that provision.
- (8) That person must be a person other than the person for the time being holding an appointment for the purposes of paragraph 12(2) of Schedule 3 to the 1990 Act (C4C’s auditor).

Consideration and approval of proposals

- 3 (1) OFCOM must consider every proposal or revised proposal submitted to them by C4C under paragraph 2 or this paragraph and may do one of the following—
 - (a) approve the proposed arrangements;
 - (b) approve them with such modifications as they may notify to C4C;
 - (c) require C4C to submit revised proposals in accordance with directions given by OFCOM.

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

- (2) Before—
- (a) making modifications of proposed arrangements for the purpose of approving them, or
 - (b) requiring the submission of revised proposals,
- OFCOM must consult C4C.

Duration of approval and modification of arrangements

- 4 (1) Arrangements approved under this Schedule are to remain in force (subject to the following provisions of this paragraph) throughout the licence period to which they relate.
- (2) The arrangements for the time being approved under this Schedule for any licence period may be modified, by agreement between OFCOM and C4C, at any time during the licence period for which they apply.
- (3) OFCOM may carry out a review of the arrangements for the time being approved under this Schedule.
- (4) The reviews that may be carried out under this paragraph in any one licence period are confined to either—
- (a) one review relating to all the arrangements; or
 - (b) two reviews carried out at separate times as follows—
 - (i) one (whether the first or second) relating to the arrangements for securing the transparency objectives; and
 - (ii) the other relating to other matters.
- (5) On a review under this paragraph, OFCOM may require C4C to submit proposals for modifying the arrangements for the time being approved under this Schedule so far as they relate to the matters under review.
- (6) Paragraph 3 applies where proposals are submitted to OFCOM under sub-paragraph (5) as it applies where they are submitted under paragraph 2.

Publication of approved arrangements

- 5 (1) OFCOM must publish all arrangements approved by them under this Schedule.
- (2) The publication of anything under this paragraph must be in such manner as OFCOM consider appropriate for bringing it to the attention of members of the public.

Duty of C4C to act in accordance with the approved arrangements

- 6 It shall be the duty of C4C to act in accordance with the arrangements for the time being in force under this Schedule.

Enforcement of duties

- 7 (1) This paragraph applies to—
- (a) every duty of C4C under this Schedule to submit proposals to OFCOM; and
 - (b) the duty imposed on C4C by paragraph 6.
- (2) Each of those duties shall be enforceable in civil proceedings by OFCOM—

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- (a) for an injunction;
- (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988 (c. 36); or
- (c) for any other appropriate remedy or relief.

Penalty for contravention of the arrangements

- 8 (1) OFCOM may impose a penalty on C4C if C4C have contravened—
- (a) a requirement of this Schedule to submit proposals to OFCOM;
 - (b) a requirement of arrangements for the time being approved under this Schedule.
- (2) The amount of the penalty must not exceed 3 per cent. of C4C’s qualifying revenue for their last complete accounting period before the contravention.
- (3) Before imposing a penalty on C4C under this paragraph OFCOM must give C4C a reasonable opportunity of making representations to OFCOM about their proposal to impose the penalty.
- (4) Where OFCOM impose a penalty on C4C under this paragraph, they shall—
- (a) notify C4C; and
 - (b) in that notification, fix a reasonable period after it is given as the period within which the penalty is to be paid.
- (5) In the case of a continuing contravention—
- (a) separate penalties may be imposed in respect of different periods during which the contravention continues;
 - (b) the notification of the penalty must specify the period in respect of which the penalty is imposed; and
 - (c) the reference in sub-paragraph (2) to the last complete accounting period before the contravention is a reference to the last complete accounting period before the end of the period in respect of which the penalty is imposed.
- (6) A penalty imposed under this paragraph must be paid to OFCOM within the period fixed by them.
- (7) Section 19(2) to (6) of the 1990 Act and Part 1 of Schedule 7 to that Act (calculation of qualifying revenue), with any necessary modifications, have effect in relation to C4C for the purposes of this paragraph as they have effect in relation to the holder of a Channel 3 licence for the purposes of Part 1 of that Act.

OFCOM’s duty to take account of need to support C4C’s primary functions

- 9 In exercising their powers under this Schedule OFCOM must have regard, in particular, to the need to secure, so far as practicable, that all significant risks that C4C’s other activities will have an adverse effect on the carrying out of their primary functions are—
- (a) identified;
 - (b) evaluated; and
 - (c) properly managed.

Interpretation of Schedule

10 In this Schedule—

“arrangements” means arrangements about the procedures and other practices to be followed by C4C and about other matters connected with the carrying on by them of any of their activities;

“licence period” means—

(a) the period for which the replacement licence is granted to C4C in accordance with section 231; or

(b) any subsequent period for which it is renewed;

“primary functions” is to be construed in accordance with section 199(2);

“relevant licence period”—

(a) in relation to the first notification to be given under paragraph 1, the licence period mentioned in paragraph (a) of the definition of that period; and

(b) in relation to any other such notification, the first licence period to begin after the giving of the notification;

“transparency objectives” is to be construed in accordance with paragraph 2(4).

SCHEDULE 10

Section 219

LICENSING THE PUBLIC TELETEXT SERVICE

PART 1

APPLICATIONS FOR AND AWARD OF LICENCE

Notice of proposal to grant licence

1 (1) Where OFCOM propose to grant a licence to provide the public teletext service they must publish a notice stating that they are proposing to do so.

(2) The notice must—

(a) specify the digital capacity which is available for the public teletext service on television multiplex services;

(b) specify whether the licence will require the public teletext service to comprise a service to be provided for broadcasting in analogue form;

(c) invite applications for the licence;

(d) specify the closing date for applications;

(e) specify the fee payable on the making of an application for the licence; and

(f) specify the percentage of qualifying revenue for each accounting period of the licence holder which OFCOM have determined to be the percentage of that revenue that will have to be paid to them.

(3) Where the licence is to comprise an analogue teletext service the notice must specify—

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- (a) the television broadcasting service or services on whose frequency or frequencies the services are to be provided; and
 - (b) the extent and nature of the spare capacity which is to be allocated by the licence.
- (4) For the purposes of sub-paragraph (2)(f)—
- (a) different percentages may be determined and specified for different accounting periods; and
 - (b) the percentages that may be determined and specified for an accounting period include a nil percentage.
- (5) A notice under this paragraph is to be published in such manner as OFCOM consider appropriate.

Guidance as to applications

- 2 (1) When publishing a notice under paragraph 1, OFCOM must publish with it some general guidance to applicants about what is likely to make proposals relating to the matters mentioned in paragraph 3(1)(c) to (e) acceptable to them.
- (2) Guidance published under this paragraph must include examples.

Applications for the licence

- 3 (1) An application made in response to a notice under paragraph 1 must be accompanied by—
- (a) the fee specified in the notice as payable on the making of the application;
 - (b) a technical plan complying with sub-paragraph (2);
 - (c) the applicant's proposals for providing, or securing the provision of, a service that fulfils the public service remit for the public teletext service;
 - (d) the applicant's proposals for including news items in the service and for securing that the news items included in the service are up to date and regularly revised;
 - (e) the applicant's proposals for the inclusion in the service of material that is of particular interest to persons living in different parts of the United Kingdom;
 - (f) the applicant's cash bid in respect of the licence; and
 - (g) such information as OFCOM may reasonably require about the matters mentioned in sub-paragraph (3).
- (2) The technical plan must indicate—
- (a) the nature of the public teletext service which the applicant is proposing to provide; and
 - (b) the nature of any services the provision of which, in accordance with proposals made by another person, would be secured by the applicant in accordance with provision made under section 220.
- (3) The matters about which OFCOM may require information under sub-paragraph (1)(g) are—
- (a) the applicant's present financial position; and
 - (b) his projected financial position during the period for which the licence would be in force.

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- (4) At any time after receiving an application under this Schedule and before disposing of it, OFCOM may require the applicant to furnish additional information about any one or more of the following—
- (a) the matters that must be indicated in the technical plan;
 - (b) the applicant's proposals with respect to the matters mentioned in sub-paragraph (1)(c) to (e); and
 - (c) the matters mentioned in sub-paragraph (3).
- (5) Any information to be furnished to OFCOM under this paragraph must be in such form, and must be verified, in such manner as they may require.

Notice inviting public representations

- 4 (1) As soon as reasonably practicable after the date specified in a notice under paragraph 1 as the closing date for applications, OFCOM must publish—
- (a) the name of every person who has made an application to them in response to their notice;
 - (b) particulars of the technical plan submitted by each applicant;
 - (c) the proposals submitted by each applicant with respect to the matters mentioned in paragraph 3(1)(c) to (e);
 - (d) such other information connected with each application as OFCOM consider appropriate; and
 - (e) a notice under sub-paragraph (2).
- (2) The notice required by this paragraph is one that—
- (a) invites representations to be made to OFCOM with respect to the other matters published under this paragraph; and
 - (b) specifies the manner in which, and the time by which, such representations have to be made.
- (3) Publication of any information or notice under this paragraph is to be in such manner as OFCOM consider appropriate.

Determination of applications

- 5 (1) This paragraph applies where, in response to a notice under paragraph 1, a person has made an application for a licence to provide the public teletext service.
- (2) OFCOM must not proceed to consider whether to award the applicant the licence in accordance with the following provisions of this paragraph unless it appears to them—
- (a) that the applicant's technical plan, in so far as it involves the use of an electronic communications network, contains proposals that are acceptable to them;
 - (b) that the applicant's proposals with respect to the matters mentioned in paragraph 3(1)(c) to (e) are acceptable to them; and
 - (c) that the services proposed to be provided under the licence would be capable of being maintained throughout the period for which the licence would be in force.

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- (3) In determining whether it appears to them as mentioned in sub-paragraph (2), OFCOM must take account of any representations made to them in response to the invitation published under paragraph 4.
- (4) Sections 17 and 17A of the 1990 Act (award of licence to highest cash bidder and financial conditions) apply in relation to a licence to provide the public teletext service as they apply in relation to a Channel 3 licence, but with the modifications set out in sub-paragraphs (5) and (6).
- (5) In the application of section 17 of the 1990 Act in accordance with sub-paragraph (4) —
- (a) any reference to an applicant is to be construed as a reference to an applicant in whose case it appears to OFCOM as mentioned in sub-paragraph (2);
 - (b) the provisions of subsection (4) down to the end of paragraph (b) are to be omitted;
 - (c) in subsection (7)(a), the reference to section 19(1) of the 1990 Act is to be construed as a reference to paragraph 7 of this Schedule;
 - (d) subsection (12) shall have effect with the substitution of the following paragraph for paragraph (b)—
 - “(b) the name of every other applicant in whose case it appeared to OFCOM as mentioned in paragraph 5(2) of Schedule 10 to the Communications Act 2003;”
 - (e) in subsection (14), the references to a notice under section 15(1) of the 1990 Act and a notice under Part 1 of that Act shall each have effect as a reference to a notice under paragraph 1 of this Schedule.
- (6) In the application of section 17A of the 1990 Act in accordance with sub-paragraph (4)—
- (a) the reference in subsection (1)(b) to section 15(3)(g) of the 1990 Act shall have effect as a reference to paragraph 3(1)(g) of this Schedule; and
 - (b) the reference in subsection (3) to a notice under section 15(1) of the 1990 Act shall have effect as a reference to a notice under paragraph 1 of this Schedule.

Revocation of award

- 6 (1) This paragraph applies if, at any time after a licence to provide the public teletext service has been awarded to a person, but before it has come into force—
- (a) that person indicates to OFCOM that he does not intend to provide, or secure the provision of, the licensed service; or
 - (b) OFCOM have, for any other reason, reasonable grounds for believing that the licensed service will not be provided once the licence has come into force.
- (2) OFCOM must revoke the licence by serving a notice of revocation on the person to whom it was awarded.
- (3) OFCOM may then award the licence again in accordance with section 17 of the 1990 Act (as applied by paragraph 5 of this Schedule) as if the person whose licence is revoked had not made an application.
- (4) Sub-paragraph (3) has effect subject to subsection (14) of section 17 of the 1990 Act (as so applied) (re-publication of invitation to make applications) as if the reference in

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that subsection to the following provisions of Part 1 of that Act included a reference to that sub-paragraph.

- (5) Before acting under sub-paragraphs (2) and (3) in a case falling within sub-paragraph (1)(b), OFCOM must serve a notice on the person awarded the licence stating their grounds for believing that the licensed service will not be provided once the licence has come into force.
- (6) Where such a notice is required to be given, OFCOM must not revoke the licence unless they have given the person to whom it was awarded a reasonable opportunity of making representations to them about the matters by reference to which they are proposing to revoke it.
- (7) In the case of a licence to provide a service that must comprise both—
 - (a) an analogue teletext service, and
 - (b) a teletext service provided in digital form,the references in sub-paragraphs (1) and (5) to the licensed service are references to one or both of those services.

PART 2

CONDITIONS AND ENFORCEMENT OF LICENCE

Payments to be made in respect of the public teletext service

- 7 (1) A licence to provide the public teletext service must include conditions requiring the licence holder to pay the following amounts to OFCOM (in addition to any fees required to be so paid by virtue of section 4(1)(b) of the 1990 Act)—
 - (a) a specified amount in respect of the first complete calendar year falling within the licence period;
 - (b) in respect of each subsequent year falling wholly or partly within the licence period, that amount increased by the appropriate percentage;
 - (c) in respect of each accounting period of his falling within the licence period, an amount representing a specified percentage of qualifying revenue for that accounting period.
- (2) The amount specified for the purposes of sub-paragraph (1)(a) must be—
 - (a) in the case of the replacement licence under section 221, the amount proposed in accordance with subsection (5)(a) of that section;
 - (b) in the case of a licence renewed under section 222, the amount determined under section 223(1)(a); and
 - (c) in any other case, the amount specified in the licence holder's cash bid.
- (3) The percentage specified for the purposes of sub-paragraph (1)(c) in respect of an accounting period must be—
 - (a) in the case of the replacement licence under section 221, nil;
 - (b) in the case of a licence renewed under section 222, the percentage determined under section 223(1)(b); and
 - (c) in any other case, the percentage determined and specified for the purposes of paragraph 1(2)(f) of this Schedule.
- (4) A licence to provide the public teletext service may also include conditions—

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- (a) enabling OFCOM to estimate before the beginning of an accounting period the amount due for that period by virtue of any condition imposed under this paragraph; and
 - (b) requiring the licence holder to pay the estimated amount by monthly instalments throughout that period.
- (5) Such a licence may, in particular, include conditions—
- (a) authorising OFCOM to revise an estimate on one or more occasions;
 - (b) requiring them to alter the amounts of the instalments payable by the licence holder to take account of the revised estimate;
 - (c) providing for the adjustment of an overpayment or underpayment.
- (6) This paragraph has effect subject to sections 225 and 226 and to the requirement in section 221(5)(b).
- (7) In this paragraph “the appropriate percentage” has the same meaning as in section 19 of the 1990 Act.

Corrections and statements of findings by the public teletext provider

- 8 (1) Section 40 of the 1990 Act (power to direct correction or a statement of findings) shall have effect in relation to the public teletext service as it has effect in relation to a Channel 3 service but as if the references in subsection (4) to a programme were references to an item.
- (2) OFCOM’s powers by virtue of this paragraph in relation to any matter are not affected by any prior exercise by them in relation to that matter of their powers under either or both of paragraphs 9 and 10.

Enforcement of the licence for the public teletext service

- 9 (1) If OFCOM are satisfied that the holder of the licence to provide the public teletext service has—
- (a) contravened a condition of the licence, or
 - (b) failed to comply with a direction given to him by OFCOM under or by virtue of a provision of the 1990 Act, the 1996 Act or Part 3 of this Act,
- they may serve on him a notice requiring him to pay a specified financial penalty to them.
- (2) The maximum amount which a person may be required to pay by way of a penalty under this paragraph is 5 per cent. of the qualifying revenue for his last complete accounting period.
- (3) Where an accounting period by reference to which the maximum amount of a penalty falls to be calculated has not ended when the penalty is imposed, the amount taken into account in respect of that period is to be the amount estimated by OFCOM.
- (4) OFCOM are not to serve a notice under this paragraph on any person unless they have given him a reasonable opportunity of making representations to them about the matters complained of.
- (5) A notice requiring a person to pay a penalty under this paragraph must specify the period within which it is to be paid.

Power to shorten licence period

- 10 (1) If OFCOM are satisfied that the holder of the licence to provide the public teletext service has—
- (a) contravened a condition of the licence, or
 - (b) failed to comply with a direction given to him by OFCOM under or by virtue of any provision of the 1990 Act, the 1996 Act or Part 3 of this Act,
- they may serve on him a notice reducing the period for which the licence is to be in force by a specified period not exceeding two years.
- (2) OFCOM are not to serve a notice under this paragraph on any person unless they have given him a reasonable opportunity of making representations to them about the matters in respect of which it is served.
- (3) Where a licence is due to expire on a particular date by virtue of a notice served on a person under this paragraph, OFCOM may, on the application of that person, revoke that notice by a further notice served on him at any time before that date.
- (4) OFCOM may exercise their power under sub-paragraph (3) only if they are satisfied that, since the date of the earlier notice, the conduct of the licence holder in relation to the operation of the licensed service has been such as to justify the revocation of that notice.

Revocation for contravention of condition or direction

- 11 Section 42 of the 1990 Act (revocation for contravention) shall apply in relation to the licence to provide the public teletext service as it applies in relation to a licence to provide a Channel 3 service.

Penalty on revocation

- 12 (1) Where OFCOM revoke the licence to provide the public teletext service (whether under paragraph 6 or a provision of the 1990 Act or 1996 Act), they must serve on the licence holder a notice requiring him to pay a specified financial penalty to them.
- (2) The maximum amount which a person may be required to pay by way of a penalty under this paragraph is the maximum given by sub-paragraphs (3) and (4).
- (3) In a case where the licence is revoked under paragraph 6 or the penalty is imposed before the end of the first complete accounting period of the licence holder to begin in the licence period, the maximum penalty is whichever is the greater of—
- (a) £500,000; and
 - (b) 7 per cent. of the amount which OFCOM estimate would have been the qualifying revenue for the first complete accounting period of the licence holder falling within the period for which the licence would have been in force.
- (4) In any other case, the maximum penalty is whichever is the greater of—
- (a) £500,000; and
 - (b) 7 per cent. of the qualifying revenue for the last complete accounting period of the licence holder falling within the licence period.
- (5) A notice requiring a person to pay a penalty under this paragraph must specify the period within which it is to be paid.

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- (6) A financial penalty that must be paid by virtue of this paragraph by a body of any description shall also be recoverable—
 - (a) as a debt due to OFCOM from the person who controls the body; or
 - (b) if two or more persons control it, as a debt due jointly and severally from them all.
- (7) Sub-paragraph (6) is in addition to the provision for the recovery of penalties contained in section 346, but the amount recovered in respect of any one penalty must not exceed the full amount of that penalty.
- (8) References in this paragraph to a person controlling a body are references to his controlling it within the meaning of Schedule 2 to the 1990 Act.

Power to modify penalties in paragraph 12

- 13 (1) The Secretary of State may by order substitute a different sum for the sum for the time being specified in paragraph 12(3)(a) or (4)(a).
- (2) No order is to be made containing provision authorised by this paragraph unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

PART 3

INTERPRETATION OF SCHEDULE

- 14 In this Schedule “licence period”, in relation to a licence, means the period for which the licence is in force.
- 15 (1) For the purposes of this Schedule the qualifying revenue for an accounting period of the holder of a licence to provide the public teletext service consists of the aggregate of all the following amounts—
 - (a) the amounts received or to be received by a person mentioned in sub-paragraph (2) in consideration of the inclusion in the licensed service in that period of advertisements or other items; and
 - (b) the amounts received or to be received by such a person in respect of the provision of the service from—
 - (i) a person authorised by the licence holder to provide the whole or a part of the licensed service; or
 - (ii) a person who is a connected person in relation to a person so authorised.
- (2) Those persons are—
 - (a) the licence holder; or
 - (b) a person who is a connected person in relation to the licence holder without being a person authorised by the licence holder to provide the whole or a part of the licensed service.
- (3) Part 1 of Schedule 7 to the 1990 Act applies for determining qualifying revenue for the purposes of this Schedule as it applies for the purposes of Part 1 of that Act.
- (4) Where, in the case of the licence to provide the public teletext service—

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- (a) the first complete accounting period of the licence holder to fall within the licence period does not begin at the same time as the licence period, or
- (b) the last complete accounting period of his to fall within the licence period does not end at the same time as the licence period,

references in this Schedule to an accounting period of the licence holder include references to such part of the accounting period preceding the first complete accounting period, or (as the case may be) following the last complete accounting period, as falls within the licence period.

- (5) In this paragraph “connected person” has the same meaning as in Schedule 2 to the 1990 Act.

SCHEDULE 11

Sections 291 and 294

APPROVAL, IMPOSITION AND MODIFICATION OF NETWORKING ARRANGEMENTS

Application of Schedule

- 1 (1) This Schedule applies where OFCOM’s approval of networking arrangements entered into by the holders of regional Channel 3 licences is required—
 - (a) for the purposes of conditions included in regional Channel 3 licences in accordance with section 291; or
 - (b) in order for networking arrangements made by OFCOM to cease to have effect in accordance with section 292.
- (2) This Schedule also has effect as respects—
 - (a) the imposition by OFCOM under section 292 of networking arrangements;
 - (b) the modification of such arrangements following a review under section 293; and
 - (c) the making of proposals for modifications of networking arrangements following such a review.

Approval required for modifications

- 2 (1) Where networking arrangements are approved by OFCOM for purposes mentioned in paragraph 1(1), those arrangements are not to be modified unless OFCOM have approved the modifications in accordance with this Schedule.
- (2) This paragraph does not apply to modifications proposed by OFCOM under section 293.

Procedure for giving approval

- 3 (1) This paragraph applies where arrangements or modifications are submitted to OFCOM for their approval.
- (2) OFCOM must publish a description of the arrangements or modifications that have been submitted.

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- (3) The publication must be in such manner as OFCOM consider appropriate for bringing the matters published to the attention of the persons who, in OFCOM's opinion, are likely to be affected by the arrangements or modifications.
- (4) After allowing a reasonable time after the publication for the making of representations, OFCOM must consider the arrangements or modifications and decide whether or not to approve them.

Decision of OFCOM whether or not to approve arrangements or modifications

- 4 (1) The decision made by OFCOM under paragraph 3(4) has to be one of the following—
 - (a) a decision to approve the arrangements or modifications unconditionally;
 - (b) a decision to give a conditional approval to the arrangements or modifications;
 - (c) a decision to refuse approval.
- (2) A conditional approval is one that has effect only if effect is given, in relation to the proposed arrangements or modifications, to changes proposed by OFCOM.
- (3) Before deciding to give a conditional approval, OFCOM must consult every holder of a regional Channel 3 licence about the changes they are proposing.
- (4) When OFCOM have made their decision, they must prepare a report setting out—
 - (a) their decision; and
 - (b) their reasons for that decision.
- (5) OFCOM must publish the report and send a copy of it to—
 - (a) the Office of Fair Trading; and
 - (b) every person to whom the relevant arrangements will apply, or do apply.
- (6) The relevant arrangements are—
 - (a) the arrangements for which approval has been sought; or
 - (b) the arrangements which are the subject of the modifications for which approval has been sought.

Notification of decisions on imposition of arrangements

- 5 (1) Where OFCOM impose arrangements they must prepare and publish a report setting out details of the imposed arrangements.
- (2) Where OFCOM carry out a review under section 293, they must prepare and publish a report setting out—
 - (a) their conclusions on the review;
 - (b) their reasons for those conclusions; and
 - (c) the modifications (if any) that they are proposing, or intend to make, following the review.
- (3) OFCOM must send a copy of a report prepared under this paragraph to—
 - (a) the Office of Fair Trading; and
 - (b) every person to whom the relevant arrangements will apply or do apply.
- (4) The relevant arrangements are—
 - (a) the arrangements which are imposed; or

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- (b) the arrangements which are the subject of the modifications proposed by OFCOM or to be made by them.

Competition tests applying to OFCOM's decisions

- 6 (1) OFCOM must not—
- (a) approve arrangements or modifications,
 - (b) impose arrangements or modify imposed arrangements, or
 - (c) propose modifications following a review under section 293,
- unless they are satisfied that the arrangements, or the arrangements as proposed to be modified, satisfy the first or second competition test.
- (2) Before making a decision about whether a competition test is satisfied OFCOM must consult the Office of Fair Trading.
- (3) Arrangements satisfy the first competition test if they do not have as their object or effect the prevention, restriction or distortion of competition within the United Kingdom.
- (4) Arrangements satisfy the second competition test if—
- (a) they do have such an object or effect; but
 - (b) they would satisfy the criteria set out in section 9 of the Competition Act 1998 (c. 41) (agreements contributing to improving the production or distribution of goods or to promoting technical or economic progress).
- (5) For the purposes of the second competition test, arrangements imposed by OFCOM and modifications of such arrangements are to be treated as if they were given effect to by an agreement between undertakings.
- (6) In determining whether arrangements or modified arrangements would satisfy either of the competition tests, OFCOM must act with a view to securing that there is no inconsistency between—
- (a) the principles they apply and the decision they reach; and
 - (b) any principles or decisions referred to in sub-paragraph (7).
- (7) Those principles and decisions are—
- (a) the principles laid down by the Treaty establishing the European Community and the European Court, and any decisions of that Court, that are relevant to the construction of Article 81 of that Treaty; and
 - (b) any decisions under Part 1 of the Competition Act 1998, and any decisions of a court in the United Kingdom, that are relevant to the construction of a provision of that Act that is equivalent to the provisions of this Schedule imposing the competition tests.
- (8) In the case of a conditional approval, the requirements of this paragraph have to be satisfied in relation to the arrangements or modified arrangements as they will be after giving effect to the changes proposed by OFCOM.
- (9) In this paragraph, the “European Court” includes a court attached to the European Court.

Other matters to be taken into account

- 7 (1) OFCOM must not—

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- (a) approve arrangements or modifications,
 - (b) impose arrangements or modify imposed arrangements, or
 - (c) propose modifications following a review under section 293,
- unless they consider that the arrangements, or the arrangements as proposed to be modified, are satisfactory.
- (2) OFCOM's consideration under sub-paragraph (1) must include consideration of the following two factors.
- (3) The first factor is whether the arrangements, or the arrangements as proposed to be modified, represent a satisfactory means of achieving the purpose set out in section 290(4)(c).
- (4) The second factor is the likely effect of the arrangements, or the arrangements as modified, on the ability of the persons who will be or are the holders of regional Channel 3 licences, or of any of them, to maintain the quality and range of—
- (a) regional programmes included in regional Channel 3 services; and
 - (b) the other programmes included in such services which contribute to the regional character of the services.
- (5) In this paragraph “regional programme”, in relation to a regional Channel 3 service, means a programme (including a news programme) which is of particular interest—
- (a) to persons living within the area for which the service is provided;
 - (b) to persons living within a part of that area; or
 - (c) to particular communities living within that area.

Duty to refuse approval in certain cases

- 8 (1) This paragraph applies to a decision by OFCOM—
- (a) to approve arrangements or modifications;
 - (b) to impose arrangements or to modify imposed arrangements; or
 - (c) to propose modifications following a review under section 293.
- (2) OFCOM must not make that decision if it appears to them that the arrangements, or the arrangements as proposed to be modified, would be likely to be prejudicial to the ability of holders of regional Channel 3 licences, or of any of them, to comply with—
- (a) their public service remits;
 - (b) conditions imposed on them under section 286;
 - (c) conditions imposed on them under section 287; or
 - (d) conditions imposed on them under section 352.

Appeals against decisions relating to competition test

- 9 (1) A person holding a regional Channel 3 licence may appeal to the Tribunal against the following decisions by OFCOM—
- (a) a decision on how to dispose of an application for the approval of arrangements or modifications;
 - (b) a decision to impose arrangements or to modify imposed arrangements; or
 - (c) a decision to propose modifications following a review under section 293.
- (2) An appeal can be made only by sending the Tribunal a notice of appeal within the period specified, in relation to the decision appealed against, in Tribunal rules.

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- (3) The notice of appeal must set out the grounds of appeal.
- (4) The only grounds on which an appeal may be brought are—
 - (a) that OFCOM have wrongly decided that a competition test is or is not satisfied in relation to arrangements or modifications submitted to them for approval;
 - (b) that a competition test is not satisfied in the case of arrangements proposed by OFCOM;
 - (c) that provisions contained in arrangements proposed by OFCOM for satisfying a competition test are not required for that purpose;
 - (d) that the requirement to satisfy a competition test should be discharged in a different manner from that in which it would be satisfied in accordance with arrangements proposed by OFCOM.
- (5) In sub-paragraph (4) “arrangements proposed by OFCOM” means—
 - (a) arrangements or modified arrangements as they will have effect after giving effect to changes proposed by OFCOM in giving a conditional approval;
 - (b) arrangements imposed by them;
 - (c) imposed arrangements as modified by them;
 - (d) arrangements as modified by proposals made by OFCOM following a review under section 293.
- (6) The holder of a regional Channel 3 licence is not required by the conditions of his licence to take steps for giving effect to a decision of OFCOM at any time when an appeal under this Schedule against that decision is pending.

Decisions on an appeal

- 10 (1) Appeals to the Tribunal under paragraph 9 are to be disposed of in accordance with this paragraph.
- (2) The Tribunal shall decide the appeal on the merits and by reference to the grounds of appeal set out in the notice of appeal.
- (3) The Tribunal shall decide what (if any) is the appropriate decision for OFCOM to have made in relation to the matters to which those grounds relate.
- (4) The Tribunal shall then either—
 - (a) confirm OFCOM’s decision; or
 - (b) remit the matter to OFCOM with such directions (if any) as the Tribunal considers appropriate for giving effect to its decision.
- (5) The Tribunal must not direct OFCOM to take any action which they would not otherwise have had power to take in relation to the matter under appeal.
- (6) It shall be the duty of OFCOM to comply with every direction given to them under sub-paragraph (4).
- (7) In its application to a decision of the Tribunal under this paragraph, paragraph 1(2)(b) of Schedule 4 to the Enterprise Act 2002 (c. 40) (exclusion of commercial information from documents recording Tribunal decisions) is to have effect as if for the reference to the undertaking to which commercial information relates there were substituted a reference to the person to whom such information relates.

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Appeals against decisions of the Tribunal

- 11 (1) A decision of the Tribunal on an appeal under paragraph 9 may itself be appealed.
- (2) An appeal under this paragraph—
- (a) lies to the Court of Appeal or to the Court of Session; and
 - (b) must relate only to a point of law arising from the decision of the Tribunal.
- (3) An appeal under this paragraph may be brought by a party to the proceedings before the Tribunal.
- (4) An appeal under this paragraph requires the permission of the Tribunal or of the court to which it is to be made.
- (5) In this paragraph references to a decision of the Tribunal include references to a direction given by it under paragraph 10(4).

Information for OFCOM

- 12 (1) OFCOM may by notice require a person—
- (a) to produce to them such documents specified or described in the notice, or
 - (b) to furnish them with such other information so specified or described,
- as they consider necessary in order to determine for the purposes of section 293 or this Schedule whether the competition tests are satisfied.
- (2) A requirement imposed by a notice under this paragraph has to be complied with by producing the document, or by furnishing the required information, at the time and place specified in the notice.
- (3) If the requirement is one for the furnishing of information otherwise than by the production of a document, the information must be furnished in the manner specified in the notice.
- (4) The only documents that a person is required to produce by a notice under this paragraph are those that are in his custody or under his control—
- (a) at the time of the notice; or
 - (b) at a time between that time and the time when the notice must be complied with.

Enforcement of information provisions

- 13 (1) The court may, on an application by OFCOM, enquire into whether any person (“the defaulter”) has refused or otherwise failed, without reasonable excuse, to comply with a requirement contained in a notice under paragraph 12.
- (2) An application under sub-paragraph (1) shall include details of the possible failure which OFCOM consider has occurred.
- (3) In enquiring into a case under sub-paragraph (1), the court shall hear—
- (a) any witness who may be produced against or on behalf of the defaulter; and
 - (b) any statement which may be offered in defence.
- (4) Sub-paragraphs (5) and (6) apply where the court is satisfied, after hearing any witnesses and statements as mentioned in sub-paragraph (3), that the defaulter

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has refused or failed, without reasonable excuse, to comply with the requirement contained in the notice under paragraph 12.

- (5) The court may punish the defaulter as it would have been able to punish him had he been guilty of contempt of court.
- (6) Where the defaulter is a body corporate, the power of the court to punish the defaulter includes power to punish a director or officer of the body corporate.
- (7) Where the defaulter is a partnership constituted under the law of Scotland, the power of the court to punish the defaulter includes power to punish a member of the partnership.
- (8) A person is guilty of an offence if he intentionally alters, suppresses or destroys a document which he has been required to produce by a notice under paragraph 12.
- (9) A person is guilty of an offence if—
 - (a) he supplies information to OFCOM in purported compliance with a notice given to him under paragraph 12;
 - (b) the information is false or misleading in a material respect; and
 - (c) he knows that it is false or misleading in a material respect or is reckless as to whether it is false or misleading in a material respect.
- (10) A person is guilty of an offence if—
 - (a) he supplies information to another person knowing that the information is to be used for complying with a notice under paragraph 12;
 - (b) the information is false or misleading in a material respect; and
 - (c) he knows that it is false or misleading in a material respect or is reckless as to whether it is false or misleading in a material respect.
- (11) A person guilty of an offence under this paragraph shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.
- (12) In this paragraph “the court” means—
 - (a) in relation to England and Wales, the High Court;
 - (b) in relation to Scotland, the Court of Session; and
 - (c) in relation to Northern Ireland, the High Court or a judge of the High Court.

Confidentiality and defamation

- 14 (1) When publishing a report prepared under paragraph 4 or 5, OFCOM must have regard to the need to exclude from the publication, so far as practicable, the matters which are confidential in accordance with sub-paragraphs (2) and (3).
- (2) A matter is confidential under this sub-paragraph if—
 - (a) it relates specifically to the affairs of a particular body; and
 - (b) publication of that matter would or might, in OFCOM’s opinion, seriously and prejudicially affect the interests of that body.
- (3) A matter is confidential under this sub-paragraph if—
 - (a) it relates to the private affairs of an individual; and

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- (b) publication of that matter would or might, in OFCOM’s opinion, seriously and prejudicially affect the interests of that individual.
- (4) For the purposes of the law of defamation absolute privilege attaches to every report prepared under paragraph 4 or 5.

Interpretation of Schedule

- 15 In this Schedule—
- “competition test” is to be construed in accordance with paragraph 6;
 - “the Tribunal” means the Competition Appeal Tribunal; and
 - “Tribunal rules” means rules made under section 15 of the Enterprise Act 2002 (c. 40).

SCHEDULE 12

Section 338

CORRESPONDING OBLIGATIONS OF THE BBC AND WELSH AUTHORITY

PART 1

THE BBC

Quotas for independent productions

- 1 (1) It shall be the duty of the BBC to secure that, in each year, not less than 25 per cent. of the total amount of time allocated to the broadcasting of qualifying programmes included in the television broadcasting services provided by the BBC is allocated to the broadcasting of a range and diversity of independent productions.
- (2) In this paragraph—
- (a) a reference to qualifying programmes is a reference to programmes of such description as the Secretary of State may by order specify as describing the programmes that are to be qualifying programmes for the purposes of this paragraph;
 - (b) a reference to independent productions is a reference to programmes of such description as the Secretary of State may by order specify as describing the programmes that are to be independent productions for the purposes of this paragraph; and
 - (c) a reference to a range of independent productions is a reference to a range of such productions in terms of cost of acquisition as well as in terms of the types of programme involved.
- (3) The Secretary of State may by order amend sub-paragraph (1) by substituting a different percentage for the percentage for the time being specified in that sub-paragraph.
- (4) The Secretary of State may also by order provide for the BBC to have the duty set out in sub-paragraph (5), either instead of or as well as the one set out in sub-paragraph (1).

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- (5) That duty is a duty to secure that, in each year, not less than the percentage specified in the order of the programming budget for that year for the television broadcasting services provided by the BBC is applied in the acquisition of independent productions.
- (6) The power to make an order under sub-paragraph (4) includes power to provide that the BBC are again to be subject to a duty to which they have previously ceased to be subject by virtue of such an order, in addition to or instead of the duty to which they are subject (apart from the exercise of that power) by virtue of this paragraph.
- (7) The Secretary of State is not to make an order for the BBC to be or to cease to be subject to the duty mentioned in sub-paragraph (1) or (5) unless—
 - (a) OFCOM have made a recommendation to him that the BBC should be subject to that duty, or should cease to be subject to it; and
 - (b) the order gives effect to that recommendation.
- (8) Where television broadcasting services are designated by or under the BBC Charter and Agreement—
 - (a) as services that must be treated separately for the purposes of the duty imposed by sub-paragraph (1) or a duty imposed under sub-paragraph (4), or
 - (b) as services that must be included in a group of services that must be taken together for the purposes of such a duty,that duty is to have effect in accordance with sub-paragraph (9).
- (9) A duty having effect in accordance with this sub-paragraph is to have effect as if (instead of applying to all the television broadcasting services provided by the BBC, taken together) it applied separately—
 - (a) in relation to each service that is required to be treated separately; and
 - (b) in relation to each group of services that are required to be taken together.
- (10) The BBC must comply with directions given to them by OFCOM for the purpose of—
 - (a) carrying forward to one or more subsequent years determined in accordance with the direction any shortfall for any year in their compliance with the duties imposed by virtue of sub-paragraph (1) or (4); and
 - (b) thereby increasing the percentage applicable for the purposes of those duties to the subsequent year or years.
- (11) For the purposes of this paragraph—
 - (a) the amount of the programming budget for a year, and
 - (b) the means of determining the amount of that budget that is applied for any purpose,are to be computed in accordance with such provision as may be set out in an order made by the Secretary of State, or as may be determined by OFCOM in accordance with such an order.
- (12) Before making an order under this paragraph the Secretary of State must consult OFCOM and the BBC.
- (13) No order is to be made containing provision authorised by this paragraph unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

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(14) In this paragraph—

“acquisition”, in relation to a programme, includes commissioning and acquiring a right to include it in a service or to have it broadcast; and

“programming budget” means the budget for the production and acquisition of qualifying programmes.

Duty to publicise complaints procedures etc.

- 2 (1) It shall be the duty of the BBC to make arrangements for securing that the matters mentioned in sub-paragraph (2) are brought to the attention of the public (whether by means of broadcasts or otherwise).
- (2) Those matters are—
- (a) OFCOM’s functions under Part 5 of the 1996 Act in relation to services provided by the BBC; and
 - (b) any procedures established by OFCOM or the BBC for the handling and resolution of complaints about the observance by the BBC of standards set under section 319.

PART 2

THE WELSH AUTHORITY

Public service remits of the Welsh Authority services

- 3 (1) It shall be the duty of the Welsh Authority to secure that the public service remits for each of their public television services is fulfilled.
- (2) The public service remit for S4C is the provision of a broad range of high quality and diverse programming in a service in which—
- (a) a substantial proportion of the programmes consists of programmes in Welsh;
 - (b) the programmes broadcast for viewing between 6:30 PM and 10:00 PM on every day of the week consist mainly of programmes in Welsh; and
 - (c) the programmes that are not in Welsh are normally programmes which are being, have been or are to be broadcast on Channel 4.
- (3) The public service remit for S4C Digital is the provision of a broad range of high quality and diverse programming in a service in which a substantial proportion of the programmes consists of programmes in Welsh.
- (4) The public service remit for a television programme service provided by the Welsh Authority with the approval of the Secretary of State under section 205 is the remit set out in the order approving the provision of the service.
- (5) The Secretary of State may by order modify sub-paragraphs (2) and (3).
- (6) Before making an order specifying or modifying the public service remit for any of the Welsh Authority’s public television services, the Secretary of State must consult—
- (a) the Authority; and

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- (b) where the order relates to the inclusion in any service of programmes that are not in Welsh, C4C.
- (7) An order modifying the public service remit for S4C or S4C Digital must not contain provision inconsistent with a requirement that each service must—
- (a) represent a public service for the dissemination of information, education and entertainment; and
 - (b) include programmes a substantial proportion of which consists of programmes in Welsh.
- (8) No order is to be made containing provision authorised by sub-paragraph (5) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

Statements of programme policy

- 4 (1) It shall be the duty of the Welsh Authority—
- (a) as soon as practicable after the coming into force of this paragraph, and subsequently at annual intervals, to prepare a statement of programme policy; and
 - (b) to monitor their own performance in the carrying out of the proposals contained in statements made under this paragraph.
- (2) Every statement of programme policy prepared under this paragraph must set out the Welsh Authority's proposals for securing that, during the following year—
- (a) the public service remit for each of their public television services to be provided during that year will be fulfilled; and
 - (b) the Welsh Authority's duties under the provisions of this Schedule will be performed.
- (3) Every such statement must contain a report on the performance of the Welsh Authority in the carrying out during the period since the previous statement of the proposals contained in that previous statement.
- (4) When preparing such a statement, the Welsh Authority must consider—
- (a) any guidance by OFCOM that is in force for the purposes of section 266; and
 - (b) any reports previously published by OFCOM under section 264 or 358.
- (5) Every such statement must be published by the Welsh Authority as soon as practicable after its preparation is complete.
- (6) OFCOM may direct that any statement of policy which—
- (a) was made by the Welsh Authority before the coming into force of this paragraph, and
 - (b) is specified in the direction,
- is to be treated for the purposes of this Act as if it were a statement made in relation to such period as may be so specified in pursuance of this paragraph.
- (7) A direction under sub-paragraph (6) cannot contain provision the effect of which is to postpone the time at which the Welsh Authority would otherwise be required to make its first statement of programme policy.

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Must-offer obligations in relation to networks and satellite services

- 5 (1) It shall be the duty of the Welsh Authority to ensure that each of their public digital services is at all times offered as available (subject to the need to agree terms)—
- (a) to be broadcast or distributed by means of every appropriate network; and
 - (b) to be broadcast by means of every satellite television service that is available for reception by members of the public in Wales.
- (2) It shall be the duty of the Welsh Authority to do their best to secure that arrangements are entered into, and kept in force, that ensure—
- (a) that each of their public digital services is broadcast or distributed on appropriate networks; and
 - (b) that the broadcasting and distribution of each of their public digital services, in accordance with those arrangements, result in the service being available for reception, by means of appropriate networks, by as many members of its intended audience as practicable.
- (3) It shall be the duty of the Welsh Authority to do their best to secure that arrangements are entered into, and kept in force, that ensure—
- (a) that each of their public digital services is broadcast by means of satellite television services that are broadcast so as to be available for reception by members of the public in Wales; and
 - (b) that the broadcasting, in accordance with those arrangements, of each of the Authority's public digital services by means of satellite television services results in its being available for reception in an intelligible form and by means of those services by as many members of its intended audience as practicable.
- (4) The Welsh Authority must secure that the arrangements entered into and kept in force for the purposes of sub-paragraphs (2) and (3) prohibit the imposition, for or in connection with the provision of an appropriate network or a satellite television service, of any charge that is attributable (whether directly or indirectly) to the conferring of an entitlement to receive each of the Authority's public digital services in an intelligible form by means of that network or service.
- (5) OFCOM may, by a direction to the Welsh Authority, require arrangements made or kept in force for the purposes of sub-paragraphs (2) or (3) to apply in the case of every service which is an ancillary service by reference to one of their public digital services as they apply to the service itself.
- (6) For the purposes of this paragraph a public digital service of the Welsh Authority is to be treated, in relation to particular appropriate networks and satellite television services, as constituting such services comprised in or provided with that public digital service—
- (a) as may be determined by agreement between the Welsh Authority and OFCOM; or
 - (b) in default of agreement, as may be directed by OFCOM.
- (7) This paragraph—
- (a) so far as it relates to the broadcasting or distribution of any of the Welsh Authority's public digital services by means of appropriate networks, applies only in relation to times when that service is included in the list of must-carry services in section 64; and

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- (b) so far as it relates to the broadcasting of such a public digital service by means of a satellite television service, applies only in relation to times when that service is included in the list of must-provide services in section 275.
- (8) In this paragraph—
- “appropriate network” means an electronic communications network by means of which public electronic communications services are provided that are used by a significant number of end-users in Wales as their principal means of receiving television programmes;
- “intended audience”, in relation to a public digital service of the Welsh Authority, means—
- (a) if the service is one provided only for a particular area or locality of Wales, members of the public in that area or locality;
- (b) if the service is one provided for members of a particular community, members of that community; and
- (c) in any other case, members of the public in Wales;
- “public digital service”, in relation to the Welsh Authority, means any of their public television services so far as it is provided in digital form; and
- “satellite television service” means a service which—
- (a) consists in or involves the broadcasting of television programme services from a satellite; and
- (b) is used by a significant number of the persons by whom the broadcasts are received in an intelligible form as their principal means of receiving television programmes.
- (9) For the purposes of this paragraph an electronic communications network is not an appropriate network in relation to so much of a channel or other service as is provided only for a particular area or locality of Wales unless it is a network by means of which electronic communications services are provided to persons in that area or locality
- (10) In sub-paragraph (8) “public electronic communications service” and “end-user” each has the same meaning as in Chapter 1 of Part 2.
- (11) An order under section 411 must not appoint a day for provisions of this paragraph to come into force that falls less than six months after the day on which the order is made.

Supply of services by satellite in certain areas

- 6 It shall be the duty of the Welsh Authority—
- (a) to join with the providers of other must-provide services in entering into and maintaining arrangements satisfying the requirements of section 274; and
- (b) to comply with the requirements of any arrangements imposed by OFCOM for the purposes of conditions under subsection (2) of that section.

Programming quotas for independent productions

- 7 (1) It shall be the duty of the Welsh Authority to secure that, in each year, not less than 25 per cent. of the total amount of time allocated to the broadcasting of qualifying programmes included in their designated public services (taken together) is allocated to the broadcasting of a range and diversity of independent productions.

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- (2) In this paragraph—
- (a) a reference to qualifying programmes is a reference to programmes of such description as the Secretary of State may by order specify as describing the programmes that are to be qualifying programmes for the purposes of this paragraph;
 - (b) a reference to independent productions is a reference to programmes of such description as the Secretary of State may by order specify as describing the programmes that are to be independent productions for the purposes of this paragraph; and
 - (c) a reference to a range of independent productions is a reference to a range of such productions in terms of cost of acquisition as well as in terms of the types of programme involved.
- (3) The Secretary of State may by order amend sub-paragraph (1) by substituting a different percentage for the percentage for the time being specified in that sub-paragraph.
- (4) The Secretary of State may also by order provide for the Welsh Authority to have the duty set out in sub-paragraph (5), either instead of or as well as the one set out in sub-paragraph (1).
- (5) That duty is a duty to secure that, in each year, not less than the percentage specified in the order of the programming budget for that year for the designated public services (taken together) is applied in the acquisition of independent productions.
- (6) The power to make an order under sub-paragraph (4) includes power to provide that the Welsh Authority are again to be subject to a duty to which they have previously ceased to be subject by virtue of such an order, in addition to or instead of the duty to which they are subject (apart from the exercise of that power) by virtue of this paragraph.
- (7) The Secretary of State is not to make an order for the Welsh Authority to be or to cease to be subject to the duty mentioned in sub-paragraph (1) or (5) unless—
- (a) OFCOM have made a recommendation to him that the Authority should be subject to that duty, or should cease to be subject to it; and
 - (b) the order gives effect to that recommendation.
- (8) The Welsh Authority must comply with directions given to them by OFCOM for the purpose of—
- (a) carrying forward to one or more subsequent years determined in accordance with the direction any shortfall for any year in their compliance with the duties imposed by virtue of sub-paragraph (1) or (4); and
 - (b) thereby increasing the percentage applicable for the purposes of those duties to the subsequent year or years.
- (9) For the purposes of this paragraph—
- (a) the amount of the programming budget for a year, and
 - (b) the means of determining the amount of that budget that is applied for any purpose,
- are to be computed in accordance with such provision as may be set out in an order made by the Secretary of State, or as may be determined by OFCOM in accordance with such an order.

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- (10) Before making an order under this paragraph the Secretary of State must consult OFCOM, the BBC and the Welsh Authority.
- (11) No order is to be made containing provision authorised by this paragraph unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (12) The services that are designated public services for the purposes of this paragraph are—
- (a) S4C;
 - (b) S4C Digital; and
 - (c) any of the Welsh Authority’s other public television services which is designated for the purposes of this paragraph by the order under section 205 approving its provision.
- (13) In this paragraph—
- “acquisition”, in relation to a programme, includes commissioning and acquiring a right to include it in a service or to have it broadcast;
 - “programme” does not include an advertisement; and
 - “programming budget” means the budget for the production and acquisition of qualifying programmes.

Programme quotas for original productions

- 8 (1) It shall be the duty of the Welsh Authority, in relation to their designated public services (taken together) to secure—
- (a) that the time allocated, in each year, to the broadcasting of original productions included in those services is no less than the proportion fixed under sub-paragraph (2) of the total amount of time allocated to the broadcasting of all the programmes included in those services; and
 - (b) that the time allocated to the broadcasting of original productions is split in the manner so fixed between peak viewing times and other times.
- (2) The fixing for the purposes of sub-paragraph (1) of a proportion or manner of splitting allocated time is to be—
- (a) by agreement between the Welsh Authority and OFCOM; or
 - (b) in default of agreement, by a direction given by OFCOM to the Authority fixing the proportion or manner according to whatever OFCOM consider appropriate for ensuring that the service is consistently of a high quality.
- (3) The agreement or direction may, for the purposes of sub-paragraph (1)(b), fix a proportion for the purposes of sub-paragraph (1)(a) in terms of the cumulative effect of two different minimum proportions, one applying to peak viewing times and the other to other times.
- (4) The agreement or direction may provide that specified descriptions of programmes are to be excluded in determining the programmes a proportion of which is to constitute original productions.
- (5) It may also provide that, in determining whether a programme is of a description of programmes excluded by an agreement or direction by virtue of sub-paragraph (4), regard is to be had to any guidance prepared and published, and from time revised, by OFCOM.

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

- (6) References in this paragraph, in relation to the designated public services of the Welsh Authority, to original productions are references to programmes of such description as the Secretary of State may by order specify as describing the programmes that are to be original productions for the purposes of this paragraph.
- (7) The power to specify descriptions of programmes by order under sub-paragraph (6) includes power to confer such discretions on OFCOM as the Secretary of State thinks fit.
- (8) Before making an order under this paragraph the Secretary of State must consult OFCOM, the BBC and the Welsh Authority.
- (9) No order is to be made containing provision authorised by this paragraph unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (10) The services that are designated public services for the purposes of this paragraph are—
 - (a) S4C;
 - (b) S4C Digital; and
 - (c) any of the Welsh Authority’s other public television services which is designated for the purposes of this paragraph by the order under section 205 approving its provision.
- (11) In this paragraph—
 - “peak viewing time”, in relation to the designated public services of the Welsh Authority, means a time that is determined in accordance with sub-paragraph (12) to be a peak viewing time for one or more of those services; and
 - “programme” does not include an advertisement.
- (12) The determination for the purposes of this paragraph of peak viewing times is to be—
 - (a) by agreement between the Welsh Authority and OFCOM; or
 - (b) in default of agreement, by a direction given by OFCOM to the Authority determining those times.

News and current affairs programmes

- 9 (1) It shall be the duty of the Welsh Authority, in relation to their designated public services, to secure—
 - (a) that the programmes included in each service include news programmes and current affairs programmes;
 - (b) that the news programmes and current affairs programmes included in each service deal with both national and international matters; and
 - (c) that the news programmes so included are broadcast for viewing at intervals throughout the period for which the service is provided.
- (2) It shall be the duty of the Welsh Authority, in relation to each of their designated public services, to ensure that the news programmes and current affairs programmes included in each service are of high quality.
- (3) It shall also be the duty of the Welsh Authority, in relation to each of their designated public services, to secure that in each year—

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

- (a) the time allocated to the broadcasting of news programmes included in the service, and
- (b) the time allocated to the broadcasting of current affairs programmes so included,

each constitutes no less than the proportion fixed under sub-paragraph (5) of the time allocated to the broadcasting of all the programmes included in the service.

- (4) It is the further duty of the Welsh Authority, in relation to each of their designated public services, to secure that the time allocated—

- (a) to the broadcasting of news programmes included in the service, and
- (b) to the broadcasting of current affairs programmes so included,

is, in each case, split, in the manner fixed under sub-paragraph (5), between peak viewing times and other times.

- (5) The fixing for the purposes of sub-paragraph (3) or (4) of a proportion or manner of splitting allocated time is to be—

- (a) by agreement between the Welsh Authority and OFCOM; or
- (b) in default of agreement, by a direction given by OFCOM to the Authority fixing the proportion or manner according to whatever OFCOM consider appropriate.

- (6) The agreement or direction may, for the purposes of sub-paragraph (4), fix a proportion for the purposes of sub-paragraph (3) in terms of the cumulative effect of two different minimum proportions, one applying to peak viewing times and the other to other times.

- (7) The services that are designated public services for the purposes of this paragraph are—

- (a) S4C;
- (b) S4C Digital; and
- (c) any of the Welsh Authority's other public television services which is designated for the purposes of this paragraph by the order under section 205 approving its provision.

- (8) In this paragraph “peak viewing time”, in relation to a service, means a time that is determined in accordance with sub-paragraph (9) to be a peak viewing time for that service.

- (9) The determination for the purposes of this paragraph of a peak viewing time is to be—

- (a) by agreement between the Welsh Authority and OFCOM; or
- (b) in default of agreement, by a direction given by OFCOM to the Authority determining that time.

Code relating to programme commissioning

- 10 (1) It shall be the duty of the Welsh Authority to draw up and from time to time revise a code of practice setting out the principles that are to be applied when they or an S4C company are for a relevant purpose agreeing terms for the commissioning of independent productions.

- (2) A relevant purpose is a purpose connected with the provision by the Welsh Authority or an S4C company of a programme service.

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

- (3) It shall also be the duty of the Welsh Authority—
- (a) at all times to comply with the code of practice which is for the time being in force under this paragraph;
 - (b) to take all reasonable steps for securing that the code is complied with by S4C companies;
 - (c) to exercise their power to revise that code to take account of revisions from time to time of the guidance issued by OFCOM for the purposes of this paragraph; and
 - (d) to comply with such directions as may be given to the Authority by OFCOM for securing that they properly perform their duties under paragraphs (a) and (b).
- (4) The code for the time being in force under this paragraph must be such as to secure, in the manner described in guidance issued by OFCOM—
- (a) that a reasonable timetable is applied to negotiations for the commissioning of an independent production and for the conclusion of a binding agreement;
 - (b) that there is sufficient clarity when an independent production is commissioned about the different categories of rights to broadcast or otherwise to make use of or exploit the commissioned production that are being disposed of;
 - (c) that there is sufficient transparency about the amounts to be paid in respect of each category of rights;
 - (d) that satisfactory arrangements are made about the duration and exclusivity of those rights;
 - (e) that procedures exist for reviewing the arrangements adopted in accordance with the code and for demonstrating compliance with it;
 - (f) that those procedures include requirements for the monitoring of the application of the code and for the making of reports to OFCOM;
 - (g) that provision is made for resolving disputes arising in respect of the provisions of the code (by independent arbitration or otherwise) in a manner that appears to OFCOM to be appropriate.
- (5) The Welsh Authority must also ensure that the drawing up or revision of a code by virtue of this paragraph is in accordance with guidance issued by OFCOM as to—
- (a) the times when the code is to be drawn up or reviewed with a view to revision;
 - (b) the consultation to be undertaken before a code is drawn up or revised;
 - (c) the publication of every code or revised code.
- (6) The Welsh Authority must submit to OFCOM for approval a draft of—
- (a) every code that is required to be drawn up under this paragraph; and
 - (b) every revision made by that Authority of such a code.
- (7) A code drawn up by the Welsh Authority or a revision of such a code —
- (a) is to have effect for the purposes of this paragraph only if approved by OFCOM; and
 - (b) if approved by OFCOM subject to modifications, is to have effect with those modifications.
- (8) OFCOM—

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- (a) must issue and may from time to time revise guidance for the purposes of this paragraph;
 - (b) must ensure that there is always guidance for those purposes in force;
 - (c) must, before issuing their guidance or revised guidance, consult the providers of licensed public service channels, persons who make independent productions (or persons appearing to OFCOM to represent them), the BBC and the Welsh Authority; and
 - (d) must publish their guidance or revised guidance in such manner as they think appropriate.
- (9) Guidance issued by OFCOM for the purposes of this paragraph must be general guidance and is not to specify particular terms to be included in agreements to which the guidance relates.
- (10) OFCOM may by a direction to the Welsh Authority specify that a code which—
- (a) was drawn up by the Authority before the commencement of this paragraph, and
 - (b) is identified in the direction,
- is to be treated as drawn up in pursuance of this paragraph and approved by OFCOM.
- (11) In this paragraph “independent production” has the same meaning as in paragraph 7.

Co-operation with the public teletext provider

- 11
- (1) The Welsh Authority must grant access to the public teletext provider to the facilities that are reasonably required by him for the purposes of, or in connection with, the provision of the public teletext service.
 - (2) The Welsh Authority may require the public teletext provider to pay a reasonable charge in respect of facilities access to which is granted under this paragraph.
 - (3) In the event of a dispute, the amount of the charge is to be determined by OFCOM.

Programme standards

- 12 It shall be the duty of the Welsh Authority in relation to their public television services to observe the standards set under section 319.
- 13 It shall be the duty of the Welsh Authority to comply with a direction given to them by OFCOM with respect to the establishment of procedures for the handling and resolution of complaints about the observance by the Authority of standards set under section 319.
- 14
- (1) It shall be the duty of the Welsh Authority to comply with directions given to them by OFCOM with respect to any of the matters mentioned in sub-paragraph (2).
 - (2) Those matters are—
 - (a) the exclusion from any of the Authority’s public television services of a particular advertisement, or its exclusion in particular circumstances;
 - (b) the descriptions of advertisements and methods of advertising to be excluded from the services so provided (whether generally or in particular circumstances); and
 - (c) the methods of sponsorship to be excluded from those services (whether generally or in particular circumstances).

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

- 15 (1) This paragraph applies if OFCOM are satisfied—
- (a) that the Welsh Authority have failed in any respect to perform any of their duties under paragraphs 12 to 14; and
 - (b) that the failure can be appropriately remedied by the inclusion in any or all of the Authority's public television services of a correction or a statement of findings.
- (2) OFCOM may direct the Welsh Authority to include a correction or a statement of findings (or both) in any one or more of their public television services.
- (3) A direction may require the correction or statement of findings to be in such form, and to be included in programmes at such time or times, as OFCOM may determine.
- (4) OFCOM are not to give a direction under this paragraph unless they have given the Welsh Authority a reasonable opportunity of making representations to them about the matters appearing to OFCOM to provide grounds for the giving of the direction.
- (5) Where the Welsh Authority include a correction or a statement of findings in any of their public television services in pursuance of a direction under this paragraph, the Authority may announce that they are doing so in pursuance of such a direction.
- (6) For the purposes of this paragraph a statement of findings, in relation to a case in which OFCOM are satisfied that the Welsh Authority have failed to perform a duty imposed on them under paragraphs 12 to 14, is a statement of OFCOM's findings in relation to that failure.

Directions with respect to advertising

- 16 (1) The Welsh Authority must comply with directions given to them by OFCOM with respect to any of the matters mentioned in sub-paragraph (2).
- (2) Those matters are—
- (a) the maximum amount of time to be given to advertisements in any hour or other period;
 - (b) the minimum interval which must elapse between any two periods given over to advertisements;
 - (c) the number of such periods to be allowed in any programme or in any hour or day; and
 - (d) the exclusion of advertisements from a specified part of S4C or S4C Digital.
- (3) Directions under this paragraph—
- (a) may be either general or specific;
 - (b) may be qualified or unqualified; and
 - (c) may make different provision for different parts of the day, different days of the week, different types of programmes or for other differing circumstances.
- (4) In giving a direction under this paragraph, OFCOM shall take account of such of the international obligations of the United Kingdom as the Secretary of State may notify to them for the purposes of this paragraph.

Fairness standards

- 17 It shall be the duty of the Welsh Authority to secure the observance—
- (a) in connection with the provision of their public television services, and

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(b) in relation to the programmes included in those services, of the code for the time being in force under section 107 of the 1996 Act (the fairness code).

Party political broadcasts

- 18 (1) It shall be the duty of the Welsh Authority to include—
- (a) party political broadcasts, and
 - (b) referendum campaign broadcasts,
- in every designated public service of theirs.
- (2) The Welsh Authority must prepare, publish and from time to time review and revise their policy with respect to—
- (a) party political broadcasts and referendum campaign broadcasts; and
 - (b) the manner in which they propose to perform their duty under subparagraph (1).
- (3) The Welsh Authority’s policy may, in particular, include provision for determining—
- (a) the political parties on whose behalf party political broadcasts may be made;
 - (b) in relation to each political party on whose behalf such broadcasts may be made, the length and frequency of the broadcasts; and
 - (c) in relation to each designated organisation on whose behalf referendum campaign broadcasts are required to be broadcast, the length and frequency of such broadcasts.
- (4) That policy is to have effect subject to sections 37 and 127 of the Political Parties, Elections and Referendums Act 2000 (c. 41) (only registered parties and designated organisations to be entitled to party political broadcasts or referendum campaign broadcasts).
- (5) In preparing or revising their policy with respect to the inclusion of party political broadcasts or referendum campaign broadcasts in their designated public services, the Welsh Authority must have regard to—
- (a) any views expressed for the purposes of this paragraph by the Electoral Commission; and
 - (b) any rules made by OFCOM under section 333.
- (6) The services that are designated public services for the purposes of this paragraph are—
- (a) S4C;
 - (b) S4C Digital; and
 - (c) any of the Welsh Authority’s other public television services which is designated for the purposes of this paragraph by the order under section 205 approving its provision.
- (7) In this paragraph—
- “designated organisation”, in relation to a referendum, means a person or body designated by the Electoral Commission under section 108 of the Political Parties, Elections and Referendums Act 2000 in respect of that referendum; and
 - “referendum campaign broadcast” has the meaning given by section 127 of that Act.

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Duty to publicise complaints procedures etc.

- 19 (1) It shall be the duty of the Welsh Authority to make arrangements for securing that the matters mentioned in sub-paragraph (2) are brought to the attention of the public (whether by means of broadcasts or otherwise).
- (2) Those matters are—
- (a) OFCOM’s functions under Part 5 of the 1996 Act in relation to services provided by the Welsh Authority; and
 - (b) any procedures established by OFCOM or the Authority for the handling and resolution of complaints about the observance by the Authority of standards set under section 319.

Monitoring of programmes

- 20 (1) It shall be the duty of the Welsh Authority—
- (a) in respect of every programme included in any of their public television services, to retain a recording of the programme in the form, and for the period, specified by OFCOM;
 - (b) to comply with any request to produce such recordings to OFCOM for examination or reproduction; and
 - (c) to comply, to the extent that they are able to do so, with any request to produce to OFCOM a script or transcript of a programme included in any of their public television services.
- (2) The period specified for the purposes of sub-paragraph (1)(a) must be a period not exceeding ninety days.

Compliance with international obligations

- 21 (1) OFCOM may give the Welsh Authority such directions as OFCOM consider appropriate for securing that all relevant international obligations are complied with.
- (2) It shall be the duty of the Authority to comply with a direction under this paragraph.
- (3) Before giving a direction under this paragraph, OFCOM must consult the Authority.
- (4) In this paragraph “relevant international obligations” means the international obligations of the United Kingdom which have been notified to OFCOM by the Secretary of State for the purposes of this paragraph.

Services for the deaf and visually impaired

- 22 It shall be the duty of the Welsh Authority to observe the code for the time being in force under section 303 in the provision of—
- (a) S4C Digital; and
 - (b) so much of any of the Welsh Authority’s other public television services as is provided in digital form.

Equality of opportunity

- 23 (1) It shall be the duty of the Welsh Authority to make such arrangements as they consider appropriate for promoting, in relation to employment with the Authority, equality of opportunity—

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

- (a) between men and women; and
 - (b) between persons of different racial groups.
- (2) It shall be the duty of the Welsh Authority to make arrangements for promoting, in relation to employment with the Authority, the equalisation of opportunities for disabled persons.
- (3) The Welsh Authority shall also make such arrangements as they consider appropriate for the training and retraining of persons whom they employ in or in connection with—
- (a) the provision of one or more of their public services; or
 - (b) the making of programmes to be included in one or more of those services.
- (4) The Welsh Authority—
- (a) shall take all such steps as they consider appropriate for making persons affected by any arrangements made in pursuance of sub-paragraphs (1) to (3) aware of the arrangements (including the publication of the arrangements in such manner as they think fit);
 - (b) shall review the arrangements from time to time; and
 - (c) shall, from time to time (and at least annually), publish, in such manner as they consider appropriate, their observations on the current operation and effectiveness of the arrangements.
- (5) Before making any arrangements in pursuance of any of sub-paragraphs (1) to (3) or determining the manner in which they will comply with sub-paragraph (4), the Welsh Authority must consult OFCOM.
- (6) In this paragraph—
- “disabled” has the same meaning as in the Disability Discrimination Act 1995 (c. 50);
 - “racial group” has the same meaning as in the Race Relations Act 1976 (c. 74) or, in Northern Ireland, the Race Relations (Northern Ireland) Order 1997 (S.I. 1997/869 (N.I. 6)).
- (7) The Secretary of State may by order amend sub-paragraph (1) by adding any other form of equality of opportunity that he considers appropriate to that sub-paragraph.
- (8) No order is to be made containing provision authorised by sub-paragraph (7) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

Meaning of Welsh Authority’s public services

- 24 (1) In this Part of this Schedule, references to the Welsh Authority’s public services are references to the following—
- (a) S4C;
 - (b) S4C Digital; and
 - (c) the services the provision of which by the Authority is authorised by or under section 205.
- (2) References in this Schedule to a public television service of the Welsh Authority are references to any public service of the Authority which is a television programme service.

SCHEDULE 13

Section 345

FINANCIAL PENALTIES UNDER THE BROADCASTING ACTS

PART 1

BROADCASTING ACT 1990

Preliminary

1 The 1990 Act shall be amended as follows.

Revocation of television services licence

2 (1) In subsection (3) of section 18 (penalty on revocation of television services licence), for “a financial penalty of the prescribed amount” there shall be substituted “a specified financial penalty”.

(2) For subsection (4) of that section (amount of penalty) there shall be substituted—

“(3A) The maximum amount which a person may be required to pay by way of a penalty under subsection (3) is the maximum penalty given by subsections (3B) and (3C).

(3B) In a case where the licence is revoked under this section or the penalty is imposed before the end of the first complete accounting period of the licence holder to fall within the period for which the licence is in force, the maximum penalty is whichever is the greater of—

- (a) £500,000; and
- (b) 7 per cent. of the amount which OFCOM estimate would have been the qualifying revenue for the first complete accounting period of the licence holder falling within the period for which the licence would have been in force.

(3C) In any other case, the maximum penalty is whichever is the greater of—

- (a) £500,000; and
- (b) 7 per cent. of the qualifying revenue for the last complete accounting period of the licence holder falling within the period for which the licence is in force.

(3D) Section 19(2) to (6) applies for estimating or determining qualifying revenue for the purposes of subsection (3B) or (3C) above.”

(3) This paragraph applies only in a case of a revocation in relation to which—

- (a) the notice required by section 18(2) of the 1990 Act, or
- (b) the notice revoking the licence,

is served after the commencement of this paragraph.

Licences for Channel 3 services and for Channels 4 and 5

3 (1) For subsection (2) of section 41 (penalties for failure by holder of licence for Channel 3 services, Channel 4 or Channel 5 to comply with licence conditions or directions) there shall be substituted—

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“(1A) The amount of a financial penalty imposed on a person in pursuance of subsection (1)(a) shall not exceed 5 per cent. of the qualifying revenue for the licence holder’s last complete accounting period falling within the period for which his licence has been in force (“the relevant period”).

(1B) In relation to a person whose first complete accounting period falling within the relevant period has not ended when the penalty is imposed, subsection (1A) is to be construed as referring to 5 per cent. of the amount which OFCOM estimate to be the qualifying revenue for that accounting period.

(1C) Section 19(2) to (6) applies for determining or estimating qualifying revenue for the purposes of subsection (1A) or (1B) above.”

(2) This paragraph applies in relation to a failure to comply with a condition or direction only if it is one occurring after the commencement of this paragraph.

Restricted services licences

4 (1) In subsection (2) of section 42B (application of sections 40 to 42 to licensing of restricted services), for “subsections (3) and (4)” there shall be substituted “subsections (3) to (3C)”.

(2) In subsection (3) of that section—

- (a) for “subsection (2)” there shall be substituted “subsections (1A) to (1C)”; and
- (b) for the words from “shall not exceed whichever is the greater” onwards there shall be substituted “is the maximum penalty given by subsection (3A).”

(3) For subsection (4) of that section (penalties for failure to comply with conditions or directions) there shall be substituted—

“(3A) The maximum penalty is whichever is the greater of—

- (a) £250,000; and
- (b) 5 per cent. of the qualifying revenue for the licence holder’s last complete accounting period falling within the period for which his licence has been in force (“the relevant period”).

(3B) In relation to a person whose first complete accounting period falling within the relevant period has not ended when the penalty is imposed, subsection (3A)(b) is to be construed as referring to 5 per cent. of the amount which OFCOM estimate to be the qualifying revenue for that accounting period.

(3C) Section 19(2) to (6) applies for determining or estimating qualifying revenue for the purposes of subsection (3A) or (3B) above.”

(4) This paragraph applies in relation to a failure to comply with a condition or direction only if it is one occurring after the commencement of this paragraph.

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Additional television services licences

- 5 (1) For subsection (2) of section 55 (penalties for failure by holder of licence for additional television service to comply with licence conditions or directions) there shall be substituted—
- “(1A) The amount of a financial penalty imposed on a person in pursuance of subsection (1) shall not exceed 5 per cent. of the qualifying revenue for the licence holder’s last complete accounting period falling within the period for which his licence has been in force (“the relevant period”).
- (1B) In relation to a person whose first complete accounting period falling within the relevant period has not ended when the penalty is imposed, subsection (1A) is to be construed as referring to 5 per cent. of the amount which OFCOM estimate to be the qualifying revenue for that accounting period.
- (1C) Section 52(2) applies for determining or estimating qualifying revenue for the purposes of subsection (1A) or (1B) above.”
- (2) This paragraph applies in relation to a failure to comply with a condition or direction only if it is one occurring after the commencement of this paragraph.

Revocation of national sound broadcasting licence

- 6 (1) In subsection (3) of section 101 (penalty on revocation of national sound broadcasting licence), for “a financial penalty of the prescribed amount” there shall be substituted “a specified financial penalty”.
- (2) For subsection (4) of that section (amount of penalty) there shall be substituted—
- “(3A) The maximum amount which a person may be required to pay by way of a penalty under subsection (3) is the maximum penalty given by subsections (3B) and (3C).
- (3B) In a case where the licence is revoked under this section or the penalty is imposed before the end of the first complete accounting period of the licence holder to fall within the period for which the licence is in force, the maximum penalty is whichever is the greater of—
- (a) £250,000; and
- (b) 7 per cent. of the amount which OFCOM estimate would have been the qualifying revenue for the first complete accounting period of the licence holder falling within the period for which the licence would have been in force.
- (3C) In any other case, the maximum penalty is whichever is the greater of—
- (a) £250,000; and
- (b) 7 per cent. of the qualifying revenue for the last complete accounting period of the licence holder falling within the period for which the licence is in force.
- (3D) Section 102(2) to (6) applies for estimating or determining qualifying revenue for the purposes of subsection (3B) or (3C) above.”
- (3) This paragraph applies only in a case of a revocation in relation to which—
- (a) the notice required by section 101(2) of the 1990 Act, or

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(b) the notice revoking the licence,
is served after the commencement of this paragraph.

Licences for analogue sound services

7 (1) For subsection (2) of section 110 (penalties for failure by holder of national sound broadcasting licence to comply with licence conditions or directions) there shall be substituted—

“(1A) The maximum amount which the holder of a national licence may be required to pay by way of a financial penalty imposed in pursuance of subsection (1)(a) is the maximum penalty given by subsection (1B).

(1B) The maximum penalty is whichever is the greater of—

- (a) £250,000; and
- (b) 5 per cent. of the qualifying revenue for his last complete accounting period falling within the period for which his licence has been in force (“the relevant period”).

(1C) In relation to a person whose first complete accounting period falling within the relevant period has not ended when the penalty is imposed, subsection (1B)(b) is to be construed as referring to 5 per cent. of the amount which OFCOM estimate to be the qualifying revenue for that accounting period.

(1D) Section 102(2) to (6) applies for determining or estimating qualifying revenue for the purposes of subsection (1B) or (1C) above.”

(2) In subsection (3) of that section (maximum penalty for failure by holder of a sound broadcasting licence that is not a national licence to comply with licence conditions or directions), for “£50,000” there shall be substituted “£250,000”.

(3) This paragraph applies in relation to a failure to comply with a condition or direction only if it is one occurring after the commencement of this paragraph.

Additional radio services licences

8 (1) For subsection (2) of section 120 (penalties for failure by holder of additional radio services licence to comply with licence conditions or directions) there shall be substituted—

“(1A) The amount of a financial penalty imposed on a person in pursuance of subsection (1) shall not exceed 5 per cent. of the qualifying revenue for the licence holder’s last complete accounting period falling within the period for which his licence has been in force (“the relevant period”).

(1B) In relation to a person whose first complete accounting period falling within the relevant period has not ended when the penalty is imposed, subsection (1A) is to be construed as referring to 5 per cent. of the amount which OFCOM estimate to be the qualifying revenue for that accounting period.

(1C) Section 118(2) applies for determining or estimating qualifying revenue for the purposes of subsection (1A) or (1B) above.”

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- (2) This paragraph applies in relation to a failure to comply with a condition or direction only if it is one occurring after the commencement of this paragraph.

Power to amend penalties under the 1990 Act

- 9 (1) The Secretary of State may by order amend any of the provisions of the 1990 Act specified in sub-paragraph (2) by substituting a different sum for the sum for the time being specified in that provision.
- (2) Those provisions are—
- (a) section 18(3B)(a) and (3C)(a);
 - (b) section 42B(3A)(a);
 - (c) section 101(3B)(a) and (3C)(a);
 - (d) section 110(1B)(a) and (3).
- (3) No order is to be made under this paragraph unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

PART 2

BROADCASTING ACT 1996

Preliminary

- 10 The 1996 Act shall be amended as follows.

Revocation of television multiplex licences

- 11 (1) In subsection (5) of section 11 (penalty on revocation of television multiplex licence), the words from “not exceeding” onwards shall be omitted.
- (2) For subsection (6) of that section (amount of penalty) there shall be substituted—
- “(5A) The maximum amount which a person may be required to pay by way of a penalty under subsection (5) is the maximum penalty given by subsections (5B) and (5C).
- (5B) In a case where the licence is revoked under this section or the penalty is imposed before the end of the first complete accounting period of the licence holder to fall within the period for which the licence is in force, the maximum penalty is whichever is the greater of—
- (a) £500,000; and
 - (b) 7 per cent. of the amount which OFCOM estimate would have been the multiplex revenue for the first complete accounting period of the licence holder falling within the period for which the licence would have been in force.
- (5C) In any other case, the maximum penalty is whichever is the greater of—
- (a) £500,000; and
 - (b) 7 per cent. of the multiplex revenue for the last complete accounting period of the licence holder falling within the period for which the licence is in force.

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(5D) Section 14 applies for estimating or determining multiplex revenue for the purposes of subsection (5B) or (5C) above.”

- (3) This paragraph applies only in a case of a revocation in relation to which—
- (a) the notice required by section 11(2) of the 1996 Act, or
 - (b) the notice revoking the licence,
- is served after the commencement of this paragraph.

Attribution of television multiplex revenue

- 12 (1) In subsection (1) of section 15 (attribution of multiplex revenue for the purposes of section 17(3)), for “17(3)” there shall be substituted “17(2A) and (2B)”.
- (2) In subsection (2) of that section (attribution for the purposes of sections 23(3) and 27(3)), for “section 23(3) or section 27(3)” there shall be substituted “sections 23(2A) to (5) and 27(2A) to (5)”.
- (3) This paragraph has effect in relation only to cases in which section 17, 23 or 27 applies as amended by this Schedule.

Multiplex licences

- 13 (1) In subsection (2) of section 17 (penalty for failure by holder of television multiplex licence to comply with licence conditions or directions), for the words from “whichever is the greater” onwards there shall be substituted “the maximum penalty given by subsection (2A).”
- (2) For subsection (3) of that section (maximum penalties) there shall be substituted—
- “(2A) The maximum penalty is whichever is the greater of—
- (a) £250,000; and
 - (b) 5 per cent. of the share of multiplex revenue attributable to the licence holder for his last complete accounting period falling within the period for which his licence has been in force (“the relevant period”).
- (2B) In relation to a person whose first complete accounting period falling within the relevant period has not ended when the penalty is imposed, subsection (2A)(b) is to be construed as referring to 5 per cent. of the amount which OFCOM estimate to be the share of multiplex revenue attributable to him for that accounting period.
- (2C) Section 15(1) and (3) applies for determining or estimating the share of multiplex revenue attributable to a person for the purposes of subsection (2A) or (2B) above.”
- (3) This paragraph applies in relation to a failure to comply with a condition or direction only if it is one occurring after the commencement of this paragraph.

Digital television programme licences

- 14 (1) In subsection (2) of section 23 (penalty for failure by holder of digital television programme licence to comply with licence conditions or directions), for the words

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from “whichever is the greater” onwards there shall be substituted “the maximum penalty given by subsection (2A).”

- (2) For subsection (3) of that section (maximum penalties) there shall be substituted—
- “(2A) The maximum penalty is whichever is the greater of—
- (a) £250,000; and
- (b) 5 per cent. of the aggregate amount of the shares of multiplex revenue attributable to him in relation to television multiplex services and general multiplex services in respect of relevant accounting periods.”
- (3) In subsection (4) of that section (meaning of “relevant accounting period”), for “subsection (3)(a)” there shall be substituted “subsection (2A)”.
- (4) In subsection (5) of that section, for “not yet ended, then for the purposes of subsection (3)” there shall be substituted “not ended when the penalty is imposed, then for the purposes of this section”.
- (5) Before subsection (6) of that section there shall be inserted—
- “(5B) Section 15(2) and (3) applies for determining or estimating the share of multiplex revenue attributable to a person for the purposes of subsection (2A) or (5) above.”
- (6) This paragraph applies in relation to a failure to comply with a condition or direction only if it is one occurring after the commencement of this paragraph.

Digital additional television services licences

- 15 (1) In subsection (2) of section 27 (penalty for failure by holder of digital additional services licence to comply with licence conditions or directions), for the words from “whichever is the greater” onwards there shall be substituted “the maximum penalty given by subsection (2A).”
- (2) For subsection (3) of that section (maximum penalties) there shall be substituted—
- “(2A) The maximum penalty is whichever is the greater of—
- (a) £250,000; and
- (b) 5 per cent. of the aggregate amount of the shares of multiplex revenue attributable to him in relation to television multiplex services and general multiplex services in respect of relevant accounting periods.”
- (3) In subsection (4) of that section (meaning of “relevant accounting period”), for “subsection (3)(a)” there shall be substituted “subsection (2A)”.
- (4) In subsection (5) of that section, for “not yet ended, then for the purposes of subsection (3)” there shall be substituted “not ended when the penalty is imposed, then for the purposes of this section”.
- (5) Before subsection (6) of that section there shall be inserted—
- “(5B) Section 15(2) and (3) applies for determining or estimating the share of multiplex revenue attributable to a person for the purposes of subsection (2A) or (5) above.”

- (6) This paragraph applies in relation to a failure to comply with a condition or direction only if it is one occurring after the commencement of this paragraph.

Power to amend digital television penalties

- 16 For section 36(2) and (3) (provisions that may be amended and negative resolution procedure) there shall be substituted—

“(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.”

Revocation of radio multiplex licences

- 17 (1) In section 53(5) (maximum penalty on revocation of radio multiplex licence), for “£50,000”, in both places, there shall be substituted “£250,000”.

- (2) This paragraph applies only in a case of a revocation in relation to which—

- (a) the notice required by section 53(2) of the 1996 Act, or
- (b) the notice revoking the licence,

is served after the commencement of this paragraph.

Attribution of radio multiplex revenue

- 18 (1) In subsection (1) of section 57 (attribution of multiplex revenue for the purposes of sections 59(3)), for “59(3)” there shall be substituted “59(2A) and (2B)”.

- (2) In subsection (2) of that section, (attribution for the purposes of sections 62(3) and 66(3)), for “section 62(3) or section 66(3)” there shall be substituted “sections 62(2A) to (5) and 66(2A) to (5)”.

- (3) This paragraph has effect in relation only to cases in which section 59, 62 or 66 applies as amended by this Schedule.

Contraventions of conditions of radio multiplex licences

- 19 (1) In subsection (2) of section 59 (penalty for failure by holder of radio multiplex licence to comply with licence conditions or directions), for the words from “whichever is the greater” onwards there shall be substituted “the maximum penalty given by subsection (2A).”

- (2) For subsection (3) of that section (maximum penalties) there shall be substituted—

“(2A) The maximum penalty is whichever is the greater of—

- (a) £250,000; and
- (b) 5 per cent. of the aggregate amount of the share of multiplex revenue attributable to him for his last complete accounting period falling

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within a period for which his licence has been in force (“the relevant period”).

(2B) In relation to a person whose first complete accounting period falling within the relevant period has not ended when the penalty is imposed, subsection (2A)(b) is to be construed as referring to 5 per cent. of the amount which OFCOM estimate to be the share of multiplex revenue attributable to him for that accounting period.

(2C) Section 57(1) and (3) applies for determining or estimating the share of multiplex revenue attributable to a person for the purposes of subsection (2A) or (2B) above.”

(3) In subsection (4) of that section (maximum penalty to be imposed on holder of local radio multiplex licences for failure to comply with conditions or directions), for “£50,000” there shall be substituted “£250,000”.

(4) This paragraph applies in relation to a failure to comply with a condition or direction only if it is one occurring after the commencement of this paragraph.

Digital sound programme licences

20 (1) In subsection (2) of section 62 (penalty for failure by holder of digital sound programme licence to comply with licence conditions or directions), for the words from “whichever is the greater” onwards there shall be substituted “the maximum penalty given by subsection (2A).”

(2) For subsection (3) of that section (maximum penalties) there shall be substituted—

“(2A) The maximum penalty is whichever is the greater of—

(a) £250,000; and

(b) 5 per cent. of the aggregate amount of the shares of multiplex revenue attributable to him in relation to relevant multiplex services in respect of relevant accounting periods.”

(3) In subsection (4) of that section (meaning of “relevant accounting period”), for “subsection (3)” there shall be substituted “subsection (2A)”.

(4) In subsection (5) of that section, for “not yet ended, then for the purposes of subsection (3)” there shall be substituted “not ended when the penalty is imposed, then for the purposes of this section”.

(5) After that subsection there shall be inserted—

“(5A) A determination or estimate for the purposes of subsection (2A) or (5) above of the share of multiplex revenue attributable to a person in relation to national radio multiplex services is to be in accordance with section 57(2) and (3).

(5B) A determination or estimate for the purposes of subsection (2A) or (5) above of the share of multiplex revenue attributable to a person in relation to television multiplex services or general multiplex services is to be in accordance with section 15(2) and (3).”

(6) In subsection (6) of that section (maximum penalty where licence is a local digital sound programme licence), for “£50,000” there shall be substituted “£250,000”.

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- (7) This paragraph applies in relation to a failure to comply with a condition or direction only if it is one occurring after the commencement of this paragraph.

Licences for digital additional sound services

- 21 (1) In subsection (2) of section 66 (penalty for failure by holder of digital additional sound services licence to comply with licence conditions or directions), for the words from “whichever is the greater” onwards there shall be substituted “the maximum penalty given by subsection (2A).”
- (2) For subsection (3) of that section (maximum penalties) there shall be substituted—
- “(2A) The maximum penalty is whichever is the greater of—
- (a) £250,000; and
- (b) 5 per cent. of the aggregate amount of the shares of multiplex revenue attributable to him in relation to relevant multiplex services in respect of relevant accounting periods.”
- (3) In subsection (4) of that section (maximum penalty where licence is a local digital sound programme licence), for “£50,000” there shall be substituted “£250,000”.
- (4) In subsection (5) of that section (meaning of “relevant accounting period”) for “subsection (3)” there shall be substituted “subsection (2A)”.
- (5) In subsection (6) of that section, for “not yet ended, then for the purposes of subsection (3)” there shall be substituted “not ended when the penalty is imposed, then for the purposes of this section”.
- (6) After that subsection there shall be inserted—
- “(6A) A determination or estimate for the purposes of subsection (2A) or (6) above of the share of multiplex revenue attributable to a person in relation to national radio multiplex services is to be in accordance with section 57(2) and (3).
- (6B) A determination or estimate for the purposes of subsection (2A) or (6) above of the share of multiplex revenue attributable to a person in relation to general multiplex services is to be in accordance with section 15(2) and (3).”
- (7) This paragraph applies in relation to a failure to comply with a condition or direction only if it is one occurring after the commencement of this paragraph.

Power to amend digital television penalties

- 22 For section 69(2) and (3) (provisions that may be amended and negative resolution procedure) there shall be substituted—
- “(2) The provisions referred to in subsection (1) are—
- (a) section 53(5)(a) and (b)(i);
- (b) section 59(2A)(a) and (4);
- (c) section 62(2A)(a) and (6); and
- (d) section 66(2A)(a) and (4).
- (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.”

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SCHEDULE 14

Section 350

MEDIA OWNERSHIP RULES

PART 1

CHANNEL 3 SERVICES

Ban on newspaper proprietors holding Channel 3 licences

- 1 (1) A person is not to hold a licence to provide a Channel 3 service if—
- (a) he runs a national newspaper which for the time being has a national market share of 20 per cent. or more; or
 - (b) he runs national newspapers which for the time being together have a national market share of 20 per cent. or more.
- (2) A person is not to hold a licence to provide a regional Channel 3 service if—
- (a) he runs a local newspaper which for the time being has a local market share of 20 per cent. or more in the coverage area of the service; or
 - (b) he runs local newspapers which for the time being together have a local market share of 20 per cent. or more in that coverage area.
- (3) For the purposes of this paragraph, where there is a licence to provide a Channel 3 service, each of the following shall be treated as holding that licence—
- (a) the actual licence holder; and
 - (b) every person connected with the actual licence holder.

Restrictions on participation

- 2 (1) A person who is—
- (a) the proprietor of a national newspaper which for the time being has a national market share of 20 per cent. or more, or
 - (b) the proprietor of national newspapers which for the time being together have a national market share of 20 per cent. or more,
- is not to be a participant with more than a 20 per cent. interest in a body corporate which is the holder of a licence to provide a Channel 3 service.
- (2) A person who is the holder of a licence to provide a Channel 3 service is not to be a participant with more than a 20 per cent. interest in a body corporate which is a relevant national newspaper proprietor.
- (3) A body corporate is not to be a participant with more than a 20 per cent. interest in a body corporate which holds a licence to provide a Channel 3 service if the first body corporate is one in which a relevant national newspaper proprietor is a participant with more than a 20 per cent. interest.
- (4) A restriction imposed by this paragraph on participation in a body corporate which is the holder of a Channel 3 licence applies equally to participation in a body corporate which controls the holder of such a licence.
- (5) Any restriction on participation imposed by this paragraph—
- (a) on the proprietor of a newspaper, or

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- (b) on the holder of a licence,
is to apply as if he and every person connected with him were one person.
- (6) In this paragraph “a relevant national newspaper proprietor” means a person who runs—
 - (a) a national newspaper which for the time being has a national market share of 20 per cent. or more; or
 - (b) national newspapers which for the time being together have a national market share of 20 per cent. or more.

National and local newspapers and their respective national and local market shares

- 3
- (1) In this Part of this Schedule references to a national or local newspaper are references to a national or local newspaper circulating wholly or mainly in the United Kingdom or in a part of the United Kingdom.
 - (2) Where a newspaper is published in different regional editions on the same day, OFCOM have the power to determine whether those regional editions should be treated for the purposes of this Part of this Schedule as constituting—
 - (a) one national newspaper;
 - (b) two or more local newspapers; or
 - (c) one national newspaper and one or more local newspapers.
 - (3) In the case of a newspaper which would otherwise be neither a national nor a local newspaper for the purposes of this Part of this Schedule, OFCOM have the power to determine, if they consider it appropriate to do so in the light of—
 - (a) its circulation and influence in the United Kingdom, or
 - (b) its circulation or influence in a part of the United Kingdom,that the newspaper is to be treated as a national or as a local newspaper for such of those purposes as they may determine.
 - (4) For the purposes of this Part of this Schedule, the national market share of a national newspaper at any time is the percentage of the total number of copies of all national newspapers sold in the United Kingdom in the relevant six months which is represented by the total number of copies of that newspaper sold in the United Kingdom in that six months.
 - (5) For the purposes of this Part of this Schedule, the local market share of a local newspaper in any area at any time is the percentage of the total number of copies of all local newspapers sold in that area in the relevant six months which is represented by the total number of copies of that newspaper sold in that area in that six months.
 - (6) In sub-paragraphs (4) and (5) “the relevant six months” means the six months ending with the last whole calendar month to end before the time in question.
 - (7) For the purposes of sub-paragraphs (4) and (5), the number of copies of a newspaper sold in the United Kingdom, or in a particular area, during any period may be taken to be such number as is estimated by OFCOM—
 - (a) in such manner, or
 - (b) by reference to such statistics prepared by any other person,as they think fit.

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- (8) In relation to a newspaper which is distributed free of charge (rather than sold), references in this paragraph to the number of copies sold include references to the number of copies distributed.

Construction of references to running a newspaper

- 4 For the purposes of this Part of this Schedule a person runs a national or local newspaper if—
- (a) he is the proprietor of the newspaper; or
 - (b) he controls a body which is the proprietor of the newspaper.

Coverage area for a Channel 3 service

- 5 For the purposes of this Part of this Schedule the coverage area for a Channel 3 service is the area that is determined by OFCOM to be the area of the United Kingdom within which that service is capable of being received at a level satisfying such technical standards as may have been laid down by them for the purposes of this paragraph.

Power to amend Part 1 of Schedule

- 6 The Secretary of State may by order repeal or otherwise modify any of the restrictions imposed by this Part of this Schedule.

PART 2

RADIO MULTIPLEX SERVICES

Restriction on holding of national radio multiplex licences

- 7 A person is not to hold more than one national radio multiplex licence at the same time.

Restriction on holding of local radio multiplex licences

- 8
- (1) A person is not to hold any two local radio multiplex licences at the same time where the coverage area of one of the licensed services overlaps with the coverage area of the other in a way that means that the potential audience for one of them is or includes at least half the potential audience of the other.
 - (2) For the purposes of this paragraph the coverage area for a local radio multiplex service is the area determined by OFCOM to be the area in the United Kingdom within which that service is capable of being received at a level satisfying such technical standards as may have been laid down by them for the purposes of this sub-paragraph.
 - (3) Where a person is in contravention of this paragraph in respect of the holding by him of local radio multiplex licences, that contravention is to be disregarded in relation to any time if—
 - (a) he held those licences immediately before the commencement of this paragraph;

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- (b) his holding of those licences immediately before the commencement of this paragraph was not in contravention of paragraph 11(4) of Part 3 of Schedule 2 to the 1990 Act; and
 - (c) there has not been a relevant change of circumstances between the commencement of this paragraph and that time.
- (4) There is a relevant change of circumstances in the case of the person in contravention if another person becomes the holder of the two pre-commencement licences in relation to which the contravention arises.
- (5) In sub-paragraph (4) “pre-commencement licence”, in relation to a person and a time, means a local radio multiplex licence held by him immediately before the commencement of this paragraph and still held by him at that time.

Connected persons rules etc.

- 9 For the purposes of this Part of this Schedule, where there is a licence to provide a radio multiplex service, each of the following shall be treated as holding that licence—
- (a) the actual licence holder; and
 - (b) every person connected with the actual licence holder.

Power to amend Part 2 of Schedule

- 10 The Secretary of State may by order repeal or otherwise modify any of the restrictions imposed by this Part of this Schedule.

PART 3

LOCAL SOUND PROGRAMME SERVICES

Restriction on holding of local sound broadcasting licences

- 11 (1) The Secretary of State may by order impose—
- (a) requirements prohibiting the holding at the same time by the same person, in the circumstances described in the order, of more than the number of local sound broadcasting licences that is determined in the manner set out in the order;
 - (b) requirements prohibiting a person from holding even one local sound broadcasting licence in the circumstances described in the order.
- (2) The circumstances by reference to which a person may be prohibited under sub-paragraph (1) from holding a local sound broadcasting licence, and the factors that may be used for determining the number of such licences that he may hold, include, in particular—
- (a) whether and to what extent the coverage areas of different services provided by that person under different local sound broadcasting licences would overlap;
 - (b) the sizes of the potential audiences for those services and the times when those services would be made available;

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- (c) whether and to what extent members of the potential audiences for those services would also be members of the potential audiences for services provided under local sound broadcasting licences held by other persons;
 - (d) in a case in which members of potential audiences for services so provided by that person would also be members of the potential audiences for services so provided by other persons—
 - (i) the number of those other persons;
 - (ii) the coverage areas of their services;
 - (iii) the sizes of the potential audiences for their services; and
 - (iv) the times when their services are or will be made available;
 - (e) whether that person runs one or more national newspapers, and their national market share;
 - (f) whether and to what extent the whole or a part of the coverage area for a service for which that person would hold a local sound broadcasting licence is or includes an area in which one or more local newspapers run by him is circulating, and the newspapers' local market share;
 - (g) whether and to what extent the whole or a part the coverage area for which that person would hold a local sound broadcasting licence is or is included in the coverage area of a regional Channel 3 service for which he also holds a licence.
- (3) For the purposes of this paragraph the coverage area for a service provided under a local sound broadcasting licence or a Channel 3 licence is the area in the United Kingdom within which that service is capable of being received at a level satisfying such technical standards as may have been laid down by OFCOM for the purposes of the provisions of an order under this paragraph.

Restriction applying to local digital sound programme services

- 12 (1) The Secretary of State may by order impose requirements, on persons holding local digital sound programme licences, prohibiting the provision by the same person, in the circumstances described in the order, of more than the number of local digital sound programme services that is determined in the manner set out in the order.
- (2) The circumstances by reference to which a person may be prohibited under subparagraph (1) from providing a local digital sound programme service, and the factors that may be used for determining the number of such services that he may provide, include, in particular—
- (a) whether and to what extent the coverage areas of different local digital sound programme services provided by that person would overlap;
 - (b) the capacity used by those services on the relevant multiplexes;
 - (c) the sizes of the potential audiences for those services and the times when those services would be made available;
 - (d) whether and to what extent members of the potential audiences for those services would also be members of the potential audiences for local digital sound programme services provided by other persons;
 - (e) in a case in which members of the potential audiences for the services provided by that person would also be members of the potential audiences for local digital sound programme services provided by other persons—
 - (i) the number of those other persons;
 - (ii) the coverage areas of their services;

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- (iii) the capacity used by their services on the relevant multiplexes;
 - (iv) the sizes of the potential audiences for their services; and
 - (v) the times when their services are or will be made available.
- (3) For the purposes of this paragraph the coverage area for a service provided under a local digital sound programme licence is the area in the United Kingdom within which the relevant multiplex is capable of being received at a level satisfying such technical standards as may have been laid down by OFCOM for the purposes of the provisions of an order under this paragraph.
- (4) In this paragraph “the relevant multiplex”, in relation to a service provided under a local digital sound programme licence, means the local radio multiplex service in which the service provided under that licence is or is to be included.
- (5) For the purposes of this paragraph a person who holds a licence to provide local digital sound programme services provides such a service if, and only if—
- (a) the service is one provided by him and is included in a local radio multiplex service for which he holds a local radio multiplex licence; or
 - (b) under a contract between that person and a person who holds a licence to provide a local radio multiplex service, the person holding the licence to provide the radio multiplex service is required to include that local digital sound programme service in that multiplex service.

Powers supplemental to powers under paragraphs 11 and 12

- 13 (1) An order under paragraph 11 or 12 may make provision for treating—
- (a) persons who are connected with a person who holds a licence,
 - (b) persons who are associates of a person who holds a licence or of a person who is connected with a person who holds a licence, and
 - (c) persons who (whether alone or together with such persons as may be described in the order) participate in a body which holds a licence or is treated as doing so by virtue of paragraph (a) or (b),
- as if each of them were also a holder of the licence for the purposes of a requirement imposed under that paragraph.
- (2) An order under paragraph 12 may make provision for treating—
- (a) persons who are connected with a person who provides a local digital sound programme service,
 - (b) persons who are associates of a person who provides such a service or of a person who is connected with a person who provides such a service, and
 - (c) persons who (whether alone or together with such persons as may be described in the order) participate in a body who provides such a service or is treated as doing so by virtue of paragraph (a) or (b),
- as if each of them were also a person providing the service for the purposes of a requirement imposed under that paragraph.
- (3) An order under paragraph 11 or 12 may also make provision for treating—
- (a) persons who are connected with each other,
 - (b) persons who are associates of each other, and
 - (c) persons who (whether alone or together with such persons as may be described in the order) participate in a body,

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as if they and such other persons who are connected with, associates of or participators in any of them as may be described in the order were the same person for the purposes of a requirement imposed under that paragraph.

- (4) An order under paragraph 11 may make provision—
- (a) as to the circumstances in which a newspaper is to be treated as a national newspaper or a local newspaper for the purposes of a requirement imposed under that paragraph;
 - (b) as to the person or persons who are to be treated for any such purposes as running a newspaper;
 - (c) as to the determination for any such purposes of the area within which a local newspaper is circulating; and
 - (d) as to what is to constitute the national market share or local market share of any newspaper or of a number of newspapers taken together;
- and provision made by virtue of this paragraph may apply, with or without modifications, any of the provisions of paragraph 3 or 4 of this Schedule.
- (5) Power to make provision with respect to any matter by any order under paragraph 11 or 12 includes power—
- (a) to make provision with respect to that matter by reference to the making or giving by OFCOM, in accordance with the order, of any determination, approval or consent; and
 - (b) to confer such other discretions on OFCOM as the Secretary of State thinks fit.
- (6) Sub-paragraph (5) of paragraph 12 applies for the purposes of this paragraph as it applies for the purposes of that paragraph.

Transitional provision for orders under paragraphs 11 and 12

- 14 (1) This paragraph applies where—
- (a) immediately after the coming into force of an order under paragraph 11 or 12, a person (“the person in contravention”) is in contravention, in any respect, of a requirement imposed under that paragraph; and
 - (b) immediately before the coming into force of the order, that person—
 - (i) held one or more relevant licences; but
 - (ii) was not, in that respect, in contravention of a requirement imposed under that paragraph.
- (2) This paragraph does not apply in the case of the first order to be made under paragraph 11 or 12 if the person in contravention was, immediately before the coming into force of the order, in contravention, in relation to one or more of the relevant licences, of a requirement imposed under Part 3 or 4 of Schedule 2 to the 1990 Act.
- (3) In sub-paragraphs (1) and (2) the reference to a relevant licence is—
- (a) in relation to the coming into force of an order under paragraph 11, a local sound broadcasting licence; and
 - (b) in relation to the coming into force of an order under paragraph 12, a local digital sound programme licence.

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- (4) The contravention mentioned in sub-paragraph (1)(a), to the extent that it arises by reason of the coming into force of the order, is to be disregarded (in the case of the person in contravention) in relation to any time which falls—
 - (a) after the coming into force of the order; and
 - (b) before there is a relevant change of circumstances.
- (5) Where the contravention is one arising under paragraph 11 in the case of a person who held one or more local sound broadcasting licences immediately before the coming into force of the order, there is a relevant change of circumstances if—
 - (a) another person becomes the holder of any of those licences, otherwise than in consequence of a transaction under which the person in contravention ceases to be a holder of the licence; or
 - (b) the person in contravention becomes the holder of another local sound broadcasting licence.
- (6) A change of circumstances is not a relevant change of circumstances by virtue of sub-paragraph (5)(b) unless the licence of which the person in contravention becomes the holder is one the holding of which, with the holding of licences already held by him, would (apart from sub-paragraph (4)) constitute a contravention of a requirement imposed under paragraph 11.
- (7) Where the contravention is one arising under paragraph 12 in the case of a person who, under a local digital sound programme licence, was providing one or more local digital sound programme services immediately before the coming into force of the order, there is a relevant change of circumstances if—
 - (a) another person becomes the holder of that licence, otherwise than in consequence of a transaction under which the person in contravention ceases to be a holder of the licence; or
 - (b) the person in contravention becomes the provider of another local digital sound programme service provided under that licence.
- (8) A change of circumstances is not a relevant change of circumstances by virtue of sub-paragraph (7)(b) unless the service of which the person in contravention becomes the provider is one the provision of which, with the services already provided by him, would (apart from sub-paragraph (4)) constitute a contravention of a requirement imposed under paragraph 12.
- (9) For the purposes of this paragraph, in its application in relation to a contravention of a requirement imposed under paragraph 11 or 12—
 - (a) references to holding a licence or providing a local digital sound programme service are to be construed in accordance with the provision having effect for the purposes of that requirement; and
 - (b) the persons who are taken to be holding a local digital sound programme licence immediately before the coming into force of the order include every person who at that time would, in accordance with that provision, be treated as providing local digital sound programme services that were being provided at that time under that licence.

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PART 4

RELIGIOUS BODIES ETC.

Approval required for religious bodies etc. to hold licences

- 15 (1) A person mentioned in paragraph 2(1) of Part 2 of Schedule 2 to the 1990 Act (religious bodies etc.) is not to hold a Broadcasting Act licence not mentioned in paragraph 2(1A) of that Part unless—
- (a) OFCOM have made a determination in his case as respects a description of licences applicable to that licence; and
 - (b) that determination remains in force.
- (2) OFCOM are to make a determination under this paragraph in a person's case and as respects a particular description of licence if, and only if, they are satisfied that it is appropriate for that person to hold a licence of that description.
- (3) OFCOM are not to make a determination under this paragraph except on an application made to them for the purpose.
- (4) OFCOM must publish guidance for persons making applications to them under this paragraph as to the principles that they will apply when determining for the purposes of sub-paragraph (2) what is appropriate.
- (5) OFCOM must have regard to guidance for the time being in force under sub-paragraph (4) when making determinations under this paragraph.
- (6) OFCOM may revise any guidance under sub-paragraph (4) by publishing their revisions of it.
- (7) The publication of guidance under sub-paragraph (4), or of any revisions of it, is to be in whatever manner OFCOM consider appropriate.

Power to amend Part 4 of Schedule

- 16 The Secretary of State may by order repeal or otherwise modify the restriction imposed by this Part of this Schedule.

PART 5

SUPPLEMENTAL PROVISIONS OF SCHEDULE

Procedure for orders

- 17 (1) Before making an order under any provision of this Schedule (other than one that is confined to giving effect to recommendations made by OFCOM in a report of a review under section 391), the Secretary of State must consult OFCOM.
- (2) No order is to be made containing provision authorised by any provision of this Schedule unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

Interpretation of Schedule

- 18 (1) Part 1 of Schedule 2 to the 1990 Act applies for construing this Schedule as it applies for construing Part 2 of that Schedule.
- (2) References in this paragraph to an area overlapping another include references to its being the same as, or lying wholly inside, the other area.

SCHEDULE 15

Section 360

AMENDMENTS OF BROADCASTING ACTS

PART 1

AMENDMENTS OF THE 1990 ACT

Licences under Part 1

- 1 (1) Section 3 of the 1990 Act (licensing under Part 1) shall be amended as follows.
 - (2) For “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.
 - (3) In subsection (1), for “Chapter II, III, IV or V of this Part” there shall be substituted “Chapter 2 or 5 of this Part or section 235 of the Communications Act 2003”.
 - (4) For subsection (8) (saving for telecommunications licences) 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).”

General licence conditions

- 2 (1) Section 4 of the 1990 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), after “this Act” there shall be inserted “, the Broadcasting Act 1996 or the Communications Act 2003”.
 - (4) In subsection (3) (fixing of fees), the words from “and the amount” onwards shall be omitted.
 - (5) In subsection (5) (provision of false information to be breach of condition)—
 - (a) for “imposed under this Part” there shall be substituted “contained in the licence”; and

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- (b) after “and 42” there shall be inserted “or (as the case may be) sections 237 and 238 of the Communications Act 2003 (enforcement of television licensable content service licences)”.

Restrictions on licence holding

- 3 (1) Section 5 of the 1990 Act (restrictions on licence holding) 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; 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
- (b) in paragraph (b)(i), for “Parts III and IV of Schedule 2” there shall be substituted “the requirements imposed by or under Schedule 14 to the Communications Act 2003,”.
- (5) In subsection (6A)—
- (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) Subsection (6B) shall cease to have effect.
- (7) In subsection (7), 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 this Act or a contravention of a requirement imposed by or under Schedule 14 to the Communications Act 2003”.

Repeal of previous regulatory regime

- 4 Sections 6 to 12 of the 1990 Act (which contain the mechanism for regulation in relation to licences under Part 1 of that Act) shall cease to have effect.

Prohibition on providing television services without a licence

- 5 (1) Section 13 of the 1990 Act (prohibition on providing television services without a licence) shall be amended as follows.
- (2) In subsection (1) (offence of providing such service without a licence), for “service falling within section 2(1)(a), (aa), (b), (c), (cc) or (d)” there shall be substituted “relevant regulated television service”.
- (3) After that subsection there shall be inserted—
- “(1A) In subsection (1) “relevant regulated television service” means a service falling, in pursuance of section 211(1) of the Communications Act 2003, to be regulated by OFCOM, other than a television multiplex service.”
- (4) In subsection (2) (exemption orders made after consulting the ITC), for “the Commission” there shall be substituted “OFCOM”.

Television broadcasting on Channel 3

- 6 In section 14 of the 1990 Act (establishment of Channel 3), for “The Commission” and “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

Applications for Channel 3 licences

- 7 (1) Section 15 of the 1990 Act (applications for Channel 3 licences) shall be amended as follows.
- (2) For “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (2), for “specified in section 16(2) or (3) (as the case may be)” there shall be substituted “that have to be imposed under Chapter 4 of Part 3 of the Communications Act 2003 by conditions relating to—
- (a) the public service remit for that service,
 - (b) programming quotas,
 - (c) news and current affairs programmes, and
 - (d) programme production and regional programming.”
- (4) In subsection (3)—
- (a) in paragraph (b), for “specified in section 16(2) or (3) (as the case may be)” there shall be substituted “that have to be imposed under Chapter 4 of Part 3 of the Communications Act 2003 by conditions relating to—
 - (i) the public service remit for that service,
 - (ii) programming quotas,
 - (iii) news and current affairs programmes, and
 - (iv) programme production and regional programming”; - (b) paragraphs (c) to (e) shall be omitted.
- (5) After subsection (3) there shall be inserted—
- “(3A) For the purposes of subsection (1)(d)(ii)—

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- (a) different percentages may be specified for different accounting periods; and
 - (b) the percentages that may be specified for an accounting period include a nil percentage.”
- (6) In subsection (4), for “paragraphs (b) to (e)” there shall be substituted “paragraphs (b)”.

Procedure on consideration of applications for Channel 3 licences

- 8 (1) Section 16 of the 1990 Act (consideration of applications for Channel 3 licences) shall be amended as follows.
- (2) For “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (1), for “specified in subsection (2) or (3) below (as the case may be)” there shall be substituted “that have to be imposed under Chapter 4 of Part 3 of the Communications Act 2003 by conditions relating to—
- (i) the public service remit for that service,
 - (ii) programming quotas,
 - (iii) news and current affairs programmes, and
 - (iv) programme production and regional programming”.
- (4) Subsections (2) and (3) of that section shall cease to have effect.
- (5) In subsection (4) of that section—
- (a) for “specified in subsection (2) or (3) (as the case may be),” there shall be substituted “that have to be imposed under Chapter 4 of Part 3 of the Communications Act 2003 by conditions relating to—
 - (a) the public service remit for that service,
 - (b) programming quotas,
 - (c) news and current affairs programmes, and
 - (d) programme production and regional programming.”; - (b) the words from “and in applying” onwards shall be omitted.
- (6) Subsections (5) to (8) shall cease to have effect.

Television broadcasting on Channel 3

- 9 (1) Section 17 of the 1990 Act (award of licences to person submitting highest bid) shall be amended as follows.
- (2) For “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (12)(b), for “specified in section 16(2) or (3) (as the case may be)” there shall be substituted “that have to be imposed under Chapter 4 of Part 3 of the Communications Act 2003 by conditions relating to—
- (i) the public service remit for that service,
 - (ii) programming quotas,
 - (iii) news and current affairs programmes, and
 - (iv) programme production and regional programming”.

Financial conditions of licence and failures to begin a service

- 10 In sections 17A to 19 of the 1990 Act (financial conditions in Channel 3 licences and failures to begin a service), for “The Commission” and “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

Changes of control in period after award of licence

- 11 (1) Section 21 of the 1990 Act (changes of control in period immediately after award of licence) shall be amended as follows.
- (2) For “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (2), in the definition of “associated programme provider”, for the words from “appears” to “inclusion” there shall be substituted “is or is likely to be involved, to a substantial extent, in the provision of the programmes included”.

Temporary provision of Channel 3 service for an additional area

- 12 In section 22 of the 1990 Act (temporary provision of regional Channel 3 Service for additional area), for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

Appointment of members of C4 Corporation

- 13 In section 23 of the 1990 Act (appointment of C4C members), for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

Channel 4 licence

- 14 In section 24(3) of the 1990 Act (Channel 4 licence), for “the Commission” there shall be substituted “OFCOM”.

Channel 5

- 15 In section 28 of the 1990 Act (Channel 5), for “The Commission” and “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

Application to Channel 5 of Channel 3 provisions

- 16 (1) In section 29 of the 1990 Act (application to Channel 5 of Channel 3 provisions)—
- (a) subsection (2)(b) and the word “and” immediately preceding it, and
- (b) subsection (3),
- shall cease to have effect.
- (2) In subsection (2)(a) of that section, for “the Commission” there shall be substituted “OFCOM”.

Announcement of programme Schedules

- 17 In section 37(1) of the 1990 Act (conditions requiring announcement of programme Schedules), for “the Commission” there shall be substituted “OFCOM”.

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Enforcement of conditions of Channel 3, Channel 4 and Channel 5 licences

- 18 (1) In sections 40 to 42 of the 1990 Act (enforcement of licences), for “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (2) In sections 41(1) and 42(1)(a) of that Act (which contain provisions relating to the enforcement of directions under Part 1 of that Act), after “this Part”, in each place, there shall be inserted “, Part 5 of the Broadcasting Act 1996 or Part 3 of the Communications Act 2003”.

Restricted services

- 19 In section 42B(1) of the 1990 Act (licensing of restricted services), for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

Additional television services

- 20 (1) Section 48 of the 1990 Act (additional services) shall be further amended as follows.
- (2) In subsection (1)—
- (a) for “telecommunication” there shall be substituted “electronic”; and
 - (b) for paragraphs (a) and (b) there shall be substituted “on a relevant frequency”.
- (3) In subsection (2), for paragraphs (a) and (b) there shall be substituted “any part of the signals which—
- (a) is not required for the purposes of the television broadcasting service for the purposes of which the frequency has been made available; and
 - (b) is determined by OFCOM to be available for the provision of additional services;”.
- (4) After that subsection there shall be inserted—
- “(2A) For the purposes of this Part, if they consider it appropriate to do so, OFCOM may, while an additional services licence is in force, from time to time modify the determination made under subsection (2)(b) for the purposes of that licence in any manner that does not reduce the amount of spare capacity made available for the licensed services; and when so modified any such licence shall have effect accordingly.”
- (5) In subsection (3)—
- (a) for “The Commission” there shall be substituted “OFCOM”; and
 - (b) for “(2)(a)” there shall be substituted “(2)(b)”; and
 - (c) for paragraphs (a) to (c) there shall be substituted—
 - “(a) to the obligations contained in any code under section 303 of the Communications Act 2003 by virtue of subsection (5) of that section; and
 - (aa) to any need of the person providing the television broadcasting service in question to be able to use part of the signals carrying it for providing services (in addition to those provided for satisfying those obligations) which—
 - (i) are ancillary to programmes included in the service and directly related to their contents; or

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(ii) relate to the promotion or listing of such programmes.”

- (6) In subsection (4), for paragraphs (a) and (b) there shall be substituted—
- “(a) to provide services for the satisfaction in his case of obligations mentioned in subsection (3)(a); and
 - (b) to provide in relation to his television broadcasting service any such services as are mentioned in subsection (3)(aa).”

- (7) For subsection (6) there shall be substituted—

“(6) In this section—

- “electronic signals” means signals within the meaning of section 32 of the Communications Act 2003;
- “relevant frequency” means a frequency made available by OFCOM for the purposes of a television broadcasting service.”

- (8) This paragraph does not affect the validity of a licence granted or last renewed before the television transfer date, or the services licensed by any such licence.

Licensing of additional television services

- 21 (1) Section 49 of the 1990 Act (licensing of additional television services) shall be amended as follows.
- (2) For “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (1), for the words from “of the following” to “48(1)(b)” there shall be substituted “relevant frequency”.
- (4) For subsections (2) and (3) there shall be substituted—
- “(1A) An additional services licence is not required for an additional service that is comprised in the public teletext service (within the meaning of Part 3 of the Communications Act 2003).”
- (5) In subsection (10), at the end there shall be inserted “and “relevant frequency” has the same meaning as in section 48.”

Applications for additional services licences

- 22 (1) Section 50 of the 1990 Act (applications for additional services licences) shall be amended as follows.
- (2) For “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (1)(b)(ii), the words “(subject to the approval of the Secretary of State)” shall be omitted.
- (4) Subsection (7) shall cease to have effect.

Procedure on application etc. for additional television services licences

- 23 (1) Section 51 of the 1990 Act (consideration of applications for licences for additional television services) shall be amended as follows.

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- (2) For “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (1), for paragraph (a) (requirement of approval of technical plans) there shall be substituted—
 - “(a) that the technical plan submitted under section 50(3)(b), in so far as it involves the use of an electronic communications network (within the meaning of the Communications Act 2003), contains proposals that are acceptable to them; and”.
- (4) Subsections (2) and (7) shall cease to have effect.

Additional payments in respect of additional television services licences

- 24 In section 52 of the 1990 Act (additional payments in respect of additional television services licences), for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

Duration of additional television services licences

- 25 (1) Section 53 of the 1990 Act (duration and renewal of additional television services licences) shall be amended as follows.
 - (2) In subsection (1), for the words before paragraph (a) there shall be substituted—
 - “(1) A licence to provide additional services on a frequency which is a relevant frequency for the purposes of section 48 or (in the case of a licence granted before the television transfer date) was assigned under section 65—”.
 - (3) In subsection (2), after “not later than” there shall be inserted “the day falling three months before”.
 - (4) In subsections (4) to (11), for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
 - (5) In subsection (8), for the words from “payable” onwards there shall be substituted “the cash bid of the licence holder were the licence (instead of being renewed) to be granted for the period of the renewal on an application made in accordance with section 50(3).”
 - (6) After that subsection there shall be inserted—
 - “(8A) For the purposes of subsection (7)(b)—
 - (a) different percentages may be specified for different accounting periods; and
 - (b) the percentages that may be specified for an accounting period include a nil percentage.”
 - (7) After subsection (11) there shall be inserted—
 - “(12) A determination for the purposes of subsection (11)—
 - (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.

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(13) In this section “the television transfer date” has the same meaning as in the Communications Act 2003.”

Additional television services not to interfere with other transmissions

26 (1) Section 54 of the 1990 Act (additional television services not to interfere with other transmissions) shall be amended as follows.

(2) In subsection (1), for “the Commission” there shall be substituted “OFCOM”.

(3) Subsection (2) shall cease to have effect.

Enforcement of additional television services licences

27 (1) Section 55 of the 1990 Act (further provision in relation to 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) at the end there shall be inserted “and, in the case of a licence renewed under section 53 as if the reference in section 42(4) to the end of the period for which the licence is to continue in force were a reference to the end of the period for which it has been renewed.”

The Welsh Authority

28 (1) Section 58 of the 1990 Act (sources of programmes for S4C) shall be amended as follows.

(2) In subsection (1), for “comply with their duty under section 57(2)(b)” there shall be substituted “fulfil so much of their public service remit in relation to S4C under paragraph 3 of Schedule 12 to the Communications Act 2003 as is contained in sub-paragraph (2)(a) and (b) of that paragraph”.

(3) In subsection (2)(a), for “comply with section 57(3)” there shall be substituted “fulfil so much of their public service remit in relation to S4C under paragraph 3 of Schedule 12 to the Communications Act 2003 as is contained in sub-paragraph (2) (c) of that paragraph”.

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

“(6) In this section “programme” does not include an advertisement.”

Distribution of licensed public service channels

29 (1) Section 66 of the 1990 Act (requirements relating to transmission and distribution of services) shall be amended as follows.

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

(3) In subsections (1) and (2), for “for general reception” there shall be substituted “so as to be available for reception by members of the public”.

(4) After subsection (2) there shall be inserted—

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“(2A) In subsections (1) and (2) “available for reception by members of the public” shall be construed in accordance with section 361 of the Communications Act 2003”.

Enforcement of licences held by BBC companies

30 In section 66A of the 1990 Act (enforcement of licences held by BBC companies), for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

Interpretation of Part 1

31 (1) Section 71 of the 1990 Act (interpretation) shall be amended as follows.

(2) For the definitions of “S4C” and “on S4C” there shall be substituted—

““S4C” has the same meaning as in Part 3 of the Communications Act 2003;”.

(3) For the definitions of “television broadcasting service” and “television programme service” there shall be substituted—

““television broadcasting service”, “television licensable content service” and “television programme service” each has the same meaning as in Part 3 of the Communications Act 2003;”.

Licensing functions of OFCOM

32 (1) Section 85 of the 1990 Act (licensing of independent radio services) shall be amended as follows.

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

(3) In subsection (1), for “such licences to provide independent radio services as they may determine” there shall be substituted “licences to provide relevant independent radio services”.

(4) Subsections (3) and (4) (duty to secure the meeting of a variety of tastes and interests and to ensure fair and effective competition) shall cease to have effect.

(5) After subsection (7) there shall be inserted—

“(8) In this section “relevant independent radio services” means the following services so far as they are services falling to be regulated under section 245 of the Communications Act 2003—

- (a) sound broadcasting services;
- (b) radio licensable content services;
- (c) additional radio services.”

Licences under Part 3 of the 1990 Act

33 (1) Section 86 of the 1990 Act (licences under Part 3) shall be amended as follows.

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

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

(3) For subsection (9) of that section there shall be substituted—

“(9) The holding of a licence by a person 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).”

General licence conditions

- 34 (1) Section 87 of the 1990 Act (general licence conditions) shall be amended as follows.
- (2) For “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (1), in each of paragraphs (a) and (d), after “this Act” there shall be inserted “, the Broadcasting Act 1996 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

- 35 (1) Section 88 of the 1990 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; 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” there shall be substituted “the requirements imposed by or under Schedule 14 to the Communications Act 2003”.
- (5) In subsection (6A)—
 - (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) Subsection (6B) shall cease to have effect.
- (7) In subsection (7), 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 this Act or a contravention of a requirement imposed by or under Schedule 14 to the Communications Act 2003,”.

Disqualification of persons convicted of transmission offences

- 36 (1) Section 89 of the 1990 Act (offences giving rise to disqualification) shall be amended as follows.
- (2) In subsection (1), for paragraph (a) there shall be substituted—
- “(a) an offence under section 1(1) of the Wireless Telegraphy Act 1949 (“the 1949 Act”) consisting in the establishment or use of a station for wireless telegraphy, or the installation or use of wireless telegraphy apparatus, for the purpose of making a broadcast (within the meaning of section 9 of the Marine, &c., Broadcasting (Offences) Act 1967);
 - (aa) an offence under section 1A of the 1949 Act (keeping wireless telegraphy station or apparatus available for unauthorised use) where the relevant contravention of section 1 would constitute an offence falling within paragraph (a);
 - (ab) an offence under section 1B or 1C of the 1949 Act (unlawful broadcasting offences);”.
- (3) In subsection (3), for the words from “concerned” onwards there shall be substituted “concerned in—
- (a) the provision of the licensed service or the making of programmes included in it; or
 - (b) the operation of a station for wireless telegraphy used for broadcasting the service.”
- (4) This paragraph does not impose a disqualification in respect of any offence committed before the commencement of this paragraph.

Offence of providing regulated radio services

- 37 (1) Section 97 of the 1990 Act (prohibition on providing services without a licence) shall be amended as follows.
- (2) In subsection (1), for the words from “independent” to “84(1)(d), (e) or (f)” there shall be substituted “relevant regulated radio service”.
- (3) After that subsection there shall be inserted—

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

“(1A) In subsection (1) “relevant regulated radio service” means a service falling to be regulated by OFCOM under section 245 of the Communications Act 2003, other than a radio multiplex service.”

(4) In subsection (2) (exemption orders made after consulting the Radio Authority), for “the Authority” there shall be substituted “OFCOM”.

Applications for national licences

38 (1) Section 98 of the 1990 Act (applications for national licences) shall be amended as follows.

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

(3) In subsection (3)(a) (proposals to accompany application)—

(a) the word “both”, and

(b) sub-paragraph (ii) and the word “and” immediately preceding it, shall be omitted.

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

“(3A) For the purposes of subsection (1)(d)(ii)—

(a) different percentages may be specified for different accounting periods; and

(b) the percentages that may be specified for an accounting period include a nil percentage.”

(5) In subsection (4) (provision of further information), after “paragraphs (a),” there shall be inserted “(aa),”.

(6) In subsection (6)(b) (publication of details of successful applicant), after “subsection (3)(a)” there shall be inserted “and (aa)”.

Consideration of applications for a national licence

39 (1) Section 99 of the 1990 Act (consideration of applications for national licence) shall be amended as follows.

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

(3) In paragraph (a) of subsection (1) (proposals to accompany application)—

(a) the word “both”, and

(b) sub-paragraph (ii) and the word “and” immediately preceding it, shall be omitted.

(4) In paragraph (b) of that subsection, after “maintain that service” there shall be inserted “and any proposed simulcast radio service corresponding to that service”.

Award of national licences

40 In section 100 of the 1990 Act (award of national licences to person submitting highest cash bid), for “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.

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

Failure to begin providing licensed service

- 41 (1) Section 101 of the 1990 Act (failure to begin providing licensed service) shall be amended as follows.
- (2) For “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (1)—
- (a) in paragraph (a) for “the service in question” there shall be substituted “the licensed national service or that he does not intend to provide a corresponding simulcast radio service that he is required to provide by a condition imposed under section 100A”; and
- (b) in paragraph (b), for “that service” there shall be substituted “the licensed national service or any such simulcast radio service”.
- (4) In subsection (2), for “the service in question” there shall be substituted “the licensed national service or the simulcast radio service”.

Additional payments in respect of national licences

- 42 In section 102 of the 1990 Act (additional payments in respect of national licences), for “the Authority”, wherever occurring, there shall be substituted “OFCOM”.

Restrictions affecting change in control of holder of national licence

- 43 (1) Section 103 of the 1990 Act (restrictions on change of control of national licence) shall be amended as follows.
- (2) For “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (2) (interpretation)—
- (a) in the definition of “associated programme provider”, for the words from “appears” to “inclusion” there shall be substituted “is or is likely to be involved, to a substantial extent, in the provision of the programmes included”; and
- (b) in the words after the definition of “the relevant period”, for the words from “as if” onwards there shall be substituted “as it has effect for the purposes of that Schedule.”

Renewal of national licences

- 44 (1) Section 103A of the 1990 Act (renewal of national licences) shall be amended as follows.
- (2) For “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (1), for “eight” there shall be substituted “twelve”.
- (4) In subsection (2), after “not later than” there shall be inserted “the day falling three months before”.
- (5) In subsection (3), paragraph (a) and in paragraph (b) the words “in any other case” shall cease to have effect.
- (6) In subsection (4), for paragraph (b) there shall be substituted—

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

“(b) the applicant gave notice to OFCOM, within the period of one month beginning with the commencement of section 42 of the Broadcasting Act 1996, of his intention to provide a simulcast radio service, and”.

(7) For subsection (7) there shall be substituted—

“(7) The amount determined under subsection (6)(b) must be equal to the amount which, in OFCOM’s opinion, would have been the cash bid of the licence holder were the licence (instead of being renewed) to be granted for the period of the renewal on an application made in accordance with section 98.

(7A) For the purposes of subsection (6)(c)—

- (a) different percentages may be specified for different accounting periods; and
- (b) the percentages that may be specified for an accounting period include a nil percentage.”

(8) After subsection (10) there shall be inserted—

“(10A) In the case of a pre-transfer national licence (including one for a period extended under section 253 of the Communications Act 2003)—

- (a) the licence is not to be capable of being renewed under this section if it has already been renewed under this section before the radio transfer date; and
- (b) on the renewal of the licence, it shall be the duty of OFCOM to secure that the renewed licence contains only such provision as would be included in a national licence granted by OFCOM under this Part after the radio transfer date.”

(9) After subsection (11) there shall be inserted—

“(12) A determination for the purposes of subsection (11)—

- (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.”

Applications for local licences

- 45 (1) Section 104 of the 1990 Act (application for local licences) shall be amended as follows.
- (2) For “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (6), for the words from the beginning to “shall be made” there shall be substituted “An application for a licence to provide a restricted service shall be made”.

Renewal of local licences

- 46 (1) Section 104A of the 1990 Act (renewal of local licences) shall be amended as follows.
- (2) For “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.

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

- (3) In subsection (1), for “eight” there shall be substituted “twelve”.
- (4) In subsection (3), after “not later than” there shall be inserted “the day falling three months before”.
- (5) After subsection (12) there shall be inserted—
 - “(12A) In the case of a pre-transfer local licence (including one for a period extended under section 253 of the Communications Act 2003)—
 - (a) the licence is not to be capable of being renewed under this section if it has already been renewed under this section before the radio transfer date; and
 - (b) on the renewal of the licence, it shall be the duty of OFCOM to secure that the renewed licence contains only such provision as would be included in a local licence granted by OFCOM under this Part after the radio transfer date.”
- (6) In subsection (13)(d), for “paragraph 3A of Part I of Schedule 2” there shall be substituted “paragraph 8(2) of Schedule 14 to the Communications Act 2003”.
- (7) After subsection (13) there shall be inserted—
 - “(14) A determination for the purposes of subsection (13)(c)—
 - (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.”

Special procedure for applications for local licences

- 47 (1) Section 104B of the 1990 Act (special procedure for applications for local licences) shall be amended as follows.
 - (2) For “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
 - (3) After subsection (1) there shall be inserted—
 - “(1A) In subsection (1)(c) the reference to the service in question, in relation to a case in which it is a pre-transfer local licence that is due to expire, is a reference to the equivalent local service for which a licence is capable of being granted at times on or after the radio transfer date.”

Special requirements relating to grant of local licences

- 48 (1) Section 105 of the 1990 Act (special requirements relating to grant of local licences) shall be amended as follows.
 - (2) For “the Authority” there shall be substituted “OFCOM”.
 - (3) For paragraph (d) (duty to have regard to the extent to which proposed service supported by persons living in the area) there shall be substituted—
 - “(d) 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.”

Requirements as to character and coverage of services

- 49 In subsections (1) to (4) and (6) of section 106 of the 1990 Act (requirements as to character and coverage of services), for “the Authority”, wherever occurring, there shall be substituted “OFCOM”.

Enforcement of licences

- 50 In sections 109 to 111A of the 1990 Act (enforcement of licences), for “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.

Power to suspend licences to provide radio licensable content services from a satellite

- 51 (1) Section 111B of the 1990 Act (power to suspend licence to provide satellite service) shall be amended as follows.
- (2) For “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (1)—
- (a) in paragraph (a), for “satellite service” there shall be substituted “radio licensable content service”;
 - (b) in paragraph (b), for the words from “included in the licence” to the end of the paragraph there shall be substituted “which in compliance with section 263 of the Communications Act 2003 is included in the licence for the purpose of securing the objective mentioned in section 319(2)(b) of that Act, and”.

Additional radio services

- 52 (1) Section 114 of the 1990 Act (additional radio services) shall be amended as follows.
- (2) In subsection (1)—
- (a) for “telecommunication” there shall be substituted “electronic”; and
 - (b) for paragraphs (a) and (b) there shall be substituted “on a relevant frequency”.
- (3) In subsection (2), for paragraphs (a) and (b) there shall be substituted “any part of the signals which—
- (a) is not required for the purposes of the sound broadcasting service for the purposes of which the frequency has been made available; and
 - (b) is determined by OFCOM to be available for the provision of additional services;”.
- (4) After that subsection there shall be inserted—
- “(2A) At any time while an additional services licence is in force, OFCOM may, if they consider it appropriate to do so, modify or further modify the determination made for the purposes of that licence under subsection (2)(b); and where there has been such a modification or further modification, the licence shall have effect accordingly.
- (2B) A modification or further modification under subsection (2A) must not reduce the amount of spare capacity made available for the licensed services.”

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

- (5) In subsection (3), for the words from the beginning to “subsection (2)(a)” there shall be substituted “OFCOM shall, when determining under subsection (2)”.
- (6) For subsection (6) there shall be substituted—
 - “(6) In this section “electronic signal” means a signal within the meaning of section 32 of the Communications Act 2003.
 - (7) In this section and section 115 “relevant frequency” means a frequency made available by OFCOM for the purposes of a sound broadcasting service.”
- (7) This paragraph does not affect the validity of a licence granted or last renewed before the radio transfer date, or the services licensed by any such licence.

Licensing of additional radio services

- 53 (1) Section 115 of the 1990 Act (licensing of additional radio services) shall be amended as follows.
 - (2) For “The Authority” and “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
 - (3) In subsection (1), for the words from “of the following” to “114(1)(b)” there shall be substituted “relevant frequency”.
 - (4) In subsection (4), at the end there shall be inserted “and who would not be in contravention of the requirements imposed by or under Schedule 14 to the Communications Act 2003 if he held such a licence”.
 - (5) In subsection (8), for “local, restricted or satellite service” there shall be substituted “local or restricted service or to provide a radio licensable content service”.

Applications for additional radio services licences

- 54 (1) Section 116 of the 1990 Act (applications for additional radio services 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)(iii), the words “(subject to the approval of the Secretary of State)” shall be omitted.

Procedure for awarding additional radio services licences

- 55 (1) Section 117 of the 1990 Act (procedure for awarding additional radio services licences) shall be amended as follows.
 - (2) For “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
 - (3) In subsection (1), for paragraph (a) (requirement of approval of technical plans) there shall be substituted—
 - “(a) that the technical plan submitted under section 116(3)(b), in so far as it involves the use of an electronic communications network (within the meaning of the Communications Act 2003), contains proposals that are acceptable to them; and”.

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

(4) Subsections (2) and (7) shall cease to have effect.

Additional payments in respect of additional radio services licences

56 In section 118 of the 1990 Act (additional payments in respect of additional radio services licences), for “the Authority”, wherever occurring, there shall be substituted “OFCOM”.

Additional radio services not to interfere with other transmissions

57 (1) Section 119 of the 1990 Act (additional radio services not to interfere with other transmissions) shall be amended as follows.

(2) In subsection (1), for “the Authority” there shall be substituted “OFCOM”.

(3) Subsection (2) shall cease to have effect.

Enforcement of additional radio services licences

58 In section 120 of the 1990 Act (enforcement of additional radio services licences), for “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.

Interpretation

59 In subsection (1) of section 126 of the 1990 Act (interpretation of Part 3)—

(a) for the definition of “independent radio service” there shall be substituted—

““independent radio service” means a service falling to be regulated under section 245 of the Communications Act 2003;”;

(b) for the definitions of “local service”, “national service”, “restricted service” and “satellite service” there shall be substituted—

““local service”, “national service” and “restricted service” each has the same meaning as in section 245 of the Communications Act 2003;

“pre-transfer local licence” and “pre-transfer national licence” each has the same meaning as in section 253 of that Act;

“radio licensable content service” has the same meaning as in Part 3 of that Act;

“radio transfer date” has the same meaning as in that Act;”;

(c) in the definition of “sound broadcasting service” for the words from “(as defined” to the end there shall be substituted “(within the meaning of Part 3 of the Communications Act 2003);”.

Duty to provide advance information about programmes

60 In column 1 of the Table in section 176(7) of the 1990 Act (persons who are the providers of services for the purposes of the obligations to give advance information about programmes)—

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

- (a) for “regulation by the Independent Television Commission” there shall be substituted “regulation by OFCOM”;
- (b) for “The television broadcasting service provided by the Welsh Authority and the service referred to in section 57(1A)(a)” there shall be substituted “The public television services of the Welsh Authority (within the meaning of Part 2 of Schedule 12 to the Communications Act 2003)”;
- (c) for “section 84(2)(a)(i)” there shall be substituted “section 126(1)”;
- (d) for “the Radio Authority”, in both places, there shall be substituted “OFCOM”.

Proscription of foreign satellite services

- 61 (1) Section 177 of the 1990 Act (proscription of foreign satellite stations) shall be amended as follows.
- (2) In subsection (2), for “the Independent Television Commission or the Radio Authority consider that the quality of any relevant” there shall be substituted “OFCOM consider that the quality of any”.
 - (3) In subsection (3), for the words from the beginning to “Authority” there shall be substituted “OFCOM”.
 - (4) In subsection (6), the definition of “relevant foreign satellite service” shall be omitted.

Financing of Gaelic Broadcasting

- 62 (1) Section 183 of the 1990 Act (financing of Gaelic Broadcasting) shall be amended as follows.
- (2) For “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
 - (3) In subsection (2), for “by them under this section to be” there shall be substituted “by the Independent Television Commission under this section and”.
 - (4) This paragraph—
 - (a) so far as it relates to subsection (1) of section 183 has effect in relation only to financial years beginning after the television transfer date; and
 - (b) so far as it relates to subsection (2) of that section does not apply to amounts paid for earlier financial years.

Gaelic Broadcasting in Scotland

- 63 (1) Section 184 of the 1990 Act (broadcasting of programmes in Gaelic on Channel 3 in Scotland) shall be amended as follows.
- (2) In subsection (1), for the words “subsection (2)” there shall be substituted “subsection (1)(a)”.
 - (3) In subsection (3), for the words from “The conditions” to “the purpose of” there shall be substituted “The regulatory regime for a service to which this section applies includes the conditions that OFCOM consider appropriate for”.
 - (4) After that subsection there shall be inserted—

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

“(3A) Section 263 of the Communications Act 2003 (regulatory regime) applies in relation to conditions included by virtue of subsection (3) in the regulatory regime for a licensed service as it applies in relation to conditions which are so included by virtue of a provision of Chapter 4 of Part 3 of that Act.”

(5) In subsection (4)(b), for “the Commission” there shall be substituted “OFCOM”.

Maintenance of the national television archive

- 64 (1) In section 185 of the 1990 Act (maintenance of the national television archive)—
- (a) for “The Commission” and “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
 - (b) in subsection (5), the definition of “the Commission” shall be omitted.
- (2) This paragraph so far as it relates to subsection (1) of that section has effect in relation only to financial years beginning after the television transfer date.

Modification of networking arrangements

- 65 (1) Section 193 of the 1990 Act (modification of networking arrangements in consequence of competition legislation) shall be amended as follows.
- (2) In subsection (1), for the words from “the Office of Fair Trading” to “relevant authority)” there shall be substituted “the relevant authority”.
- (3) After subsection (2) there shall be inserted—
- “(2A) In subsection (1), “relevant authority” means—
- (a) in relation to a relevant order falling within subsection (2)(a), the Office of Fair Trading, the Competition Commission or (as the case may be) the Secretary of State;
 - (b) in relation to a relevant order falling within subsection (2)(b), the Office of Fair Trading, the Competition Commission, the Secretary of State or (as the case may be) OFCOM.”
- (4) In subsection (4), for “section 39(1) above” there shall be substituted “section 290(4) of the Communications Act 2003”.

Search warrants

- 66 (1) Section 196 of the 1990 Act (grant of search warrant to person authorised by the Independent Television Commission or the Radio Authority) shall be amended as follows.
- (2) In subsection (1), for “the relevant authority” there shall be substituted “OFCOM”.
- (3) Subsection (2) (definition of “relevant authority”) shall be omitted.

Notices

- 67 In section 199(5) of the 1990 Act (publication of notices), for paragraphs (a) and (b) there shall be substituted “by OFCOM under section 21, 41, 42, 55, 103, 109, 110, 111 or 120”.

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

Interpretation

- 68 (1) Section 202 of the 1990 Act (general interpretation) shall be amended as follows.
- (2) In subsection (1), after the definition of “modifications” there shall be inserted—
- ““OFCOM” means the Office of Communications;”.
- (3) After subsection (6) there shall be inserted—
- “(6A) Subsections (2) and (3) of section 362 of the Communications Act 2003 (persons by whom services provided) are to apply for the purposes of this Act as they apply for the purposes of Part 3 of that Act.”

Disqualified persons

- 69 (1) Schedule 2 to the 1990 Act (restrictions on the holding of licences) shall be amended as follows.
- (2) In paragraph 1(1) of Part 1, after the definition of “associate” there shall be inserted—
- ““Broadcasting Act licence” means a licence under Part 1 or 3 of this Act or Part 1 or 2 of the Broadcasting Act 1996;”.
- (3) In paragraph 1(6) of Part 1 (meaning of “more than a 20 per cent. interest”), for “20 per cent.”, wherever occurring, there shall be substituted “5 per cent.”.
- (4) In Part 2 (disqualified persons), for “a licence granted by the Commission or the Authority”, wherever occurring, there shall be substituted “a Broadcasting Act licence”.
- (5) In paragraph 1(1)(i) of Part 2 (bodies controlled by persons falling within paragraphs (a) to (g)), for “(a)” there shall be substituted “(c)”.
- (6) In paragraph 3(1) of Part 2, for “by the Authority” there shall be substituted “under Part 3 of this Act or Part 2 of the Broadcasting Act 1996”.
- (7) In paragraph 4(1) of Part 2, for “that body” there shall be substituted “OFCOM”.
- (8) In paragraph 4(2) of Part 2—
- (a) in paragraph (a), for “by the Commission, means a body” there shall be substituted “under Part 1 of this Act or Part 1 of the Broadcasting Act 1996, means a person”; and
- (b) in paragraph (b), for “by the Authority, means a body” there shall be substituted “under Part 3 of this Act or Part 2 of the Broadcasting Act 1996, means a person”.
- (9) In paragraph 5A of Part 2—
- (a) in sub-paragraph (1)(a), the words “granted by the Commission”,
- (b) sub-paragraph (1)(b) and the word “and” immediately preceding it,
- (c) in sub-paragraph (2), the words “granted by the Authority”,
- shall be omitted.

C4C

- 70 (1) Schedule 3 to the 1990 Act (provision about constitution and management of C4C) shall be amended as follows.

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

- (2) For “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In paragraph 2(1) (persons disqualified from membership of the Corporation), for paragraphs (b) to (d) there shall be substituted “or
 - (b) a member or employee of OFCOM.”

The Welsh Authority

- 71 (1) Schedule 6 to the 1990 Act (provision about constitution and management of the Welsh Authority) shall be amended as follows.
- (2) In paragraph 2 (persons disqualified from membership of the Authority)—
 - (a) sub-paragraph (1) shall be omitted; and
 - (b) in sub-paragraph (2)(b), for “the Commission” there shall be substituted “OFCOM”.
 - (3) In paragraph 12(1A), for the words from “the general fund” onwards there shall be substituted “the assets of the Authority that are not comprised in that fund; and accordingly, the statement must deal with liabilities separately according to whether they fall to be met from that fund or from those assets.”

Computation of qualifying revenue

- 72 (1) Schedule 7 to the 1990 Act (computation of “qualifying revenue”) 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”.

The Gaelic Television Committee

- 73 (1) Schedule 19 to the 1990 Act (Gaelic Television Committee) shall be amended as follows.
- (2) For “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.
 - (3) For “Committee”, wherever occurring, there shall be substituted “Service”.
 - (4) In paragraph 8(c), the words “and (where the expenses relate to the Commission’s functions in connection with sound programmes) the Radio Authority” shall be omitted.
 - (5) In paragraph 11(4), the words “or the Radio Authority” and “or (as the case may be) the Authority” shall be omitted.

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

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.”

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—

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- “(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
 - (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”.

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- (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”.

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)—
- (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

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- (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”.
- (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
 - (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 licences

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

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- (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—
 - “(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.”

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

(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”;

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

- (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 Gàidhlig” 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;
 - “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.”

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

- (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
 - (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
- (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

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

(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,

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.”

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

- (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—
 - (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.

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

- (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”.

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”;

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

- (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
 - (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”.

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

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.

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”;

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

- (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”.

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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
 - (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.

(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

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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.”.

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)—

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- (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)”;
 - (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—

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““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”.

SCHEDULE 16

Section 389

FURTHER AMENDMENTS IN CONNECTION WITH MEDIA MERGERS

Competition Act 1980 (c. 21)

- 1 In section 11C(1) of the Competition Act 1980 (application of section 117 of the Enterprise Act 2002 (c. 40)) for the words ““the OFT,”” there shall be substituted ““the OFT, OFCOM,””.

Gas Act 1986 (c. 44)

- 2 In section 41EB(4) of the Gas Act 1986 (application of section 117 of the Enterprise Act 2002) for the words ““the OFT,”” there shall be substituted ““the OFT, OFCOM,””.

Electricity Act 1989 (c. 29)

- 3 In section 56CB(4) of the Electricity Act 1989 (application of section 117 of the Enterprise Act 2002) for the words ““the OFT,”” there shall be substituted ““the OFT, OFCOM,””.

Railways Act 1993 (c. 43)

- 4 (1) The Railways Act 1993 shall be amended as follows.
- (2) In section 13B(4) of that Act (application of section 117 of the Enterprise Act 2002) for the words ““the OFT,”” there shall be substituted ““the OFT, OFCOM,””.
- (3) In section 15C(2G) of that Act (application of section 117 of the Enterprise Act 2002) for the words ““the OFT,”” there shall be substituted ““the OFT, OFCOM,””.
- (4) In Schedule 4A to that Act, in paragraphs 10A(4) and 15(2G) (application of section 117 of the Enterprise Act 2002) for the words ““the OFT,”” there shall, in both places, be substituted ““the OFT, OFCOM,””.

Financial Services and Markets Act 2000 (c. 8)

- 5 In Schedule 14 to the Financial Services and Markets Act 2000, in paragraph 2A(4) (application of section 117 of the Enterprise Act 2002), for the words “the OFT,” there shall be substituted “the OFT, OFCOM,”.

Postal Services Act 2000 (c. 26)

- 6 (1) The Postal Services Act 2000 shall be amended as follows.
- (2) In section 15B(4) (application of section 117 of the Enterprise Act 2002) for the words “the OFT,” there shall be substituted “the OFT, OFCOM,”.
- (3) In section 19A(9) (application of section 117 of the Enterprise Act 2002) for the words “the OFT,” there shall be substituted “the OFT, OFCOM,”.

Transport Act 2000 (c. 38)

- 7 (1) The Transport Act 2000 shall be amended as follows.
- (2) In section 12B(4) (application of section 117 of the Enterprise Act 2002 (c. 40)) for the words “the OFT,” there shall be substituted “the OFT, OFCOM,”.
- (3) In section 18(9) (application of section 117 of the Enterprise Act 2002) for the words “the OFT,” there shall be substituted “the OFT, OFCOM,”.

Enterprise Act 2002 (c. 40)

- 8 (1) Section 43 of the Enterprise Act 2002 (intervention notices under section 42) shall be amended as follows.
- (2) In subsection (4)(a) (final determination of matters to which intervention notice relates)—
- (a) after the word “OFT” there shall be inserted “or (if relevant) OFCOM”; and
- (b) after the word “44” there shall be inserted “or (as the case may be) 44A”.
- (3) After subsection (5) there shall be inserted—
- “(6) In this Part “OFCOM” means the Office of Communications.”
- 9 In section 45(1)(b) of that Act (circumstances in which the Secretary of State may make a public interest reference to the Competition Commission) after the words “section 44” there shall be inserted “, and any report of OFCOM which is required by virtue of section 44A,”.
- 10 After section 50(2) of that Act (reports on references in public interest cases) there shall be inserted—
- “(2A) Where the report relates to a reference under section 45 which has been made after a report of OFCOM under section 44A, the Commission shall give a copy of its report (whether or not published) to OFCOM.”
- 11 In section 57(2) of that Act (duty to bring representations to attention of Secretary of State) after the words “the OFT”, in both places where they occur, there shall be inserted “, OFCOM”.
- 12 In section 58(4)(b) of that Act (retrospective effect of orders modifying specified considerations) after the word “OFT,” there shall be inserted “OFCOM,”.

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- 13 In section 60(4)(a) of that Act (final determination of matters to which special intervention notice relates)—
- (a) after the word “OFT” there shall be inserted “or (if relevant) OFCOM”; and
 - (b) after the word “61” there shall be inserted “or (as the case may be) 61A”.
- 14 In section 62(1)(b) of that Act (circumstances in which the Secretary of State may make a special public interest reference to the Competition Commission) after the words “section 61” there shall be inserted “, and any report of OFCOM which is required by virtue of section 61A,”.
- 15 After section 65(2) of that Act (reports on references in special public interest cases) there shall be inserted—
- “(2A) Where the report relates to a reference under section 62 which has been made after a report of OFCOM under section 61A, the Commission shall give a copy of its report (whether or not published) to OFCOM.”
- 16 In section 67(1)(b) of that Act (intervention to protect legitimate interests)—
- (a) the words from “which” to “or 33” shall cease to have effect;
 - (b) for the words “that section” there shall be substituted “section 22 or 33”; and
 - (c) after the word “concerned” there shall be inserted “(whether or not there would otherwise have been a duty to make such a reference)”.
- 17 In section 68(2)(c) of that Act (scheme for protecting legitimate interests)—
- (a) the words from “which”, where it occurs for the second time, to “or 33” shall cease to have effect; and
 - (b) for the words “that section” there shall be substituted “section 22 or 33 (whether or not there would otherwise have been a duty to make such a reference)”.
- 18 (1) Section 107 of that Act (further publicity requirements) shall be amended as follows.
- (2) In subsection (3) (duties of the Secretary of State to publish), after paragraph (b), there shall be inserted—
- “(ba) any report of OFCOM under section 44A or 61A which has been received by him;”.
- (3) In subsection (9)(a) (publication of reports of OFT in public interest cases) after the words “section 44” there shall be inserted “, and any report of OFCOM under section 44A,”.
- (4) In subsection (10)(a) (publication of reports of OFT in special public interest cases) after the words “section 61” there shall be inserted “, and any report of OFCOM under section 61A,”.
- 19 In section 108 of that Act (defamation) after the words “the OFT,” there shall be inserted “OFCOM,”.
- 20 (1) Section 117 of that Act (false or misleading information) shall be amended as follows.
- (2) In subsection (1)(a) (offence of supplying false or misleading information to the OFT etc.) after the word “OFT,” there shall be inserted “OFCOM,”.
- (3) In subsection (2) (offence of supplying false or misleading information to another person for use by OFT etc.) after the word “OFT,” there shall be inserted “OFCOM,”.

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- 21 In section 118(1) of that Act (excisions from reports) before the word “or” at the end of paragraph (a) there shall be inserted—
“(aa) a report of OFCOM under section 44A or 61A;”.
- 22 In section 120(1) of that Act (review of decisions under Part 3) after the word “OFT,” there shall be inserted “OFCOM,”.
- 23 (1) Section 121 of that Act (fees) shall be amended as follows.
- (2) In subsection (1)—
- (a) after the words “the OFT”, where they occur for the second time, there shall be inserted “, OFCOM”; and
- (b) the words “, Part V of the Fair Trading Act 1973 (c. 41)” shall cease to have effect.
- (3) In subsection (2)—
- (a) at the end of paragraph (a) there shall be inserted the word “or”; and
- (b) paragraph (b), and the word “or” at the end of the paragraph, shall cease to have effect.
- (4) In subsection (4)(c)—
- (a) sub-paragraph (i);
- (b) the word “and” at the end of the sub-paragraph; and
- (c) in sub-paragraph (ii), the words “in any other case;”, shall cease to have effect.
- (5) In subsection (8)—
- (a) after the words “the OFT”, where they occur for the second time, there shall be inserted “, OFCOM”; and
- (b) the words “, Part V of the Act of 1973” shall cease to have effect.
- (6) Subsection (10) shall cease to have effect.
- 24 (1) Section 124 of that Act (orders and regulations under Part 3) shall be amended as follows.
- (2) In subsection (3) after the word “34” there shall be inserted “, 59(6A)”.
- (3) In subsection (4) after the word “40(8),” there shall be inserted “44(11),”.
- (4) In subsection (6) after the word “34,” there shall be inserted “44(11), 59(6A),”.
- 25 (1) Section 130 of that Act (index of defined expressions) shall be amended as follows.
- (2) After the entry relating to “Anti-competitive outcome” there shall be inserted—

“Broadcasting Section 44(9)”.

(3) After the entry relating to “Market in the United Kingdom” there shall be inserted—

“Media public interest consideration Section 44(8)”.

(4) After the entry for “Modify” there shall be inserted—

“Newspaper Section 44(10)”.

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(b) who, immediately before that date, was authorised to provide that network or service by a licence to which section 8 of that Act applied; “operator”, in relation to an electronic communications code network, means—

(a) the electronic communications code operator providing that network; or

(b) the Secretary of State or a Northern Ireland department, to the extent that they are providing or proposing to provide that network;

“provide” and cognate expressions, in relation to an electronic communications network, an electronic communications service or associated facilities, are to be construed in accordance with section 32(4) of this Act;

“public electronic communications network” and “public electronic communications service” each has the same meaning as in Chapter 1 of Part 2 of this Act.

(2) In this paragraph—

(a) “conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system shall be construed in accordance with paragraph 1(3A) of that code;

(b) “electronic communications code”, “electronic communications code network”, “electronic communications code operator”, “public electronic communications network” and “public electronic communications service” each has the meaning given in sub-paragraph (1).

Official Secrets Act 1911

2 For the purposes of the Official Secrets Act 1911 (c. 28), any electronic communications station or office belonging to, or occupied by, the provider of a public electronic communications service shall be a prohibited place.

Law of Property Act 1925

3 In section 194(4) of the Law of Property Act 1925 (c. 20) (exceptions from restrictions on inclosure of commons), for the words from “telecommunication apparatus” onwards there shall be substituted “electronic communications apparatus installed for the purposes of an electronic communications code network.”

Public Health Act 1925

4 In section 10 of the Public Health Act 1925 (c. 71) (Crown application), for the words from “telecommunication apparatus” to “system” there shall be substituted “electronic communications apparatus kept installed for the purposes of an electronic communications code network”.

London Overground Wires, etc Act 1933

5 (1) The London Overground Wires, etc. Act 1933 (c. xlv) shall be amended as follows.

(2) In section 11 (saving for safety regulations), for “any telecommunication apparatus made” there shall be substituted “any electronic communications apparatus made”.

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- (3) In section 14 (savings in respect of telecommunications code system)—
- (a) for “telecommunication apparatus kept installed for the purposes of a telecommunications code system” there shall be substituted “electronic communications apparatus kept installed for the purposes of an electronic communications code network”;
 - (b) for the words from “conferred by” onwards there shall be substituted “conferred by or in accordance with the electronic communications code on the operator of any such network.”

Wireless Telegraphy Act 1949

- 6 (1) Section 1 of the Wireless Telegraphy Act 1949 (c. 54) (licensing wireless telegraphy) shall be amended as follows.
- (2) In subsection (1)—
- (a) for paragraphs (a) and (b) there shall be substituted “by OFCOM;”;
 - (b) in the proviso, for the words from “Provided” to “by regulations” there shall be substituted “Provided that OFCOM may by regulations”.
- (3) After subsection (1) there shall be inserted—
- “(1AA) Subsection (1) shall not apply to the use of a television receiver (within the meaning of Part 4 of the Communications Act 2003) for receiving a television programme or to the installation of a television receiver for use solely for that purpose.”
- (4) In subsection (2), for paragraphs (a) and (b) there shall be substituted “as OFCOM think fit”.
- (5) In subsection (3), for the words from “revoked by” to “BBC” there shall be substituted “revoked by OFCOM”.
- (6) In subsection (4), for the words from “notice in writing of” to “served”, in the first place where it occurs, there shall be substituted “notice in writing from OFCOM served by them”.
- (7) In subsection (5), for the words from “surrendered” to “so to do” there shall be substituted “surrendered to OFCOM if required by them to do so”.
- 7 In section 1C of that Act (prohibition on Acts facilitating unauthorised broadcasting), for subsection (4) there shall be substituted—
- “(4) The cases in which a person is to be taken for the purposes of this section as advertising by means of a broadcast include any case in which he causes or allows it to be stated, suggested or implied that entertainment included in the broadcast—
- (a) has been supplied by him; or
 - (b) is provided wholly or partly at his expense.”
- 8 (1) Section 1D of that Act (procedure for grant of licences for providing a telecommunications service) shall be amended as follows.
- (2) For the words “the Secretary of State”, “himself” and “he”, wherever occurring, there shall be substituted, respectively, “OFCOM”, “themselves” and “they”.

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- (3) Subsections (1) and (2) (which confine sections 1D to 1F to licences for the purposes of a telecommunications service) shall cease to have effect.
- (4) For subsection (3) there shall be substituted—
- “(3) An application for a grant of a wireless telegraphy licence shall be determined in accordance with procedures prescribed in regulations made by OFCOM.”
- (5) In subsection (4), for “specified under subsection (3) shall include” there shall be substituted “must include provision for”.
- (6) After subsection (4) there shall be inserted—
- “(4A) The time limits fixed for the purposes of subsection (4) in relation to any application made after the coming into force of this subsection must require a decision on the application to be made, notified to the applicant and published—
- (a) in the case of an application for a licence relating to a frequency allocated in accordance with the United Kingdom Plan for Frequency Authorisation, not more than six weeks after the day of the receipt of the application; and
- (b) in any other case, as soon as possible after the receipt of the application.
- (4B) The period of six weeks specified in subsection (4A)(a) may be extended by OFCOM where it appears to them necessary to do so—
- (a) for the purpose of enabling the requirements of any international agreement relating to frequencies or to orbital positions or to satellite Co-ordination to be complied with; or
- (b) in a case where a determination falls to be made as to which of a number of applicants is the more or most suitable to be licensed, for the purpose of securing that the procedure for the making of that determination is fair, reasonable, open and transparent.
- (4C) That period shall not be extended by virtue of subsection (4B)(b) by more than eight months.”
- (7) In subsection (5) for “requires” there shall be substituted “require”.
- (8) In subsection (6)—
- (a) for “proposes” there shall be substituted “propose”;
- (b) for “28 days” there shall be substituted “one month”.
- (9) Subsections (7) and (8) shall cease to have effect.
- (10) For subsection (9) there shall be substituted—
- “(9) In imposing terms, provisions or limitations of a wireless telegraphy licence, OFCOM shall impose only those that they are satisfied are—
- (a) objectively justifiable in relation to the networks and services to which they relate;
- (b) not such as to discriminate unduly against particular persons or against a particular description of persons;
- (c) proportionate to what they are intended to achieve; and

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- (d) in relation to what they are intended to achieve, transparent.”
- 9 (1) Section 3 of that Act (regulations as to wireless telegraphy) shall be amended as follows.
- (2) In subsection (1), for the words before paragraph (a) there shall be substituted “OFCOM may make regulations—”.
- (3) After subsection (2) there shall be inserted—
- “(2A) The approval of the Secretary of State is required for the making by OFCOM of any regulations under this section.
- (2B) A statutory instrument containing regulations made by OFCOM under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- 10 No appeal shall be brought to the tribunal established under section 9 of that Act (appeals tribunal in relation to decisions about interference) in respect of any decision made after the coming into force of section 192 of this Act.
- 11 (1) Section 10 of that Act (regulations as to radiation of electro-magnetic energy etc.) shall be amended as follows.
- (2) In subsection (1), for the words before paragraph (a) there shall be substituted “OFCOM may make regulations for either or both of the following purposes—”.
- (3) In subsection (2), for the words from the beginning to “fit” there shall be substituted “The requirements prescribed under subsection (1) shall be such as OFCOM think fit”.
- (4) After subsection (4) there shall be inserted—
- “(4A) The approval of the Secretary of State is required for the making by OFCOM of any regulations under this section.
- (4B) A statutory instrument containing regulations made by OFCOM under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- 12 (1) Section 11 of that Act (enforcement of regulations as to apparatus) shall be amended as follows.
- (2) In subsection (1)—
- (a) for the words before paragraph (a) there shall be substituted “If OFCOM are of the opinion—”;
- (b) for “he considers” there shall be substituted “they consider”;
- (c) for “he may” there shall be substituted “OFCOM may”;
- (d) for the words from “or, if” to “fit” there shall be substituted “or, if OFCOM think fit”;
- (e) in paragraph (ii) of the proviso, for the words from the beginning to “satisfied” there shall be substituted “if OFCOM are satisfied”.
- (3) In subsection (2), for the words from “notice in writing by” to “served”, in the first place where it occurs, there shall be substituted “notice in writing from OFCOM served by them”.

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- (4) In subsection (7), for the words from “notice” to “section” there shall be substituted “notice from OFCOM under this section”.
- 13 (1) Section 12 of that Act (enforcement of regulations as to sales etc.) shall be amended as follows.
- (2) In subsection (1)—
- (a) for the words from the beginning to “opinion” there shall be substituted “If OFCOM are of the opinion”; and
- (b) for “he” there shall be substituted “OFCOM”.
- (3) In subsection (5), for the words from “by” onwards there shall be substituted “by OFCOM, be guilty of an offence.”
- 14 (1) Section 14 of that Act (penalties and legal proceedings) shall be amended as follows.
- (2) In subsection (1), for paragraph (a) substitute—
- “(a) any offence under section 5(1)(a) of this Act; or”.
- (3) In subsection (1A)—
- (a) in paragraph (c), for “of the Secretary of State” there shall be substituted “from OFCOM”; and
- (b) paragraph (e) shall cease to have effect.
- (4) In subsection (3)—
- (a) paragraph (b) shall cease to have effect; and
- (b) for “the Secretary of State” there shall be substituted “OFCOM”.
- (5) In subsections (3A), (3B), (3D) and (3E), for “the Secretary of State” there shall be substituted “OFCOM”.
- (6) In subsection (3B), for “he thinks” there shall be substituted “they think”.
- (7) In subsection (3D), for “him” there shall be substituted “them”.
- (8) In subsection (7) (enforcement by civil proceedings)—
- (a) after the words “the Crown”, in the first place where they occur, there shall be inserted “or by OFCOM,”; and
- (b) for the words from “In the application” onwards there shall be substituted—
- “In the application of this section to Scotland for the words from “civil proceedings” to “appropriate relief” there shall be substituted “civil proceedings by the Advocate General for Scotland, or by OFCOM, for an interdict or for any other appropriate remedy or relief.””
- 15 (1) Section 15 of that Act (powers of entry) shall be amended as follows.
- (2) In subsection (1), for paragraphs (a) and (b) and the words “, with or without any constables,” there shall be substituted “any constable or any person or persons authorised for the purpose by OFCOM or the Secretary of State”.
- (3) After that subsection there shall be inserted—
- “(1A) Where a person authorised by OFCOM or the Secretary of State is authorised by a warrant under subsection (1) to enter any premises, he is to be entitled

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to exercise that warrant alone or to exercise it accompanied by one or more constables.”

- (4) In subsection (2)—
- (a) in paragraph (b), for the words from “enable” to “decide” there shall be substituted “enable OFCOM to decide”;
 - (b) in paragraph (c), for the words from “behalf” to “producing” there shall be substituted “behalf by OFCOM and producing”;
 - (c) in the words after paragraph (c), for the words from “behalf” to “with” there shall be substituted “behalf by OFCOM, with”;
 - (d) in paragraph (i) of the proviso, for the words from “that”, in the first place where it occurs, to “satisfied” there shall be substituted “that OFCOM are satisfied”.
- (5) In subsection (2A) for “the BBC” there shall be substituted “OFCOM”.
- 16 (1) Section 16 of that Act (regulations and orders) shall be amended as follows.
- (2) After subsection (1) there shall be inserted—
- “(1A) Section 403 of the Communications Act 2003 (procedure for regulations and orders made by OFCOM) applies to every power of OFCOM to make regulations under a provision of this Act.”
- (3) In subsection (2), for the words from the beginning to “him” there shall be substituted “Any power conferred on the Secretary of State”.
- 17 In section 19 of that Act (interpretation), after subsection (2) there shall be inserted—
- “(2AA) In this Act “OFCOM” means the Office of Communications.”
- 18 In Schedule 1 to that Act (procedures in relation to wireless personnel), for paragraph 3 there shall be substituted—
- “3 The Secretary of State is to pay—
- (a) the expenses incurred by an advisory committee under this Schedule, to the extent determined by him; and
 - (b) such sums as he may determine in respect of the expenses of the members of the committee.”

Coast Protection Act 1949

- 19 In section 47 of the Coast Protection Act 1949 (c. 74) (savings), in paragraph (b), for the words from “the telecommunications code” to “system” there shall be substituted “the electronic communications code on the operator of an electronic communications code network”.

National Parks and Access to the Countryside Act 1949

- 20 (1) The National Parks and Access to the Countryside Act 1949 (c. 97) shall be amended as follows.
- (2) In section 20(2) (byelaws for protection of nature reserves not to interfere with certain rights)—
- (a) for “the running of a telecommunications code system” there shall be substituted “the provision of an electronic communications code network”;

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- (b) for “the telecommunications code” there shall be substituted “the electronic communications code”;
 - (c) for “such system” there shall be substituted “such network”.
- (3) In section 60(5)(f) (exceptions from rights of public where access agreement etc. in force), for “or a telecommunications code system” there shall be substituted “or an electronic communications code network”.

London County Council (General Powers) Act 1949

- 21 In section 7(6) of the [London County Council \(General Powers\) Act 1949 \(c. 1v\)](#) (interference by works etc. for provision of heat), for “telecommunication apparatus kept installed for the purposes of a telecommunications code system” there shall be substituted “electronic communications apparatus kept installed for the purposes of an electronic communications code network”.

Local Government (Miscellaneous Provisions) Act 1953

- 22 (1) Section 6 of the [Local Government \(Miscellaneous Provisions\) Act 1953 \(c. 26\)](#) (supplementary provisions as to omnibus shelters etc.) shall be amended as follows.
- (2) For “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”.
- (3) In subsection (1)—
- (a) for “a telecommunications code system” there shall be substituted “an electronic communications code network”;
 - (b) for “that system” there shall be substituted “that network”.
- (4) In subsection (2), for “system” there shall be substituted “network”.

Army Act 1955

- 23 In section 44B(1)(b) of the [Army Act 1955 \(3 & 4 Eliz. 2 c. 18\)](#) (interference etc. with equipment, messages or signals), for “a telecommunication system” there shall be substituted “an electronic communications network”.

Air Force Act 1955

- 24 In section 44B(1)(b) of the [Air Force Act 1955 \(3 & 4 Eliz. 2 c. 19\)](#) (interference etc. with equipment, messages or signals), for “a telecommunication system” there shall be substituted “an electronic communications network”.

Lough Neagh and Lower Bann Drainage and Navigation Act (Northern Ireland) 1955

- 25 In section 17(2) of the [Lough Neagh and Lower Bann Drainage and Navigation Act \(Northern Ireland\) 1955 \(c. 15 \(N.I.\)\)](#) (application of paragraph 23 of telecommunications code)—
- (a) for “the telecommunications code” there shall be substituted “the electronic communications code”;
 - (b) for “telecommunication apparatus” there shall be substituted “electronic communications apparatus”.

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Naval Discipline Act 1957

- 26 In section 29B(1)(b) of the Naval Discipline Act 1957 (c. 53) (interference etc. with equipment, messages or signals), for “a telecommunication system” there shall be substituted “an electronic communications network”.

Opencast Coal Act 1958

- 27 (1) In section 45 of the Opencast Coal Act 1958 (c. 69) (saving for apparatus installed for the purposes of telecommunications code system)—
- (a) for “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
 - (b) for “a telecommunications code system”, wherever occurring, there shall be substituted “an electronic communications code network”;
 - (c) for “the telecommunications code”, wherever occurring, there shall be substituted “the electronic communications code”;
 - (d) for “that system” there shall be substituted “that network”.

Pipe-lines Act 1962

- 28 In section 40 of the Pipe-lines Act 1962 (c. 58) (avoidance of interference with telecommunications code systems)—
- (a) for “telecommunication apparatus”, in both places, there shall be substituted “electronic communications apparatus”;
 - (b) for “a telecommunications code system” there shall be substituted “an electronic communications code network”;
 - (c) for “such system” there shall be substituted “such network”;
 - (d) for “the telecommunications code” there shall be substituted “the electronic communications code”.

London County Council (General Powers) Act 1963

- 29 In section 17(4)(a) of the London County Council (General Powers) Act 1963 (c. xvii) (interference from provision of illuminations, floodlighting, etc.), for “telecommunication apparatus kept installed for the purposes of a telecommunications code system” there shall be substituted “electronic communications apparatus kept installed for the purposes of an electronic communications code network”.

Harbours Act 1964

- 30 In section 53 of the Harbours Act 1964 (c. 40) (application of telecommunications code for certain works)—
- (a) for “telecommunications code” there shall be substituted “electronic communications code”;
 - (b) for “telecommunication apparatus” there shall be substituted “electronic communications apparatus”.

New Towns Act (Northern Ireland) 1965

- 31 (1) Section 25 of the New Towns Act (Northern Ireland) 1965 (c. 13 (N.I.)) shall be amended as follows.

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- (2) In subsections (9A), (9C) and (9D)—
- (a) for “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
 - (b) for “a telecommunications code system” there shall be substituted “an electronic communications code network”;
 - (c) for “that system” there shall be substituted “that network”;
 - (d) for “the telecommunications code”, wherever occurring, there shall be substituted “the electronic communications code”.
- (3) In subsection (9B) for “any telecommunications code system” there shall be substituted “any electronic communications code network”.

Marine, &c., Broadcasting (Offences) Act 1967

- 32 In each of sections 4 and 5 of the Marine, &c., Broadcasting (Offences) Act 1967 (c. 41) (prohibition of acts facilitating or otherwise relating to broadcasts from ships etc.), the following subsection shall be inserted after subsection (3)—
- “(3A) Section 46 of the Consumer Protection Act 1987 (meaning of supply) shall have effect for construing references in this section to the supply of any thing as it has effect for the purpose of construing references in that Act to the supply of goods.”
- 33 (1) Section 5 of that Act shall be further amended as follows.
- (2) In subsection (3) (offences of doing things with intent that an unlawful broadcast may be made)—
- (a) in paragraph (a), for “with intent that a broadcast of it may” there shall be substituted “knowing, or having reasonable cause to believe, that a broadcast of it is to”;
 - (b) in paragraph (b), for “with intent that a broadcast of the work may” there shall be substituted “knowing, or having reasonable cause to believe, that a broadcast of the work is to”;
 - (c) in paragraph (c), for “with intent that the work may” there shall be substituted “knowing, or having reasonable cause to believe, that the work is to”.
- (3) For subsection (4) (presumption as to advertising) there shall be substituted—
- “(4) The cases in which a person is to be taken for the purposes of this section as advertising by means of a broadcast include any case in which he causes or allows it to be stated, suggested or implied that entertainment included in the broadcast—
- (a) has been supplied by him; or
 - (b) is provided wholly or partly at his expense.”
- 34 In section 6(5) of that Act (restrictions on prosecutions), after the words “otherwise than”, wherever occurring, there shall be inserted “by OFCOM or”.
- 35 (1) Section 7A of that Act (powers of enforcement in relation to marine offences) shall be amended as follows.
- (2) In subsection (1), after “the Secretary of State” there shall be inserted “or OFCOM”.

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- (3) In subsections (2) and (4), for “the Secretary of State has issued a written authorisation” there shall be substituted “a written authorisation has been issued by the Secretary of State or OFCOM”.
 - (4) In subsection (3)(a), for “the Secretary of State has issued an authorisation” there shall be substituted “an authorisation has been issued by the Secretary of State or OFCOM”.
 - (5) In subsection (7), after “powers” there shall be inserted “except so far as exercisable by virtue of an authorisation issued by OFCOM”.
- 36 In section 9(1) of that Act (interpretation), after the definition of “the high seas” there shall be inserted—
- ““OFCOM” means the Office of Communications;”.

Wireless Telegraphy Act 1967

- 37 (1) Section 7 of the Wireless Telegraphy Act 1967 (c. 72) (restrictions on dealing in, and custody of, certain apparatus) shall be amended as follows.
- (2) In subsection (2), for “the Secretary of State” and “he” there shall be substituted, respectively, “OFCOM” and “they”.
 - (3) In subsections (5) to (11), for the words “the Secretary of State” and “The Secretary of State”, wherever occurring, there shall be substituted “OFCOM”.
 - (4) In subsection (9), for “is satisfied” and “is so satisfied” there shall be substituted, respectively, “are satisfied” and “are so satisfied”.
 - (5) After subsection (11) there shall be inserted—
 - “(11A) Section 403 of the Communications Act 2003 (procedure for regulations and orders made by OFCOM) applies to the power of OFCOM to make an order under this section.
 - (11B) The approval of the Secretary of State is required for the making by OFCOM of an order under this section.
 - (11C) A statutory instrument containing an order made by OFCOM under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
 - (11D) In this section “OFCOM” means the Office of Communications.”
- 38 (1) Section 8 of that Act (provisions for securing enforcement in relation to vehicles) shall be amended as follows.
- (2) In subsection (1)—
 - (a) for “to make regulations under the Vehicle Excise and Registration Act 1994 as to” there shall be substituted “of the Secretary of State under section 7(1) of the Vehicle Excise and Registration Act 1994 to specify”; and
 - (b) for “provisions included in the regulations” there shall be substituted “a requirement imposed”.
 - (3) In subsection (2), for “regulations made” there shall be substituted “a requirement imposed”.

- 39 In section 13(1) of that Act (regulations and order to be made by statutory instrument), for “or orders under” there shall be substituted “under Part 1 of”.

Countryside Act 1968

- 40 (1) The Countryside Act 1968 (c. 41) shall be amended as follows.
- (2) In section 41 (exceptions from powers to make byelaws etc.), in subsections (4) and (12)—
- (a) for “the running of a telecommunications code system” there shall be substituted “the provision of an electronic communications code network”;
 - (b) for “the telecommunications code” there shall be substituted “the electronic communications code”;
 - (c) for “such system” there shall be substituted “such network”.
- (3) In paragraph 6 of Schedule 2 (exceptions from procedure for taking common land)—
- (a) for “the telecommunications code” there shall be substituted “the electronic communications code”;
 - (b) for “a telecommunications code system” there shall be substituted “an electronic communications code network”.

Greater London Council (General Powers) Act 1969

- 41 In section 7(6) of the [Greater London Council \(General Powers\) Act 1969 \(c. lii\)](#) (effect of exercise of power to stop up streets)—
- (a) for “the telecommunications code” there shall be substituted “the electronic communications code”;
 - (b) for “telecommunications code system” there shall be substituted “electronic communications code network”.

Harbours Act (Northern Ireland) 1970

- 42 In section 37 of the Harbours Act (Northern Ireland) 1970 (c. 1 (N.I.)) (application of telecommunications code for certain works)—
- (a) for “telecommunications code” there shall be substituted “electronic communications code”;
 - (b) for “telecommunication apparatus” there shall be substituted “electronic communications apparatus”.

Thames Barrier and Flood Prevention Act 1972

- 43 In section 20(1)(a) of the [Thames Barrier and Flood Prevention Act 1972 \(c. xlv\)](#)(power to make subsidiary works etc.), for “telecommunication installations” there shall be substituted “electronic communications installations”.

Fair Trading Act 1973

- 44 In section 137(3) of the Fair Trading Act 1973 (c. 41) (meaning of “supply of services”), for paragraph (f) there shall be substituted—
- “(f) includes the making of arrangements, by means of such an agreement as is mentioned in paragraph 29 of Schedule 2 to the

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Telecommunications Act 1984, for the sharing of the use of any electronic communications apparatus, and”.

Drainage (Northern Ireland) Order 1973

- 45 In paragraph 3 of Schedule 9 to the Drainage (Northern Ireland) Order 1973 ([S.I. 1973/69 \(N.I. 1\)](#))—
- (a) for “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
 - (b) for “a telecommunications code system”, wherever occurring, there shall be substituted “an electronic communications code network”;
 - (c) for “telecommunications code”, wherever occurring (except in the expression “telecommunications code system”), there shall be substituted “electronic communications code”;
 - (d) for “any such system” and “that system” there shall be substituted, respectively, “any such network” and “that network”.

Water and Sewerage Services (Northern Ireland) Order 1973

- 46 (1) In Article 57A(3)(b) of the Water and Sewerage Services (Northern Ireland) Order 1973 ([S.I. 1973/70 \(N.I. 2\)](#)) (civil liability of Department for escapes of water)—
- (a) for “telecommunications code” there shall be substituted “electronic communications code”;
 - (b) for “a telecommunication system” there shall be substituted “an electronic communications network”.
- (2) In Article 58(1) of that Order (protection for telegraph and telephone lines), for “telecommunications” there shall be substituted “electronic communications”.

Consumer Credit Act 1974

- 47 In section 16(6) of the Consumer Credit Act 1974 ([c. 39](#)) (exempt agreements) for “public telecommunications operator specified in the order” there shall be substituted “provider of a public electronic communications service who is specified in the order”.

House of Commons Disqualification Act 1975

- 48 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 ([c. 24](#)) (bodies of which all members are disqualified), in the appropriate place, there shall be inserted—

“Seirbheis nam Meadhanan Gàidhlig”.

Northern Ireland Assembly Disqualification Act 1975

- 49 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 ([c. 25](#)) (bodies of which all members are disqualified), in the appropriate place, there shall be inserted—

“Seirbheis nam Meadhanan Gàidhlig”.

Welsh Development Agency Act 1975

- 50 (1) Section 19 of the Welsh Development Agency Act 1975 (c. 70) (the Agency and the media) shall be amended as follows.
- (2) In subsection (9), for “the appropriate authority”, in both places, there shall be substituted “the Office of Communications”.
- (3) In subsection (11), in the definition of “relevant licence” for “the Independent Television Commission or the Radio Authority” there shall be substituted “the Office of Communications”.

Building Regulations (Northern Ireland) Order 1979

- 51 In paragraph 14 of Schedule 1 to the Building Regulations (Northern Ireland) Order 1979 (S.I. 1979/1709 (N.I. 16)) (building regulations), for “telecommunications services” there shall be substituted “communications services”.

Local Government, Planning and Land Act 1980

- 52 (1) Part 3 of Schedule 28 to the Local Government, Planning and Land Act 1980 (c. 65) (provisions about land acquired by urban development corporations) shall be amended as follows.
- (2) In paragraphs 5, 6, 13, 14 and 16—
- (a) for “the telecommunications code”, wherever occurring, there shall be substituted “the electronic communications code”;
- (b) for “a telecommunications code system” and “any telecommunications code system”, wherever occurring, there shall be substituted “an electronic communications code network”;
- (c) for “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
- (d) for “such system” and “the system”, wherever occurring, there shall be substituted, respectively, “such network” and “the network”.

Highways Act 1980

- 53 In section 35(11)(c) and (12) of the Highways Act 1980 (c. 66) (regulation of rights to maintain apparatus on walkways), for “telecommunications code systems” there shall be substituted “electronic communications code networks”.
- 54 In section 115D of that Act (limits on powers to restrict access to highways), for paragraph (d) there shall be substituted—
- “(d) as to prevent the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.”
- 55 In section 142(5) of that Act (protection of telecommunications apparatus by conditions in licences to plant trees etc. in a highway), for “telecommunications code systems” there shall be substituted “electronic communications code networks”.
- 56 (1) This paragraph applies to the following provisions of that Act—
- (a) the definition of “statutory undertakers” in section 144(6) (power to erect flagpoles etc. on highways);

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- (b) the definition of “statutory undertakers” in section 169(4) (control of scaffolding on highways);
 - (c) the definition of “statutory undertakers” in section 170(3) (control of mixing mortar etc. on highways);
 - (d) section 177(4) and (12) (licence to build over highway not to interfere with telecommunications code systems);
 - (e) section 178(5) (exceptions to restriction on placing rails etc. over highways);
 - (f) section 329(4A) (interpretation);
 - (g) section 334 (savings for operators of telecommunications code systems).
- (2) In the provisions to which this paragraph applies—
- (a) for “a telecommunications code system” and “any telecommunications code system”, wherever occurring, there shall be substituted “an electronic communications code network”;
 - (b) for “the telecommunications code system” there shall be substituted “the electronic communications code network”;
 - (c) for “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
 - (d) for “telecommunications code”, wherever occurring (except in the expression “telecommunications code system”), there shall be substituted “electronic communications code”;
 - (e) for “system”, wherever occurring (except in the expression “telecommunications code system”), there shall be substituted “network”.

New Towns Act 1981

- 57 (1) This paragraph applies to the following provisions of the New Towns Act 1981 (c. 64)—
- (a) section 16(2) (exception to extinguishment of rights over land compulsorily acquired);
 - (b) section 19(2) (saving from the power to override certain rights);
 - (c) section 24 (apparatus kept installed for purposes of telecommunications code system);
 - (d) section 26(8) (extinguishment of rights of way and removal of apparatus);
 - (e) section 39(7) (power of development corporation to transfer undertakings).
- (2) In the provisions to which this paragraph applies—
- (a) for “in accordance with the telecommunications code”, wherever occurring, there shall be substituted “in accordance with the electronic communications code”;
 - (b) for “a telecommunications code system” and “any telecommunications code system”, wherever occurring, there shall be substituted “an electronic communications code network”;
 - (c) for “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
 - (d) for “the running of the telecommunications code system” there shall be substituted “the provision of the electronic communications code network”;
 - (e) for “the running of such a system” there shall be substituted “the provision of such a network”;

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- (f) for “such system” and “the system”, wherever occurring, there shall be substituted, respectively, “such network” and “the network”.

Acquisition of Land Act 1981

- 58 (1) The Acquisition of Land Act 1981 (c. 67) shall be amended as follows.
- (2) In section 28 (acquisition of land by the creation of new rights), after paragraph (h) there shall be inserted—
- “(i) paragraph 3(3) of Schedule 4 to the Communications Act 2003.”
- (3) In section 32(6A) (exception to power to extinguish certain public rights of way)—
- (a) for the words from “telecommunication apparatus” to “telecommunications code system” there shall be substituted “electronic communications apparatus kept installed for the purposes of an electronic communications code network”; and
- (b) in paragraph (a), for “system” there shall be substituted “network”.

Housing (Northern Ireland) Order 1981

- 59 In Article 159A of the Housing (Northern Ireland) Order 1981 (S.I. 1981/156 (N.I. 3)) (application of telecommunications code to the Northern Ireland Housing Executive)—
- (a) for “telecommunications code”, wherever occurring, there shall be substituted “electronic communications code”;
- (b) for “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
- (c) for “a telecommunications code system” there shall be substituted “an electronic communications code network”;
- (d) for “that system” there shall be substituted “that network”.

Civil Aviation Act 1982

- 60 In section 48(7)(b) of the Civil Aviation Act 1982 (c. 16) (Secretary of State to give notice of orders stopping up highways for civil aviation purposes), for “a telecommunications code system” there shall be substituted “an electronic communications code network”.

Representation of the People Act 1983

- 61 In section 92(1)(c) of the Representation of the People Act 1983 (c. 2) (broadcasting from outside the United Kingdom), for “the Independent Television Commission or the Radio Authority” there shall be substituted “the Office of Communications”.
- 62 (1) Section 93 of that Act (broadcasting of local items during election period) shall be amended as follows.
- (2) In subsection (4), for the words from the beginning to “each” there shall be substituted “The Office of Communications shall”.
- (3) In subsection (6)—

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- (a) in the definition of “broadcasting authority”, for “the Independent Television Commission, the Radio Authority” there shall be substituted “the Office of Communications”;
- (b) in the definition of “relevant services”, for paragraphs (b) and (c) there shall be substituted—
 - “(b) in relation to the Office of Communications, means services licensed under Part 1 or 3 of the Broadcasting Act 1990 or Part 1 or 2 of the Broadcasting Act 1996.”

Telecommunications Act 1984

- 63 (1) Sections 44 to 46 of the Telecommunications Act 1984 (c. 12) (offences relating to modification and interception of messages and to assaults on the persons engaged on the business of a telecommunications operator) shall cease to have effect.
- (2) No proceedings shall be capable of being begun at any time after the commencement of this paragraph for any offence under any of those sections which was committed before the commencement of this paragraph.
- (3) Any proceedings for an offence under any of those sections which have been begun before the commencement of this paragraph but in which there has not yet been a conviction must be discontinued immediately.
- 64 In sections 79, 83, 85 and 86 of that Act (wireless telegraphy provisions), for the words “the Secretary of State” and “The Secretary of State”, wherever occurring, there shall be substituted “OFCOM”.
- 65 In section 79(6)(b) of that Act (seizure of apparatus etc.), for “section 80 or 81 below” there shall be substituted “Schedule 7 to the Communications Act 2003”.
- 66 (1) Section 83 of that Act (disposal of seized apparatus and property) shall be further amended as follows.
 - (2) In subsections (1)(b) and (2)(b), for “section 80 or 81 above”, in each place, there shall be substituted “Schedule 7 to the Communications Act 2003”.
 - (3) In subsection (3), for “him” there shall be substituted “them”.
 - (4) In subsection (4), for “he thinks” there shall be substituted “they think”.
- 67 (1) Section 84 of that Act (approval of wireless telegraphy apparatus) shall be amended as follows.
 - (2) For the words “Secretary of State”, wherever occurring, except in subsection (9), there shall be substituted “relevant authority”.
 - (3) In subsection (5), for “him” there shall be substituted “the relevant authority”.
 - (4) In subsection (8) for “his” there shall be substituted “the relevant authority's”.
 - (5) After subsection (8) there shall be inserted—
 - “(8A) Subject to subsection (8B), in this section “the relevant authority” means—
 - (a) in such cases as may be specified in an order made by the Secretary of State, the Secretary of State; and
 - (b) in any other case, OFCOM.

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- (8B) Where an application for the purposes of this section is made to the Secretary of State or OFCOM and it appears to the person to whom it is made that it should have been made to the other—
- (a) that person shall refer the application to the other; and
 - (b) the application shall be proceeded with as if made to the person to whom it is referred.”
- 68 Section 90 of that Act (funding of wireless interference service by the Secretary of State) shall cease to have effect.
- 69 (1) Section 91 of that Act (construction of references to the conclusion of proceedings) shall be amended as follows.
- (2) In subsection (1), for “under the 1949 Act or for the forfeiture of any apparatus under section 80 or 81 above” there shall be substituted “to which section 79 above applies or for the forfeiture of any apparatus under Schedule 7 to the Communications Act 2003”.
- 70 (1) Section 94 of that Act (directions in the interests of national security) shall be amended as follows.
- (2) In subsection (1), for “requisite or expedient” there shall be substituted “necessary”.
 - (3) In subsection (2), for “requisite or expedient” there shall be substituted “necessary”.
 - (4) After subsection (2), there shall be inserted—
“(2A) The Secretary of State shall not give a direction under subsection (1) or (2) unless he believes that the conduct required by the direction is proportionate to what is sought to be achieved by that conduct.”
 - (5) In subsection (3), for “this Act” there shall be substituted “Part 1 or Chapter 1 of Part 2 of the Communications Act 2003 and, in the case of a direction to a provider of a public electronic communications network, notwithstanding that it relates to him in a capacity other than as the provider of such a network”.
 - (6) In subsection (6), for “public telecommunications operators” there shall be substituted “providers of public electronic communications networks”.
 - (7) In subsection (8), for the words from “the Director” onwards there shall be substituted “OFCOM and to providers of public electronic communications networks.”
- 71 (1) Section 98 of that Act (use of conduits for telecommunications purposes) shall be amended as follows.
- (2) In subsection (1), for the words “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”.
 - (3) In subsection (5)(a), for the words “telecommunication purposes” there shall be substituted “the purposes of any electronic communications network or of any electronic communications service”.
- 72 (1) Section 101 of that Act (general restrictions on disclosure of information) shall be amended as follows.
- (2) In subsection (1)(a), after “this Act” there shall be inserted “(except Part 6)”.
 - (3) In subsection (2)(a)—

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- (a) the words “or transferred” shall be omitted; and
 - (b) for the words “, the Director or the Commission by or under this Act” there shall be substituted “or OFCOM by or under this Act (except functions assigned by or under Part 6)”.
- (4) In subsection (2)(b), after “the Rail Regulator” there shall be inserted “, OFCOM”.
- (5) In subsection (3), after paragraph (p) there shall be inserted—
- “(q) the Communications Act 2003 (excluding the provisions of that Act which are enactments relating to the management of the radio spectrum within the meaning of that Act).”
- (6) Subsection (4) shall cease to have effect.
- (7) In subsection (6), for “the Director” there shall be substituted “OFCOM”.
- 73 In section 104 of that Act (orders and schemes), after subsection (1) there shall be inserted—
- “(1A) Section 403 of the Communications Act 2003 (procedure for regulations and orders made by OFCOM) applies to every power of OFCOM to make an order under a provision of this Act.
- (1B) The approval of the Secretary of State is required for the making by OFCOM of an order under section 85 or 86 above.
- (1C) A statutory instrument containing an order made by OFCOM under section 85 or 86 above shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- 74 In section 106(1) of that Act (general interpretation), after the definition of “modifications” there shall be inserted—
- ““OFCOM” means the Office of Communications;”.
- 75 In paragraph 18(2) of Schedule 2 to that Act (notices affixed to overhead apparatus), for “paragraph 24(4)(a)” there shall be substituted “paragraph 24(2A)(a)”.

Cinemas Act 1985

- 76 In section 21(1) of the Cinemas Act 1985 (c. 13) (interpretation), for the definition of “film exhibition” there shall be substituted—
- ““film exhibition” means any exhibition of moving pictures other than an exhibition of items included in a programme service (within the meaning of the Communications Act 2003) that is being simultaneously received (or virtually so) by the exhibitor”.

Surrogacy Arrangements Act 1985

- 77 In section 3 of the Surrogacy Arrangements Act 1985 (c. 49) (advertisements about surrogacy), for “a telecommunication system”, wherever occurring, there shall be substituted “an electronic communications network”.

Bankruptcy (Scotland) Act 1985

- 78 (1) Section 70 of the Bankruptcy (Scotland) Act 1985 (c. 66) (supplies by utilities) shall be amended as follows.
- (2) In subsection (4), for paragraph (d) there shall be substituted—
- “(d) a supply of communications services by a provider of a public electronic communications service.”
- (3) For subsection (5) there shall be substituted—
- “(5) In subsection (4), “communications services” do not include electronic communications services to the extent that they are used to broadcast or otherwise transmit programme services (within the meaning of the Communications Act 2003).”

Housing Act 1985

- 79 (1) The Housing Act 1985 (c. 68) shall be amended as follows.
- (2) In section 295(2)(b) (extinguishment of other rights over land acquired), for “telecommunications systems” there shall be substituted “electronic communications networks”.
- (3) In section 298(2) and (3) (telecommunications apparatus)—
- (a) for “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
- (b) for “a telecommunications code system”, wherever occurring, there shall be substituted “an electronic communications code network”;
- (c) for “the telecommunications code”, wherever occurring, there shall be substituted “the electronic communications code”;
- (d) for “the system” and “a system” there shall be substituted, respectively, “the network” and “a network”.

Airports Act 1986

- 80 In section 62 of the Airports Act 1986 (c. 31) (provisions as to telecommunication apparatus)—
- (a) for “the telecommunications code”, wherever occurring, there shall be substituted “the electronic communications code”;
- (b) for “telecommunication apparatus” and “telecommunications apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
- (c) for “a telecommunications code system”, wherever occurring, there shall be substituted “an electronic communications code network”;
- (d) in subsection (3), for “that system” there shall be substituted “that network”.

Gas Act 1986

- 81 In section 4AA(4)(b) of the Gas Act 1986 (c. 44) (general duties of Secretary of State and Authority), for sub-paragraph (i) there shall be substituted—

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“(i) communications services and electronic communications apparatus, or”.

Insolvency Act 1986

- 82 (1) The Insolvency Act 1986 (c. 45) shall be amended as follows.
- (2) In section 233 (supplies of telecommunications services etc. in cases of administration or liquidation)—
- (a) in subsection (3), for paragraph (d) there shall be substituted—
- “(d) a supply of communications services by a provider of a public electronic communications service.”;
- (b) in subsection (5), for paragraph (d) there shall be substituted—
- “(d) “communications services” do not include electronic communications services to the extent that they are used to broadcast or otherwise transmit programme services (within the meaning of the Communications Act 2003).”
- (3) In section 372 (supplies of telecommunications services etc. in cases of bankruptcy)—
- (a) in subsection (4), for paragraph (d) there shall be substituted—
- “(d) a supply of communications services by a provider of a public electronic communications service.”;
- (b) in subsection (5), for paragraph (c) there shall be substituted—
- “(c) “communications services” do not include electronic communications services to the extent that they are used to broadcast or otherwise transmit programme services (within the meaning of the Communications Act 2003).”
- (4) In Schedule 2A (exceptions to prohibition on appointment of administrative receiver), in paragraph 10, after sub-paragraph (2) there shall be inserted—
- “(2A) For the purposes of section 72D a business is also regulated to the extent that it consists in the provision of a public electronic communications network or a public electronic communications service.”

Company Directors Disqualification Act 1986

- 83 In section 9E(2) of the Company Directors Disqualification Act 1986 (c. 46) (interpretation), for paragraph (a) there shall be substituted—
- “(a) the Office of Communications;”.

Channel Tunnel Act 1987

- 84 For section 32 of the Channel Tunnel Act 1987 (c. 53), there shall be substituted—

“32 Exclusion of rights under electronic communications code

No rights shall be exercisable by any person by virtue of the electronic communications code in relation to any land comprised in the tunnel system and lying in or under the bed of the sea.”

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

- 85 In paragraph 3(2)(b) of Schedule 2 to that Act (supplementary provisions as to scheduled works etc.), for “telecommunications” there shall be substituted “electronic communications”.
- 86 (1) Part 10 of Schedule 7 to that Act (protection of telecommunications operators) shall be amended as follows.
- (2) In paragraph 1(1), for “a telecommunications operator” there shall be substituted “an operator of an electronic communications code network”.
- (3) In paragraphs 2 to 7—
- (a) for “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
 - (b) for “a telecommunications code system”, “a telecommunication system” and “any telecommunications code system”, wherever occurring, there shall be substituted “an electronic communications code network”;
 - (c) for “that telecommunications system” there shall be substituted “that network”;
 - (d) for “the telecommunications operator”, wherever occurring, there shall be substituted “the operator”;
 - (e) for “any telecommunications operator”, wherever occurring, there shall be substituted “any operator of an electronic communications code network”;
 - (f) for “a system” and “that system”, wherever occurring, there shall be substituted, respectively, “a network” and “that network”;
 - (g) for “the system”, wherever occurring, there shall be substituted “the electronic communications code network”.

Consumer Protection (Northern Ireland) Order 1987

- 87 (1) Article 29 of the Consumer Protection (Northern Ireland) Order 1987 ([S.I. 1987/2049 \(N.I. 20\)](#)) (restrictions on disclosure of information) shall be amended as follows.
- (2) In paragraph (3), after sub-paragraph (n), there shall be inserted—
- “(o) the Communications Act 2003.”
- (3) In paragraph (6) for “the Director General of Telecommunications” there shall be substituted “the Office of Communications”.

Income and Corporation Taxes Act 1988

- 88 In section 567(2)(b) of the Income and Corporation Taxes Act 1988 ([c. 1](#)) (meaning of “construction operations”), for “telecommunication apparatus” there shall be substituted “electronic communications apparatus”.

Norfolk and Suffolk Broads Act 1988

- 89 In section 25(1) of the Norfolk and Suffolk Broads Act 1988 ([c. 4](#)) (interpretation), in the definition of “statutory undertaker”, for paragraph (d) there shall be substituted—
- “(d) any electronic communications code operator;”.

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

Malicious Communications Act 1988

- 90 In section 1(2A)(a) of the Malicious Communications Act 1988 (c. 27) (offence of sending electronic communications with intent to cause distress or anxiety), for “a telecommunication system (within the meaning of the Telecommunications Act 1984)” there shall be substituted “an electronic communications network”.

Copyright, Designs and Patents Act 1988

- 91 (1) Section 69 of the Copyright, Designs and Patents Act 1988 (c. 48) (no infringement of copyright by use of recordings for certain supervisory purposes) shall be amended as follows.

(2) In subsection (2)—

(a) for paragraph (a) there shall be substituted—

“(a) section 167(1) of the Broadcasting Act 1990, section 115(4) or (6) or 117 of the Broadcasting Act 1996 or paragraph 20 of Schedule 12 to the Communications Act 2003;”;

(b) in paragraph (b), for the words from “by virtue of” to “1990” there shall be substituted “by virtue of section 334(1) of the Communications Act 2003”;

(c) in paragraph (c), for “Radio Authority” there shall be substituted “OFCOM”;

(d) after paragraph (c) there shall be inserted—

“(d) section 334(3) of the Communications Act 2003.”

(3) For subsection (3) there shall be substituted—

“(3) Copyright is not infringed by the use by OFCOM in connection with the performance of any of their functions under the Broadcasting Act 1990, the Broadcasting Act 1996 or the Communications Act 2003 of—

(a) any recording, script or transcript which is provided to them under or by virtue of any provision of those Acts; or

(b) any existing material which is transferred to them by a scheme made under section 30 of the Communications Act 2003.

(4) In subsection (3), “existing material” means—

(a) any recording, script or transcript which was provided to the Independent Television Commission or the Radio Authority under or by virtue of any provision of the Broadcasting Act 1990 or the Broadcasting Act 1996; and

(b) any recording or transcript which was provided to the Broadcasting Standards Commission under section 115(4) or (6) or 116(5) of the Broadcasting Act 1996.”

- 92 (1) Section 73 of that Act (no breach of copyright by certain retransmissions of broadcasts in cable programme service) shall be amended as follows.

(2) In subsection (6)—

(a) for paragraphs (c) and (d) there shall be substituted—

“(c) the public teletext service,

(d) S4C Digital, and”

;

(b) for the words after paragraph (e) there shall be substituted—

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“and expressions used in this subsection have the same meanings as in Part 3 of the Communications Act 2003.”

(3) For subsection (7) there shall be substituted—

“(7) In this section “relevant requirement” means a requirement imposed by a general condition (within the meaning of Chapter 1 of Part 2 of the Communications Act 2003) the setting of which is authorised under section 64 of that Act (must-carry obligations).”

93 (1) Paragraph 17 of Schedule 2 to that Act (no infringement of performance rights by use of recordings for certain supervisory purposes) shall be amended as follows.

(2) In sub-paragraph (2)—

(a) for paragraph (a) there shall be substituted—

“(a) section 167(1) of the Broadcasting Act 1990, section 115(4) or (6) or 117 of the Broadcasting Act 1996 or paragraph 20 of Schedule 12 to the Communications Act 2003;”;

(b) in paragraph (b), for the words from “by virtue of” to “1990” there shall be substituted “by virtue of section 334(1) of the Communications Act 2003”;

(c) in paragraph (c), for “Radio Authority” there shall be substituted “OFCOM”;

(d) after paragraph (c) there shall be inserted—

“(d) section 334(3) of the Communications Act 2003.”

(3) For sub-paragraph (3) there shall be substituted—

“(3) The rights conferred by Part 2 are not infringed by the use by OFCOM in connection with the performance of any of their functions under the Broadcasting Act 1990, the Broadcasting Act 1996 or the Communications Act 2003 of—

(a) any recording, script or transcript which is provided to them under or by virtue of any provision of those Acts; or

(b) any existing material which is transferred to them by a scheme made under section 30 of the Communications Act 2003.

(4) In subsection (3), “existing material” means—

(a) any recording, script or transcript which was provided to the Independent Television Commission or the Radio Authority under or by virtue of any provision of the Broadcasting Act 1990 or the Broadcasting Act 1996; and

(b) any recording or transcript which was provided to the Broadcasting Standards Commission under section 115(4) or (6) or 116(5) of the Broadcasting Act 1996.”

Housing Act 1988

94 (1) Part 2 of Schedule 10 to the Housing Act 1988 (c. 50) (provisions about land acquired by a housing action trust) shall be amended as follows.

(2) In paragraphs 4, 5, 11, 12 and 14—

(a) for “the telecommunications code”, wherever occurring, there shall be substituted “the electronic communications code”;

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- (b) for “a telecommunications code system” and “any telecommunications code system”, wherever occurring, there shall be substituted “an electronic communications code network”;
- (c) for “telecommunications apparatus” and “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
- (d) for “such system” and “the system”, wherever occurring, there shall be substituted, respectively, “such network” and “the network”.

Road Traffic Act 1988

- 95 In section 21(3)(b) of the Road Traffic Act 1988 (c. 52) (exception from prohibition of driving etc on cycle tracks for statutory undertakers), for the words from “a telecommunications code system” to “1984)” there shall be substituted “an electronic communications code network”.

Water Act 1989

- 96 (1) Section 174 of the Water Act 1989 (c. 15) (general restrictions on disclosure of information) be amended as follows.
- (2) In subsection (2)(d), for sub-paragraph (iv) there shall be substituted—
 “(iv) the Office of Communications;”.
- (3) In subsection (3), after paragraph (ln) there shall be inserted—
 “(lo) the Communications Act 2003;”.

Road Traffic (Driver Licensing and Information Systems) Act 1989

- 97 (1) The Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22) shall be amended as follows.
- (2) For section 9(3) (requirement for licence to operate driver information systems) there shall be substituted—
 “(3) The holding by a person of a licence under this section 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).”
- (3) In paragraph 4 of Schedule 4 (application of telecommunications code to licence holders), for the words “(application of telecommunications code)” there shall be substituted “(procedure for works involving alteration of electronic communications apparatus)”.
- (4) In paragraph 8 of Schedule 5 (undertakers' works affecting driver information systems)—
 (a) in the definition of “relevant undertaker”, for paragraph (b) there shall be substituted—

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

- “(b) any electronic communications code operator;”;
- (b) in the definition of “undertaker’s works”, in paragraph (b), for “a telecommunication system run by him” there shall be substituted “an electronic communications code network provided by him”.

Electricity Act 1989

- 98 In section 3A(4)(b) of the Electricity Act 1989 (c. 29) (general duties of Secretary of State and Authority), for sub-paragraph (i) there shall be substituted—
- “(i) communications services and electronic communications apparatus, or”.
- 99 (1) Schedule 4 to that Act (other powers etc. of licence holders) shall be amended as follows.
- (2) In paragraphs 3(1)(d) and 5—
- (a) for “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
- (b) for “a telecommunication system” there shall be substituted “an electronic communications code network”; and
- (c) for “telecommunications code”, wherever occurring, there shall be substituted “electronic communications code”.
- (3) In paragraph 4(1), for paragraph (c) there shall be substituted—
- “(c) any electronic communications code operator or any former PTO; and”.

Local Government and Housing Act 1989

- 100 In section 88(1)(e)(i) of the Local Government and Housing Act 1989 (c. 42) (electronic communication), for “a telecommunication system (within the meaning of the Telecommunications Act 1984)” there shall be substituted “an electronic communications network”.

Insolvency (Northern Ireland) Order 1989

- 101 (1) The Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) shall be amended as follows.
- (2) In Article 197(3) (supplies of water, electricity, etc.) for sub-paragraph (c) to the end there shall be substituted—
- “(c) a supply of communications services by a provider of a public electronic communications service,
- and in this paragraph “communications services” do not include electronic communications services to the extent that they are used to broadcast or transmit programme services (within the meaning of the Communications Act 2003).”
- (3) In Article 343(4) (supplies of water, electricity, etc.) for sub-paragraph (c) to the end there shall be substituted—
- “(c) a supply of communications services by a provider of a public telecommunications service,

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

and in this paragraph ‘communications services’ do not include electronic communications services to the extent that they are used to broadcast or transmit programme services (within the meaning of the Communications Act 2003).”

Town and Country Planning Act 1990

102 In section 148(1) of the Town and Country Planning Act 1990 (c. 8) (interpretation of Chapter 1), in the definition of “statutory undertakers”, for “public telecommunications operators” there shall be substituted “electronic communications code operators and former PTOs”.

103 (1) This paragraph applies to the following provisions of that Act—

- (a) section 236(2) (exception to extinguishment of rights over land compulsorily acquired);
- (b) section 237(3) (saving from power to override certain rights);
- (c) section 256 (Secretary of State’s orders affecting telecommunications apparatus);
- (d) section 260 (orders by other authorities affecting telecommunication apparatus);
- (e) section 272 (extinguishment of rights of telecommunications code system operators);
- (f) section 273(7) and (8) (notices given to developing authority);
- (g) section 274(2) (making of orders);
- (h) section 279(3) (right to compensation).

(2) In each of the provisions to which this paragraph applies—

- (a) for “telecommunications code”, wherever occurring (except in the expression “telecommunications code system”), there shall be substituted “electronic communications code”;
- (b) for “a telecommunications code system” and “any telecommunications code system”, wherever occurring, there shall be substituted “an electronic communications code network”;
- (c) for “telecommunications apparatus” and “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
- (d) for “the telecommunications code system”, wherever occurring, there shall be substituted “the electronic communications code network”;
- (e) for “system”, wherever occurring (except in the expression “telecommunications code system”), there shall be substituted “network”.

104 In section 280 of that Act (measures of compensation)—

- (a) for “a telecommunications code system” there shall be substituted “an electronic communications code network”;
- (b) for “the running of the telecommunications code system”, wherever occurring, there shall be substituted “the provision of the electronic communications code network”.

105 In paragraph 1(a) of Schedule 13 to that Act (blighted land), for sub-paragraph (ii) there shall be substituted—

“(ii) of the provision by an electronic communications code operator of an electronic communications code network

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

or the provision by a former PTO of a public electronic communications network or a public electronic communications service, or”.

Planning (Listed Buildings and Conservation Areas) Act 1990

- 106 (1) The Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) shall be amended as follows.
- (2) In section 51(2) (saving for ending of rights over land compulsorily acquired), for paragraphs (b) and (c) there shall be substituted—
- “(b) to any right conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network, or
 - (c) to any electronic communications apparatus kept installed for the purposes of any such network.”
- (3) In section 91(3) (meaning of “statutory undertakers” in certain sections), in paragraph (a) for “a public telecommunications operator” there shall be substituted “an electronic communications code operator and to a former PTO”.

London Local Authorities (No. 2) Act 1990

- 107 (1) Section 5 of the London Local Authorities (No. 2) Act 1990 (c. xxx) (crime prevention) shall be amended as follows.
- (2) For subsection (1)(b) there shall be substituted—
- “(b) providing within their area an electronic communications service which is distributed—
 - (i) only to persons on a single set of premises; and
 - (ii) by an electronic communications network which is wholly within those premises and is not connected to an electronic communications network any part of which is outside those premises;”.
- (3) In subsection (1)(c), for “telecommunications system” there shall be substituted “electronic communications network or electronic communications service”.
- (4) After subsection (4), there shall be inserted—
- “(4A) For the purposes of subsection (1)(b)—
 - (a) a set of premises is a single set of premises if, and only if, the same person is the occupier of all the premises; and
 - (b) two or more vehicles are capable of constituting a single set of premises if, and only if, they are coupled together.”
- (5) For subsection (5), there shall be substituted—
- “(5) In this section—
 - “premises” includes a vehicle; and
 - “vehicle” includes a vessel, aircraft or hovercraft.”

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

New Roads and Street Works Act 1991

- 108 (1) In the New Roads and Street Works Act 1991 (c. 22)—
- (a) paragraph 7 of Schedule 4 (streets with special engineering difficulties), and
 - (b) paragraph 7 of Schedule 6 (roads with special engineering difficulties),
- shall be amended as follows.
- (2) For “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”.
- (3) In sub-paragraph (3)(c)—
- (a) for “a telecommunication system” there shall be substituted “an electronic communications network”; and
 - (b) for “a system” there shall be substituted “a network”.

Coal Mining Subsidence Act 1991

- 109 In section 52(1) of the Coal Mining Subsidence Act 1991 (c. 45) (interpretation) in the definition of “statutory undertakers”, in paragraph (b) for “any public telecommunications operator” there shall be substituted “any electronic communications code operator, any former PTO”.

Water Industry Act 1991

- 110 In section 219 of the Water Industry Act 1991 (c. 56) (general interpretation), in the definition of “accessories”, for “telecommunication apparatus (within the meaning of Schedule 2 to the Telecommunications Act 1984)” there shall be substituted “electronic communications apparatus”.
- 111 (1) Schedule 13 to that Act (protective provisions in respect of certain undertakings) shall be amended as follows.
- (2) In paragraph 1(5), for paragraph (c) there shall be substituted—
- “(c) any undertaking consisting in the provision of an electronic communications network;”.
- (3) In paragraph 4, for “telecommunication apparatus” there shall be substituted “electronic communications apparatus”.
- 112 (1) Schedule 15 to that Act (disclosure of information) shall be amended as follows.
- (2) In Part 1, for “The Director General of Telecommunications” there shall be substituted “The Office of Communications”.
- (3) In Part 2, after the entry relating to the Enterprise Act 2002, there shall be inserted—
- “The Communications Act 2003.”

Water Resources Act 1991

- 113 In section 221 of the Water Resources Act 1991 (c. 57) (general interpretation), in the definition of “accessories”, for “telecommunication apparatus (within the meaning of Schedule 2 to the Telecommunications Act 1984)” there shall be substituted “electronic communications apparatus”.

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

- 114 (1) Schedule 22 to that Act (general provisions protecting undertakings) shall be amended as follows.
- (2) In paragraph 1(4), for paragraph (c) there shall be substituted—
- “(c) any undertaking consisting in the provision of an electronic communications network;”.
- (3) In paragraph 5, for “telecommunication apparatus” there shall be substituted “electronic communications apparatus”.
- 115 (1) Schedule 24 to that Act (disclosure of information) shall be amended as follows.
- (2) In Part 1, for “The Director General of Telecommunications” there shall be substituted “The Office of Communications”.
- (3) In Part 2, after the entry relating to the Enterprise Act 2002, there shall be inserted—
- “The Communications Act 2003.”

Land Drainage Act 1991

- 116 In paragraph 1(1) of Schedule 6 to the Land Drainage Act 1991 (c. 59) (protection for particular undertakings), for paragraph (c) there shall be substituted—
- “(c) any undertaking consisting in the provision of an electronic communications code network;”.

Planning (Northern Ireland) Order 1991

- 117 In Articles 103 (making of orders) and 104 (telecommunication apparatus) of the Planning (Northern Ireland) Order 1991 (S.I. 1991/1220 (N.I. 11))—
- (a) for “telecommunications code”, wherever occurring (except in the expression “telecommunications code system”) there shall be substituted “electronic communications code”;
- (b) for “a telecommunications code system” and “any telecommunications code system”, wherever occurring, there shall be substituted “an electronic communications code network”;
- (c) for “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
- (d) for “system” (except in the expression “telecommunications code system”) there shall be substituted “network”.

Charities Act 1992

- 118 In section 60(6)(c) of the Charities Act 1992 (c. 41) (making of payments to professional fund-raisers etc.), for “telecommunication apparatus” there shall be substituted “electronic communications apparatus”.

Carriage of Goods by Sea Act 1992

- 119 In section 1(5) of the Carriage of Goods by Sea Act 1992 (c. 50), for “a telecommunication system” there shall be substituted “an electronic communications network”.

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

Electricity (Northern Ireland) Order 1992

- 120 The Electricity (Northern Ireland) Order 1992 (S.I. 1992/231 (N.I. 1)) shall be amended as follows.
- 121 In Article 61 (restrictions on disclosure of information)—
- (a) for paragraph (2)(b)(vi) there shall be substituted—
“*(vi) the Office of Communications;*”;
 - (b) after paragraph (3)(u) there shall be inserted—
“*(v) the Communications Act 2003;*”.
- 122 (1) Schedule 4 (other powers etc. of licence holders) shall be amended as follows.
- (2) In paragraph 1(1)—
- (a) for “a public telecommunications operator” there shall be substituted “an electronic communications code operator”;
 - (b) for “telecommunication system” there shall be substituted “electronic communications network”.
- (3) In paragraphs 4 and 6 for “public telecommunications operator” there shall be substituted “electronic communications code operator”.
- (4) In paragraphs 3(1) and (2), 5(1), (2), (3) and (4), 6(1) and 9—
- (a) for “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
 - (b) for “a telecommunication system”, wherever occurring, there shall be substituted “an electronic communications network”;
 - (c) for “telecommunications code”, wherever occurring, there shall be substituted “electronic communications code”.

Leasehold Reform, Housing and Urban Development Act 1993

- 123 (1) Part 2 of Schedule 20 to the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28) (provisions about land acquired by the Urban Regeneration Agency) shall be amended as follows.
- (2) In paragraphs 4, 5, 11, 12 and 14—
- (a) for “the telecommunications code”, wherever occurring, there shall be substituted “the electronic communications code”;
 - (b) for “a telecommunications code system” and “any telecommunications code system”, wherever occurring, there shall be substituted “an electronic communications code network”;
 - (c) for “telecommunications apparatus” and “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
 - (d) for “such system” and “the system”, wherever occurring, there shall be substituted, respectively, “such network” and “the network”.

Cardiff Bay Barrage Act 1993

- 124 In Schedule 2 to the Cardiff Bay Barrage Act 1993 (c. 42) (supplementary provisions about Development Corporation works)—

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

- (a) in paragraph 1(c), for “telecommunication” there shall be substituted “electronic communications”;
 - (b) in paragraph 16, for “telecommunication apparatus” there shall be substituted “electronic communications apparatus”.
- 125 In paragraph 3(2)(c) of Schedule 4 to that Act (exception to extinguishment of rights over land compulsorily acquired)—
- (a) for “the telecommunications code” there shall be substituted “the electronic communications code”;
 - (b) for “a telecommunications code system” there shall be substituted “an electronic communications code network”;
 - (c) for “such system;” there shall be substituted “such network.”
- 126 In paragraph 21 of Schedule 7 to that Act (powers of survey etc. in connection with groundwater damage)—
- (a) in sub-paragraphs (5)(b)(ii) and (7), for “a relevant telecommunications licenceholder” there shall be substituted “a provider of a public electronic communications network”;
 - (b) in sub-paragraphs (6) and (7), for “or licenceholder” there shall be substituted “or provider”;
 - (c) in sub-paragraph (6), for “running of the telecommunication system” there shall be substituted “provision of the public electronic communications network”.

Railways Act 1993

- 127 (1) Section 145 of the Railways Act 1993 (c. 43) (general restrictions on disclosure of information) be amended as follows.
- (2) In subsection (2)(b), for sub-paragraph (iv) there shall be substituted—
“(iv) the Office of Communications;”.
- (3) In subsection (3), after paragraph (qs) there shall be inserted—
“(qt) the Communications Act 2003;”.

Roads (Northern Ireland) Order 1993

- 128 (1) This paragraph applies to the following provisions of the Roads (Northern Ireland) Order 1993 (S.I. 1993/3160 (N.I. 15))—
- (a) Article 12(2) (road bridges over railways);
 - (b) Article 70(2) (consultation on exercise of power to erect structure on road);
 - (c) Article 72(2) (control of scaffolding on roads);
 - (d) Article 73(2) (restriction on placing rails etc. over roads);
 - (e) Article 78(2) (excavations in a road);
 - (f) Article 79(2) (placing of apparatus in or under roads);
 - (g) Article 82(3) (excavations near a road);
 - (h) Article 83(2) (alteration of wall, fence or drain at the side of a road);
 - (i) Schedule 9 (savings for telecommunications apparatus).
- (2) In each of the provisions to which this paragraph applies—

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- (a) for “a telecommunications code system” and “any telecommunications code system”, wherever occurring, there shall be substituted “an electronic communications code network”;
- (b) for “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
- (c) for “telecommunications code”, wherever occurring (except in the expression “telecommunications code system”), there shall be substituted “electronic communications code”;
- (d) for “that system”, “any such system” and “the system”, wherever occurring, there shall be substituted, respectively, “that network”, “any such network” and “the network”;
- (e) for “the telecommunications code system” there shall be substituted “the electronic communications code network”.

Value Added Tax Act 1994

- 129 (1) The Value Added Tax Act 1994 (c. 23) shall be amended as follows.
- (2) In section 33 (refunds of VAT in certain cases)—
 - (a) in subsection (3), for paragraph (j) there shall be substituted—
 - “(j) the appointed news provider referred to in section 280 of the Communications Act 2003; and”;
 - (b) in subsection (5), for “a nominated” there shall be substituted “an appointed”.
 - (3) In Part 2 of Schedule 9 (exemptions), in Note (1) in Group 12 (fund-raising events by charities etc.), for “a telecommunications system (within the meaning of the Telecommunications Act 1984)” there shall be substituted “an electronic communications network”.

Criminal Justice and Public Order Act 1994

- 130 (1) Section 163 of the Criminal Justice and Public Order Act 1994 (c. 33) (local authority powers to provide closed-circuit television) shall be amended as follows.
- (2) For subsection (1)(b) there shall be substituted—
 - “(b) providing within their area an electronic communications service which is distributed—
 - (i) only to persons on a single set of premises; and
 - (ii) by an electronic communications network which is wholly within those premises and is not connected to an electronic communications network any part of which is outside those premises;”.
 - (3) In subsection (1)(c), for “telecommunications system” there shall be substituted “electronic communications network or electronic communications service”.
 - (4) After subsection (3), there shall be inserted—
 - “(3A) For the purposes of subsection (1)(b)—
 - (a) a set of premises is a single set of premises if, and only if, the same person is the occupier of all the premises; and

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- (b) two or more vehicles are capable of constituting a single set of premises if, and only if, they are coupled together.”
- (5) In subsection (4), for the definition of “telecommunications system” there shall be substituted—
- ““premises” includes a vehicle; and
- “vehicle” includes a vessel, aircraft or hovercraft.”

Airports (Northern Ireland) Order 1994

- 131 In Article 12 of the Airports (Northern Ireland) Order 1994 (S.I. 1994/426 (N.I. 1)) (provisions as to telecommunications apparatus)—
- (a) for “telecommunications apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
- (b) for “the telecommunications code”, wherever occurring, there shall be substituted “the electronic communications code”;
- (c) for “a telecommunications code system”, wherever occurring, there shall be substituted “an electronic communications code network”;
- (d) in paragraph (3), for “that system” there shall be substituted “that network”.

Merchant Shipping Act 1995

- 132 In section 91(7) of the Merchant Shipping Act 1995 (c. 21) (report of dangers to navigation), in the definition of “controlled station for wireless telegraphy”—
- (a) after “Secretary of State” there shall be inserted “or by the Office of Communications”; and
- (b) for “by him” there shall be substituted “by the Office of Communications”.

Criminal Procedure (Scotland) Act 1995

- 133 (1) The Criminal Procedure (Scotland) Act 1995 (c. 46) shall be amended as follows.
- (2) In section 302(9)(a) (interpretation), at the end there shall be inserted “nor an offence to which Schedule 6 to the Communications Act 2003 (fixed penalties for wireless telegraphy offences) applies.”
- (3) In Schedule 9 (certificates as to proof of certain routine matters), at the end there shall be inserted—

“The Communications Act
2003

Section 363(1) and (2)
(offence of unauthorised
installation or use of a
television receiver)

A person authorised to do so
by the British Broadcasting
Corporation

In relation to premises at
an address specified in the
certificate, whether on a date
so specified any television
licence (for the purposes of
that section) was, in records
maintained on behalf of the
Corporation in relation to
such licences, recorded as
being in force; and, if so,

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particulars so specified of
such record of that licence.”

British Waterways Act 1995

- 134 In section 3(1) of the [British Waterways Act 1995 \(c. i\)](#) (interpretation), in the definition of “relevant undertaker”, in paragraph (f), for the words from the beginning to “in that Act” there shall be substituted “any provider of an electronic communications network having any electronic communications apparatus”.

Street Works (Northern Ireland) Order 1995

- 135 (1) Paragraph 7 of Schedule 2 to the Street Works (Northern Ireland) Order 1995 ([S.I. 1995/3210 \(N.I. 19\)](#)) (streets with special engineering difficulties) shall be amended as follows.
- (2) For “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”.
- (3) In sub-paragraph (3)(c)—
- (a) for “a telecommunication system” there shall be substituted “an electronic communications network”;
 - (b) for “a system” there shall be substituted “a network”.

Housing Act 1996

- 136 In section 16(7)(a) of the Housing Act [1996 \(c. 52\)](#) (use of electronic communications by tenant in exercise of right to acquire dwelling), for “a telecommunication system (within the meaning of the Telecommunications Act 1984)” there shall be substituted “an electronic communications network”.

Housing Grants, Construction and Regeneration Act 1996

- 137 In section 105(1)(b) of the Housing Grants, Construction and Regeneration Act [1996 \(c. 53\)](#) (meaning of “construction operations”), for “telecommunication apparatus” there shall be substituted “electronic communications apparatus”.

Channel Tunnel Rail Link Act 1996

- 138 In Schedule 6 to the Channel Tunnel Rail Link Act [1996 \(c. 61\)](#) (planning conditions), in the table in paragraph 6(4) and the table in paragraph 15(4), for “telecommunications masts”, in each place, there shall be substituted “electronic communications masts”.
- 139 (1) Part 4 of Schedule 15 to that Act (protection of telecommunications operators) shall be amended as follows.
- (2) In paragraph 1(1), for “telecommunications operator” there shall be substituted “an operator of an electronic communications code network”.
- (3) In paragraphs 2 to 4—
- (a) for “telecommunications code”, wherever occurring, there shall be substituted “electronic communications code”;

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- (b) for “telecommunications apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
- (c) for “a telecommunications operator”, wherever occurring, there shall be substituted “an operator”;
- (d) for “any telecommunications operator”, wherever occurring, there shall be substituted “any operator of an electronic communications code network”;
- (e) for “the telecommunications operator”, wherever occurring, there shall be substituted “the operator”;
- (f) for “telecommunications system” there shall be substituted “electronic communications code network”.

(4) In paragraph 5—

- (a) for “telecommunications apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
- (b) for “telecommunications operator”, in the first place where it occurs, there shall be substituted “operator of an electronic communications code network”;
- (c) for “telecommunications operator”, in each other place where it occurs, there shall be substituted “operator”.

Gas (Northern Ireland) Order 1996

140 The Gas (Northern Ireland) Order 1996 ([S.I. 1996/275 \(N.I. 2\)](#)) shall be amended as follows.

141 In Article 44 (restrictions on disclosure of information)—

- (a) in paragraph (3)(b), for head (vi) there shall be substituted—
“*(vi) the Office of Communications;*”;
- (b) in paragraph (4), after sub-paragraph (v) there shall be inserted—
“*(w) the Communications Act 2003.*”

142 (1) Schedule 3 (other powers etc. of licence holders) shall be amended as follows.

(2) In paragraph 1(1)—

- (a) for “a public telecommunications operator” there shall be substituted “an electronic communications code operator”;
- (b) for “telecommunication system” there shall be substituted “electronic communications network”.

(3) In paragraphs 4 and 6 for “public telecommunications operator” there shall be substituted “electronic communications code operator”.

(4) In paragraphs 3(1), (2) and (3), 5(1) and (2), 6(1) and 8—

- (a) for “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
- (b) for “a telecommunication system”, wherever occurring, there shall be substituted “an electronic communications network”;
- (c) for “telecommunications code”, wherever occurring, there shall be substituted “electronic communications code”.

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Construction Contracts (Northern Ireland) Order 1997

- 143 In Article 4(1)(b) of the Construction Contracts (Northern Ireland) Order 1997 ([S.I. 1997/274 \(N.I. 1\)](#)) (meaning of “construction operations”), for “telecommunication apparatus” there shall be substituted “electronic communications apparatus”.

Waste and Contaminated Land (Northern Ireland) Order 1997

- 144 In Article 2(2) of the Waste and Contaminated Land (Northern Ireland) Order 1997 ([S.I. 1997/2778 \(N.I. 19\)](#)) (meaning of “industrial waste” for “telecommunication services”) there shall be substituted “communications services”.

Wireless Telegraphy Act 1998

- 145 Subject to any other amendment made by any other provision of this Act, in sections 1 to 4 of the Wireless Telegraphy Act 1998 ([c. 6](#)), for the words “the Secretary of State”, “Secretary of State” and “The Secretary of State”, wherever occurring, there shall be substituted “OFCOM”.
- 146 In section 1 of that Act (charges for wireless telegraphy licences)—
- (a) in subsection (2)(b), for “the issue or renewal of the licence” there shall be substituted “the issue of the licence or the making of the grant”;
 - (b) in subsection (3)(c), for the words “the Secretary of State thinks”, there shall be substituted “OFCOM think”;
 - (c) in subsection (4), for the words “he thinks”, there shall be substituted “they think”; and
 - (d) in subsection (5), at the end there shall be inserted “or any grant of recognised spectrum access made in accordance with regulations under section 3A”.
- 147 For section 2 of that Act there shall be substituted—

“2 Matters to be taken into account

- (1) This section applies where OFCOM exercise any of their powers under section 1 to prescribe sums payable in respect of any description of wireless telegraphy licence or of grant of recognised spectrum access, other than a power to prescribe sums payable where—
 - (a) a wireless telegraphy licence is varied or revoked at the request or with the consent of the licence holder; or
 - (b) a grant of recognised spectrum access is varied or revoked at the request or with the consent of the holder of the grant.
- (2) OFCOM may, if they think fit in the light (in particular) of the matters to which they are required to have regard under section 154 of the Communications Act 2003, prescribe sums which would be greater than those that would be necessary for the purposes of recovering costs incurred by them in connection with functions under the enactments relating to the management of the radio spectrum.
- (3) In this section—
 - “the enactments relating to the management of the radio spectrum” has the same meaning as in the Communications Act 2003;

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“prescribe” means prescribe by regulations or determine in accordance with regulations.”

148 (1) Section 4 of that Act (restriction on revocation or variation of licences) shall be amended as follows.

(2) In subsection (1), for the words “him” and “his” there shall be substituted, respectively, “them” and “their”.

(3) In subsection (5), for the word “him” there shall be substituted “them”.

149 (1) After section 4 of that Act there shall be inserted—

“4A Recovery of sums payable to OFCOM

Where any sum is required to be paid to OFCOM—

- (a) under any provision of this Act,
- (b) in pursuance of any provision of regulations under this Act, or
- (c) by virtue of any terms or conditions contained by virtue of this Act in a wireless telegraphy licence, or in a grant of recognised spectrum access,

that sum shall be so paid to them as soon as it becomes due in accordance with that provision, or those terms or conditions, and if not paid is to be recoverable by them accordingly.”

(2) This paragraph does not apply to a sum that first became payable before the coming into force of this paragraph.

150 For section 6 of that Act there shall be substituted—

“6 Regulations

(1) Section 403 of the Communications Act 2003 (procedure for regulations and orders made by OFCOM) applies to every power of OFCOM to make regulations under a provision of this Act.

(2) Subsections (4) to (6) of that section shall not apply in any case in which it appears to OFCOM that by reason of the urgency of the matter it is inexpedient to publish a notice in accordance with subsection (4)(b) of that section.

(3) Subsections (4) to (6) of that section shall not apply in the case of any regulations under section 3 or 3A modifying previous regulations under that section in a case not falling within subsection (2) if it appears to OFCOM—

- (a) that the modifications would not adversely affect the interests of any person or otherwise put him in a worse position or, as regards someone else, put him at a disadvantage; and
- (b) in so far as the modifications affect a procedure that has already begun, that no person would have acted differently had the modifications come into force before the procedure began.”

151 (1) Section 8 of that Act (interpretation) shall be amended as follows.

(2) After “In this Act—” there shall be inserted—

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““grant of recognised spectrum access” means a grant of recognised spectrum access made under section 159 of the Communications Act 2003;

“OFCOM” means the Office of Communications;”.

(3) After the definition of “wireless telegraphy licence” there shall be inserted—

“and references in this Act to the issue of a wireless telegraphy licence or the making of a grant of recognised spectrum access include references to the issue of such a licence, or the making of a grant of such access, by way of renewal of a previous licence or grant.”

Finance Act 1998

152 In section 118(1) of the Finance Act 1998 (c. 36) (claims for income tax purposes), for “a telecommunication system (within the meaning of the Telecommunications Act 1984)” there shall be substituted “an electronic communications service”.

Competition Act 1998

153 (1) Schedule 7 to the Competition Act 1998 (c. 41) (members of Commission appointed under certain enactments) shall be amended as follows.

(2) In paragraph 2(1)(d), for sub-paragraph (iii) there shall be substituted—
“(iii) section 194(1) of the Communications Act 2003;”.

(3) In paragraph 19A(9), in the definition of “special reference group”, after paragraph (n) there shall be inserted “or
(o) section 193 of the Communications Act 2003.”

154 In paragraph 1 of Schedule 7A to that Act (procedural rules), in the definition of “special investigation”, for “and (n)” there shall be substituted “, (n) and (o)”.

Regional Development Agencies Act 1998

155 (1) Schedule 6 to the Regional Development Agencies Act 1998 (c. 45) (land acquired by regional development agencies) shall be amended as follows.

(2) In paragraphs 1, 2, 8, 9 and 11—

- (a) for “the telecommunications code”, wherever occurring, there shall be substituted “the electronic communications code”;
- (b) for “a telecommunications code system” and “any telecommunications code system”, wherever occurring, there shall be substituted “an electronic communications code network”;
- (c) for “telecommunications apparatus” and “telecommunication apparatus”, wherever occurring, there shall be substituted “electronic communications apparatus”;
- (d) for “such system” and “the system”, wherever occurring, there shall be substituted, respectively, “such network” and “the network”.

Finance Act 1999

- 156 In section 132(10) of the Finance Act 1999 (c. 16) (power to provide for use of electronic communications), for “a telecommunication system (within the meaning of the Telecommunications Act 1984)” there shall be substituted “an electronic communications service”.

Greater London Authority Act 1999

- 157 (1) Section 235 of the Greater London Authority Act 1999 (c. 29) (restrictions on disclosure of information) shall be amended as follows.
- (2) In subsection (2)(c), for sub-paragraph (iv) there shall be substituted—
“*(iv) the Office of Communications,*”.
- (3) In subsection (3), after paragraph (rs) there shall be inserted—
“*(rt) the Communications Act 2003,*”.

Electronic Communications Act 2000

- 158 In section 15(1) of the Electronic Communications Act 2000 (c. 7) (general interpretation), in the definition of “electronic communication”, for “a telecommunication system (within the meaning of the Telecommunications Act 1984)” there shall be substituted “an electronic communications network”.

Television Licences (Disclosure of Information) Act 2000

- 159 In section 5 of the Television Licences (Disclosure of Information) Act 2000 (c. 15) (interpretation)—
- (a) for the definitions of “the BBC” and “television licence” there shall be substituted—
““the BBC” means the British Broadcasting Corporation;”;
- (b) after the definition of “prescribed” there shall be inserted—
““television licence” means a licence for the purposes of section 363 of the Communications Act 2003;”.

Finance Act 2000M

- 160 In paragraph 8 of Schedule 38 to the Finance Act 2000 (c. 17) (regulations for providing incentives for electronic communications), in the definition of “electronic communications”, for “a telecommunication system (within the meaning of the Telecommunications Act 1984)” there shall be substituted “an electronic communications service”.

Regulation of Investigatory Powers Act 2000

- 161 (1) The Regulation of Investigatory Powers Act 2000 (c. 23) shall be amended as follows.
- (2) In section 26(6)(a) (surveillance carried out for detecting unlicensed TV use), for “section 1 of the Wireless Telegraphy Act 1949” there shall be substituted “Part 4 of the Communications Act 2003”.

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- (3) In Part 1 of Schedule 1 (relevant public authorities for the purposes of sections 28 and 29 of that Act), after paragraph 23 there shall be inserted—

“23A The Office of Communications.”

Postal Services Act 2000

- 162 (1) The Postal Services Act 2000 (c. 26) shall be amended as follows.
- (2) In section 125(2)(a) (communications delivered otherwise than electronically), for “a telecommunication system (within the meaning of the Telecommunications Act 1984)” there shall be substituted “an electronic communications network”.
- (3) In paragraph 3 of Schedule 7 (disclosure of information)—
- (a) in sub-paragraph (2), for paragraph (f) there shall be substituted—
“(f) the Office of Communications.”;
 - (b) in sub-paragraph (3), after paragraph (gh) there shall be inserted—
“(gi) the Communications Act 2003.”

Utilities Act 2000

- 163 (1) Section 105 of the Utilities Act 2000 (c. 27) (general restrictions on disclosure of information) shall be amended as follows.
- (2) In subsection (5), for paragraph (d) there shall be substituted—
“(d) the Office of Communications.”.
- (3) In subsection (6), after paragraph (s) there shall be inserted—
“(t) the Communications Act 2003.”

Freedom of Information Act 2000

- 164 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (public authorities), there shall be inserted at the appropriate place—
“The Consumer Panel established under section 16 of the Communications Act 2003.”

Countryside and Rights of Way Act 2000

- 165 (1) The Countryside and Rights of Way Act 2000 (c. 37) shall be amended as follows.
- (2) In section 17(4) (byelaws not to interfere with certain rights), for paragraph (c) there shall be substituted—
“(c) with the provision of an electronic communications code network or the exercise of any right conferred by or in accordance with the electronic communications code on the operator of any such network.”
- (3) In paragraph 8 of Schedule 1 (excepted land), for “a telecommunications code system” there shall be substituted “an electronic communications code network”.

Transport Act 2000

- 166 (1) Paragraph 3 of Schedule 9 to the Transport Act 2000 (c. 38) (air traffic information) shall be amended as follows.
- (2) In sub-paragraph (2), for paragraph (d) there shall be substituted—
“(d) the Office of Communications;”.
- (3) In sub-paragraph (3)—
- (a) after paragraph (q) there shall be inserted—
“(qa) the Broadcasting Act 1996;”;
- (b) after paragraph (ra) there shall be inserted—
“(rb) the Communications Act 2003;”.

Political Parties, Elections and Referendums Act 2000

- 167 (1) The Political Parties, Elections and Referendums Act 2000 (c. 41) shall be amended as follows.
- (2) In section 11(3) (broadcasters to have regard to Electoral Commission’s views on political broadcasts), for the words from “and Sianel” to “regard” there shall be substituted “shall have regard, in determining its policy with respect to party political broadcasts,”.
- (3) In paragraph 4(6) of Schedule 12 (broadcasters to have regard to Electoral Commission’s views on referendum campaign broadcasts), for the words from “and Sianel” to “regard” there shall be substituted “shall have regard, in determining its policy with respect to referendum campaign broadcasts by designated organisations,”.

Vehicles (Crime) Act 2001

- 168 In sections 16(2)(a), 31(2)(a) and 40(6) of the Vehicles (Crime) Act 2001 (c. 3) (transmission of representations and service of notices etc.), for “a telecommunication system (within the meaning of the Telecommunications Act 1984 (c. 12))” there shall be substituted “an electronic communications network”.

Criminal Justice and Police Act 2001

- 169 In the table in section 1(1) of the Criminal Justice and Police Act 2001 (c. 16) (offences leading to penalties on the spot), after the entry relating to section 12 of that Act there shall be inserted—

“Section 127(2) of the Communications Act 2003	Using public electronic communications network in order to cause annoyance, inconvenience or needless anxiety”.
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Electronic Communications Act (Northern Ireland) 2001

- 170 In section 4(1) of the Electronic Communications Act (Northern Ireland) 2001 (c. 9 (N.I.)) (interpretation), in the definition of “electronic communication”, for

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“a telecommunication system (within the meaning of the Telecommunications Act 1984)” there shall be substituted “an electronic communications network”.

Office of Communications Act 2002

171 Sections 2, 4, 5 and 6 of the Office of Communications Act 2002 (c. 11) shall cease to have effect.

172 (1) The Schedule to that Act shall be amended as follows.

(2) The following shall cease to have effect—

- (a) paragraph 1(4);
- (b) paragraph 8(5);
- (c) paragraph 17(8) and (9); and
- (d) paragraph 20.

(3) For paragraph 8(1) there shall be substituted—

“(1) It shall be the duty of OFCOM so to conduct their affairs as to secure that their revenues so far as they —

- (a) derive from the exercise of powers to impose charges or fees in respect of the carrying out of particular functions, and
- (b) do not fall to be paid into the Consolidated Fund of the United Kingdom or of Northern Ireland,

are at least sufficient to enable OFCOM to meet the costs of carrying out the functions to which the revenues relate.”

(4) After paragraph 14(3) (executive committees of OFCOM to include member or employee of OFCOM) there shall be inserted—

“(3A) Sub-paragraph (3) has effect in the case of a committee of OFCOM which—

- (a) is not the Content Board, but
- (b) has functions that are confined to functions falling within section 13(2) of the Communications Act 2003 (functions within the Content Board’s remit),

as if the reference in that sub-paragraph to a member of OFCOM included a reference to a member of the Content Board who is not a member of OFCOM.”

Tobacco Advertising and Promotion Act 2002

173 (1) Section 12 of the Tobacco Advertising and Promotion Act 2002 (c. 36) (exclusion from that Act of advertising on television and radio) shall be amended as follows.

(2) For subsection (3) there shall be substituted—

“(3) This subsection applies to —

- (a) a service falling within section 211(1) of the Communications Act 2003 (independent television services regulated by the Office of Communications) which is not an additional television service (within the meaning of Part 3 of that Act); and

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- (b) an additional television service comprised in the public teletext service (within the meaning of that Part).”
- (3) For subsection (5) there shall be substituted—
 - “(5) This subsection applies to a service which—
 - (a) falls within section 245(1) of the Communications Act 2003 (independent radio services regulated by the Office of Communications); but
 - (b) is not a digital additional sound service (within the meaning of Part 3 of that Act).”

Enterprise Act 2002

- 174 (1) The Enterprise Act 2002 (c. 40) shall be amended as follows.
- (2) In section 126(6) (service of documents electronically), for “a telecommunication system (within the meaning of the Telecommunications Act 1984 (c. 12))” there shall be substituted “an electronic communications network”.
 - (3) In section 128(5) (supply of services and market for services etc.), for “section 189(2) of the Broadcasting Act 1990 (c. 42)” there shall be substituted “paragraph 29 of Schedule 2 to the Telecommunications Act 1984”.
 - (4) In section 136 (investigations and reports on market investigation references)—
 - (a) in subsection (7), after paragraph (g) there shall be inserted—
 - “(h) in relation to the Office of Communications, sections 370 and 371 of the Communications Act 2003.”;
 - (b) in subsection (8), for “or the Civil Aviation Authority” there shall be substituted “, the Civil Aviation Authority or the Office of Communications”.
 - (5) In section 168 (regulated markets)—
 - (a) in subsection (3)(e), for “section 39(1) of the Broadcasting Act 1990 (c. 42)” there shall be substituted “section 290 of the Communications Act 2003”;
 - (b) for subsection (4)(e), there shall be substituted—
 - “(e) in relation to any networking arrangements (within the meaning given by section 290 of the Communications Act 2003), the duty of the Office of Communications under subsection (1) of section 3 of that Act to secure the matters mentioned in subsection (2)(c) of that section;”;
 - (c) for subsection (5)(g), there shall be substituted—
 - “(g) the Office of Communications;”.
 - (6) In section 234(5) (supply of services), for “section 189(2) of the Broadcasting Act 1990 (c. 42)” there shall be substituted “paragraph 29 of Schedule 2 to the Telecommunications Act 1984”.
 - (7) In Schedule 15 (enactments conferring functions), in the appropriate place, there shall be inserted—
 - “Communications Act 2003.”

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Income Tax (Earnings and Pensions) Act 2003

- 175 (1) The Income Tax (Earnings and Pensions) Act 2003 (c. 1) shall be amended as follows.
- (2) In section 319(3) (mobile telephones), in the definition of “telephone apparatus”, for “connected to a public telecommunication system (as defined in section 9(1) of the Telecommunications Act 1984 (c. 12))” there shall be substituted “used in connection with a public electronic communications service”.
- (3) In section 320(7)(c)(ii) (limited exemption for computer equipment), for “any public telecommunication system, and” there shall be substituted “a public electronic communications service.”

SCHEDULE 18

Section 406

TRANSITIONAL PROVISIONS

General

- 1 (1) This paragraph applies where, at any time before the coming into force of a transfer made by virtue of section 2—
- (a) any subordinate legislation has been made in the carrying out of the transferred functions by the person from whom the transfer is made; or
 - (b) any other thing has been done by or in relation to that person for the purposes of or in connection with the carrying out of those functions.
- (2) The subordinate legislation or other thing—
- (a) is to have effect, on and after the coming into force of the transfer, and so far as necessary for its purposes, as if it had been made or done by or in relation to OFCOM; and
 - (b) in the case of subordinate legislation to which section 403 applies when it is made by OFCOM, shall so have effect as if made in accordance with the requirements of that section.
- (3) Where any subordinate legislation, direction, authorisation or notice has effect in accordance with this paragraph—
- (a) so much of it as authorises or requires anything to be done by or in relation to the person from whom the transfer is made is to have effect in relation to times after the coming into force of the transfer as if it authorised or required that thing to be done by or in relation to OFCOM; and
 - (b) other references in the subordinate legislation, direction, authorisation or notice to the person from whom the transfer is made are to have effect, in relation to such times, as references to OFCOM.

Steps taken in anticipation of passing or coming into force of Act

- 2 (1) This paragraph applies where the Secretary of State or OFCOM is or are required—
- (a) by a provision of this Act, or
 - (b) by virtue of an amendment made by this Act,
- to take steps before exercising a power or performing a duty.

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- (2) The requirement is capable of being satisfied by the taking of the steps in anticipation of effect being given to the provision by virtue of which the power or duty is—
 - (a) conferred or imposed on the Secretary of State or OFCOM; or
 - (b) transferred to OFCOM.
- (3) For the purposes of sub-paragraph (2) it is immaterial—
 - (a) that the provision by virtue of which the power or duty is conferred, imposed or transferred had not been enacted, or had not come into force, when the steps were taken; and
 - (b) in the case of steps taken before the enactment of that provision, that the provision the effect of which was anticipated was modified before being enacted.
- (4) In relation to provisions brought into force as mentioned in subsection (1) of section 408 for the purpose of enabling specified functions to be carried out by the Director or the Secretary of State—
 - (a) this paragraph has effect in relation to steps taken by the Director or the Secretary of State as it has in relation to steps taken by OFCOM; and
 - (b) subsection (5) of that section applies in relation to steps taken by the Director or the Secretary of State in anticipation of effect being given to those provisions as it would apply to anything done by the Director or the Secretary of State for the purposes of, or in connection with, the carrying out of those functions.
- (5) Where a requirement is satisfied by virtue of this paragraph by steps taken in anticipation of effect being given to a provision—
 - (a) representations made to or other things done in relation to OFCOM, or the Director or the Secretary of State, in consequence of the taking of those steps, and
 - (b) any requirements framed by reference to the time at which those steps were taken,are to have effect as if the provision in question had come into force before those steps were taken.

Savings for agreements referring to the termination of a 1984 Act licence

- 3 (1) This paragraph applies where a term or condition of an agreement in force immediately before the abolition of licensing provides—
 - (a) for the agreement, or a provision of it, to cease to have effect,
 - (b) for the agreement to become capable of being terminated,
 - (c) for a requirement to pay or repay an amount (whether liquidated or unliquidated) to arise under the agreement, or to arise earlier than it would otherwise have arisen,
 - (d) for a security to become enforceable, or
 - (e) for rights or obligations of a person under the agreement to be different or to be modified,if a person (whether or not a party to the agreement) ceases to hold a licence under section 7 of the 1984 Act, or ceases to do so in a manner or in circumstances described in the agreement.

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

- (2) Where a person ceases to hold a licence in consequence of the provisions of this Act removing the requirement to hold a licence under section 7 of the 1984 Act—
 - (a) the term or condition is not to apply; and
 - (b) the rights and obligations of the parties to the agreement are to be the same (subject to the following sub-paragraphs) as they would have been had the person in question continued to hold such a licence.
- (3) In relation to times after the abolition of licensing, that term or condition is to have effect as if the reference in that term or condition—
 - (a) to a person’s ceasing to hold a licence under section 7 of the 1984 Act, or
 - (b) to his ceasing to do so in a particular manner or particular circumstances,were a reference to his becoming subject to a direction under this Act by virtue of which he is prohibited from providing the whole or a part of an electronic communications network or electronic communications service.
- (4) In sub-paragraph (3) the reference to a person’s becoming subject to a direction by virtue of which he is prohibited from providing the whole or a part of an electronic communications network or electronic communications service—
 - (a) does not include a reference to his becoming subject to a direction imposing a prohibition for a fixed period of less than eighteen months or to a direction that will have to be revoked if not confirmed; but
 - (b) except in the case of a direction imposing a prohibition for such a fixed period, does include a reference to the confirmation of a direction that would otherwise have had to be revoked.
- (5) This paragraph does not apply in the case of a term or condition of an agreement if, on an application to the court by one or both of the parties to the agreement, the court directs—
 - (a) that this paragraph is not to apply; or
 - (b) that it is to apply with such modifications, or subject to the payment of such compensation, as the court may specify in the direction.
- (6) In determining whether to give a direction under sub-paragraph (5) or what modifications or compensation to specify in such a direction the court must have regard to the following—
 - (a) whether either or both of the parties to the agreement contemplated the abolition of the licensing requirements of the 1984 Act when they entered into the agreement; and
 - (b) the extent (if any) to which the provisions of this paragraph represent what it would have been reasonable for the parties to have agreed had they both known at that time what provision was to be made by this Act and when it was to come into force.
- (7) For the purposes of this paragraph—
 - (a) references to ceasing to hold a licence include references to its expiring or being revoked; and
 - (b) references to a licence under section 7 of the 1984 Act include references to a licence under that section of a particular description.
- (8) In this paragraph “the court” means the High Court or the Court of Session.
- (9) This paragraph has effect subject to paragraph 14.

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

Saving for agreements with special provision for 1984 Act licence holders

- 4 (1) This paragraph applies in a case to which paragraph 3 does not apply and in which a term or condition of an agreement in force immediately before the abolition of licensing provides for rights or obligations of a person (“the contracting party”) under the agreement to be different or to be modified according to whether or not he or another person (whether or not a party to the agreement)—
- (a) is or has become the holder of a licence under section 7 of the 1984 Act; or
 - (b) is or has become the holder of such a licence in a manner or in circumstances described in the agreement.
- (2) In relation to times after the abolition of licensing, that term or condition is to have effect as if the rights and obligations to which the contracting party is entitled or subject under the agreement were, except in a case falling within sub-paragraph (3), those for which the agreement provides in relation to a case in which the person in question—
- (a) is or has become the holder of such a licence; or
 - (b) is or has become the holder of such a licence in that manner or in those circumstances.
- (3) The excepted case is where that person is subject to a direction under this Act by virtue of which he is prohibited from providing the whole or a part of an electronic communications network or electronic communications service.
- (4) In sub-paragraph (3) the reference to a person’s being subject to a direction by virtue of which he is prohibited from providing the whole or a part of an electronic communications network or electronic communications service—
- (a) does not include a reference to his being subject to a direction imposing a prohibition for a fixed period of less than eighteen months or to a direction that will have to be revoked if not confirmed; but
 - (b) except in the case of a direction imposing a prohibition for such a fixed period, does include a reference to his being subject to a direction which would have had to be revoked if not confirmed but which has been confirmed.
- (5) This paragraph does not apply in the case of a term or condition of an agreement if, on an application to the court by one or both of the parties to the agreement, the court directs—
- (a) that this paragraph is not to apply; or
 - (b) that it is to apply with such modifications, or subject to the payment of such compensation, as the court may specify in the direction.
- (6) In determining whether to give a direction under sub-paragraph (5) or what modifications or compensation to specify in such a direction the court must have regard to the following—
- (a) whether either or both of the parties to the agreement contemplated the abolition of the licensing requirements of the 1984 Act when they entered into the agreement; and
 - (b) the extent (if any) to which the provisions of this paragraph represent what it would have been reasonable for the parties to have agreed had they both known at that time what provision was to be made by this Act and when it was to come into force.

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

- (7) For the purposes of this paragraph references to a licence under section 7 of the 1984 Act include references to a licence under that section of a particular description.
- (8) In this paragraph “the court” means the High Court or the Court of Session.

General saving for agreements conditional on certain Broadcasting Act licences

- 5 (1) This paragraph has effect where an agreement in force immediately before the coming into force of a provision of this Act removing a requirement for a relevant Broadcasting Act licence provides—
- (a) for the agreement to cease to have effect, or
 - (b) for it to be capable of being terminated,
- if a party to the agreement ceases to hold a relevant Broadcasting Act licence of a particular description, or so ceases in a manner described in the agreement.
- (2) In this paragraph “relevant Broadcasting Act licence” means—
- (a) a licence under Part 1 of the 1990 Act to provide a satellite television service or a licensable programme service;
 - (b) a licence under that Part to provide the service mentioned in section 49(2) of that Act;
 - (c) a licence under Part 2 of that Act to provide a local delivery service; or
 - (d) a licence under Part 3 of that Act to provide a formerly regulated radio service (within the meaning of section 251 of this Act).
- (3) The agreement is not to cease to have effect, or to be capable of being terminated, by reason only of the coming into force of the provisions of this Act under which the requirement for the licence is removed.
- (4) In relation to times after the commencement of the provision of this Act removing the requirement for a licence to provide a satellite television service or a licensable programme service, a reference to such a licence in the provision of the agreement in question is to have effect as a reference to a licence granted or having effect as if granted as a licence to provide a television licensable content service.
- (5) In relation to times after the commencement of the provision of this Act removing the requirement for a licence to provide the service mentioned in section 49(2) of the 1990 Act, a reference to such a licence in the provision of the agreement in question is to have effect as a reference to a licence to provide the public teletext service.
- (6) In relation to times after the commencement of the provision of this Act removing the requirement for a licence to provide a licensable sound programme service, a reference to such a licence in the provision of the agreement in question is to have effect as a reference to a licence to provide a radio licensable content service.
- (7) References in this paragraph to a provision having effect if a person ceases to hold a licence include references—
- (a) to a provision having effect if a licence of his expires without being renewed; and
 - (b) to a provision having effect if his licence is revoked.
- (8) Expressions used in this paragraph and in Part 3 of this Act have the same meanings in this paragraph as in that Part.

Orders under Part 2 of the Deregulation and Contracting Out Act 1994

- 6 (1) This paragraph applies where, immediately before functions under the Wireless Telegraphy Act 1949 (c. 54) are transferred under this Act to OFCOM, an order is in force with respect to those functions under Part 2 of the Deregulation and Contracting Out Act 1994 (c. 40).
- (2) The order is to have effect in relation to times after the transfer—
- (a) as if made in exercise of the power conferred by virtue of section 1(7) in relation to such of the functions of OFCOM under that Act of 1949 as are specified in the order;
 - (b) as if any power conferred on the Secretary of State by that order to authorise the exercise by a person of functions under that Act of 1949 were conferred on OFCOM; and
 - (c) as if an authorisation given by the Secretary of State in exercise of that power were an authorisation given under that order by OFCOM.

Pre-commencement proposals relating to universal service matters

- 7 (1) Where a proposal for the designation of a person as a universal service provider has been confirmed under regulation 4(10) of the Electronic Communications (Universal Service) Regulations 2003 (S.I. 2003/33), the designation is to have effect after the commencement of section 66 of this Act as a designation in accordance with regulations under that section.
- (2) Where in any person's case a proposal to set a condition has been confirmed under regulation 4(10) or 5(4) of those regulations, that condition is to have effect after the commencement of that section as a condition set by OFCOM under section 45 of this Act and applied to that person.
- (3) Where an appeal under regulation 6 of those regulations against a decision under them has been brought but not concluded before the commencement of section 192 of this Act—
- (a) that appeal is to be stayed or sisted as from the commencement of the section; but
 - (b) the appellant is to have a new right of appeal under the section against the decision (as it has effect by virtue of this paragraph) as if—
 - (i) it were the corresponding decision made by OFCOM under Chapter 1 of Part 2 of this Act; and
 - (ii) it had been made immediately after the commencement of the section.
- (4) Tribunal rules (within the meaning of Chapter 3 of Part 2 of this Act) may, in relation to an appeal stayed or sisted under sub-paragraph (3), make transitional provision for requiring steps taken and things done for the purposes of that appeal to be taken into account, to the extent set out in the rules, in the case of an appeal brought by virtue of paragraph (b) of that sub-paragraph.

Local loop notifications

- 8 (1) This paragraph applies where, as a result of a market power determination made by OFCOM for the purposes of a provision of Chapter 1 of Part 2 of this Act, they

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conclude that a person who is for the time being LLU notified is no longer a person falling to be so notified.

- (2) OFCOM must give a notification of their conclusion to—
 - (a) the Secretary of State; and
 - (b) the notified person.
- (3) On receiving a notification under sub-paragraph (2) the Secretary of State must withdraw the LLU notification of the person in question.
- (4) For the purposes of this paragraph a person is LLU notified if he is a person who, for the purposes of Regulation (EC) No. 2887/2000 of the European Parliament and of the Council on unbundled access to the local loop, is notified to the European Commission as having significant market power in an identified market, and “LLU notification” shall be construed accordingly.
- (5) Section 192 applies to a decision by OFCOM to give a notification under this paragraph as it applies to a decision by them under Part 2 of this Act.

Conditions relating to premium rate services and conditions corresponding to SMP or access-related conditions

- 9 (1) This paragraph applies where OFCOM give a continuation notice to the holder of a licence granted under section 7 of the 1984 Act.
- (2) A continuation notice is a notice that a provision contained in a condition of the licence is to have effect, after the abolition of licensing—
 - (a) to the extent specified in the notice; and
 - (b) subject to such modifications (if any) as may be so specified.
- (3) OFCOM are not to give a continuation notice except to the extent that they consider that provision to which it will give effect, as modified by the notice, (“the continued provision”)—
 - (a) regulates the provision of premium rate services; or
 - (b) falls within sub-paragraph (4).
- (4) The continued provision falls within this sub-paragraph in so far as it corresponds to provision of one or more of the following descriptions—
 - (a) provision that OFCOM have power to include in SMP conditions;
 - (b) provision authorised by section 73(2) or (4) for inclusion in access-related conditions;
 - (c) provision relating to matters mentioned in Article 16 of the Universal Service Directive or Article 7 of the Access Directive.
- (5) A continuation notice relating to provision corresponding to anything that OFCOM have power to include in SMP conditions—
 - (a) may identify the market by reference to which an SMP condition replacing the provision would have to be set; and
 - (b) in so far as the provision corresponds to anything that OFCOM have power to include only in SMP apparatus conditions, must do so.
- (6) OFCOM are not to give a continuation notice relating to provision corresponding to anything that OFCOM have power to include only in SMP apparatus conditions except to the extent that it has effect in relation to the supply of electronic

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communications apparatus of a description supplied in the market identified in the notice as the market by reference to which SMP conditions replacing the continued provision would have to be set.

- (7) The modifications for which a continuation notice may provide—
- (a) must be confined to modifications for the purpose of securing that the provision to which they relate continues to have effect for so long as the notice is in force; but
 - (b) in the case of provision which is expressed to impose a requirement to be met before the abolition of licensing, may include a modification under which that requirement must continue to be met for so long as the notice remains in force.
- (8) Notwithstanding any repeal or revocation made by this Act—
- (a) the continued provision,
 - (b) every provision made by a direction, determination or consent given or made for the purposes of the continued provision, and
 - (c) so far as necessary for giving effect to anything mentioned in paragraph (a) or (b), every provision made by or under the licence under the 1984 Act that is not so mentioned,
- are to remain in force for so long as the continuation notice is in force.
- (9) A continuation notice shall cease to have effect if OFCOM give a notice to that effect to the holder of the licence.
- (10) Where the continued provision is one that OFCOM have power to include only in an SMP apparatus condition, it shall be their duty, as soon as reasonably practicable after giving the continuation notice—
- (a) to carry out an analysis of the market which, under sub-paragraph (5), is identified in that notice;
 - (b) to take all other steps necessary for enabling them to decide whether or not to set an SMP apparatus condition by reference to that market for the purpose of replacing the continued provision; and
 - (c) to decide whether or not to exercise their power to set such a condition for that purpose.
- (11) In the case of every other continued provision falling within sub-paragraph (4), it shall be OFCOM's duty, as soon as reasonably practicable after giving the continuation notice—
- (a) to take all steps necessary for enabling them to decide whether or not to set a condition of any other description under Chapter 1 of Part 2 of this Act for the purpose of replacing the continued provision; and
 - (b) to decide whether or not to exercise their power to set a condition under that Chapter for that purpose.
- (12) It shall be the duty of OFCOM—
- (a) as soon as reasonably practicable after making a decision required by sub-paragraph (10) or (11), but
 - (b) in a case where that decision is a decision to set a condition, not before the coming into force of that condition,
- to give a notice under sub-paragraph (9) with respect to the continuation notice.

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- (13) The duties imposed by sub-paragraphs (10) to (12) apply only where OFCOM have not previously given a notice under sub-paragraph (9) with respect to the continuation notice in question.
- (14) This paragraph has effect in the case of a licence granted under section 7 of the 1984 Act to persons of a particular class as if—
 - (a) references to the holder of that licence were references to the members of that class; and
 - (b) the manner in which a continuation notice or notice under sub-paragraph (9) is to be given to members of that class were by its publication in such manner as, in OFCOM’s opinion, is appropriate for bringing it to the attention of the members of that class who are affected by the notice.
- (15) Section 192 applies to a decision by OFCOM to give a notice under this paragraph as it applies to a decision by them under Part 2 of this Act.
- (16) In this paragraph “Access Directive”, “electronic communications apparatus”, “the provision of premium rate services”, “SMP condition”, “SMP apparatus condition” and “Universal Service Directive” each has the same meaning as in Chapter 1 of Part 2 of this Act.

Pre-commencement proposals relating to market power determinations

- 10 (1) Sub-paragraph (2) has effect where a proposal for—
 - (a) the identification of a market,
 - (b) the making of a market power determination, or
 - (c) the setting of conditions by reference to a proposal for a market power determination,
 has been confirmed under regulation 8 of the Electronic Communications (Market Analysis) Regulations 2003 ([S.I. 2003/330](#)).
- (2) If, at any time after the commencement of section 45, OFCOM—
 - (a) are satisfied that a procedure has been followed in relation to the proposal that satisfies the requirements of Article 7 of the Framework Directive, and
 - (b) publish a notification to that effect in such manner as they consider appropriate for bringing it to the attention of the persons who, in their opinion, are likely to be affected by the proposal,
 the proposal (with such modifications, if any, as are specified in the notification) is to have effect, from the publication of the notification, in accordance with sub-paragraph (3).
- (3) The proposal is to have effect as follows—
 - (a) in the case of a proposal for identifying a market, as an identification of a services market in accordance with and for the purposes of section 79 of this Act;
 - (b) in the case of a proposal for the making of a market power determination, as a market power determination made in accordance with and for the purposes of Chapter 1 of Part 2 of this Act; and
 - (c) in the case of a proposal for setting conditions, as if the conditions were SMP services conditions set under section 45 of this Act and applied to the same person as the condition in the proposal.

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- (4) Where an appeal under regulation 11 of those regulations against a decision under them has been brought but not concluded before the commencement of section 192 of this Act—
 - (a) that appeal is to be stayed or sisted as from the commencement of the section; but
 - (b) the appellant is to have a new right of appeal under the section against the decision (as it has effect by virtue of this paragraph) as if—
 - (i) it were the corresponding decision made by OFCOM under Chapter 1 of Part 2 of this Act; and
 - (ii) it had been made immediately after the commencement of the section.
- (5) Tribunal rules (within the meaning of Chapter 3 of Part 2 of this Act) may, in relation to an appeal stayed or sisted under sub-paragraph (4), make transitional provision for requiring steps taken and things done for the purposes of that appeal to be taken into account, to the extent set out in the rules, in the case of an appeal brought by virtue of paragraph (b) of that sub-paragraph.
- (6) Section 192 applies to a decision by OFCOM to publish a notification under this paragraph as it applies to a decision by them under Part 2 of this Act.
- (7) In this paragraph “the Framework Directive” has the same meaning as in Chapter 1 of Part 2 of this Act.

Savings for licence conditions relating to accounting

- 11 (1) This paragraph applies where a licence granted under section 7 of the 1984 Act contains conditions which impose requirements with respect to—
 - (a) the keeping of accounts or financial information; or
 - (b) the provision of accounts and financial information to the Director.
- (2) OFCOM may give a notice to the holder of the licence as respects so much of those conditions as relates to—
 - (a) the keeping of accounts for a period current at the time of the abolition of licensing; and
 - (b) the provision of accounts and financial information in relation to any such period or in relation to periods ending before the abolition of licensing.
- (3) In the case of a licence granted otherwise than to a particular person, a notice under this paragraph may be given to the licence holders by being published in such manner as OFCOM consider appropriate for bringing it to their attention.
- (4) Notwithstanding any repeal or revocation made by this Act—
 - (a) the licence under the 1984 Act is to continue in force to the extent that it imposes requirements as respects which a notice has been given under this paragraph; but
 - (b) those requirements, so far as they require the provision of accounts or information to the Director, are to have effect in relation to times after the abolition of licensing, as requirements to provide the accounts or information to OFCOM.
- (5) Section 192 applies to a decision by OFCOM to give a notice under this paragraph as it applies to a decision by them under Part 2 of this Act.

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Charges under Telecommunications Act licences

- 12 (1) Where any amount is required by a licence under section 7 of the 1984 Act to be paid to the Director in respect of a period beginning before the abolition of licensing, that liability is to have effect after the abolition of licensing as a liability to pay to OFCOM so much of that amount as does not relate to times after the abolition of licensing.
- (2) For the purpose of determining how much of an amount payable to the Director relates to times after the abolition of licensing, an apportionment is to be made according to how much of that period had expired before the abolition of licensing.

Enforcement of breaches of licence conditions

- 13 (1) This paragraph applies to—
- (a) any provision to which effect is given, after the abolition of licensing, by a continuation notice under paragraph 9;
 - (b) conditions in respect of which notices under paragraph 11 have been given;
 - (c) liabilities under paragraph 12; and
 - (d) conditions of a licence under section 7 of the 1984 Act requiring compliance by the licence holder with directions given by the Director under regulation 6 of the Telecommunications (Interconnection) Regulations 1997 (S.I. 1997/2931).
- (2) Notwithstanding any repeal or revocation made by this Act, after the abolition of licensing, OFCOM are, for the purpose of enforcing anything to which this paragraph applies, to have all the enforcement powers previously exercisable by the Director under the 1984 Act.
- (3) Those powers are to be exercisable in accordance with this paragraph irrespective of whether the contraventions occurred before or after the abolition of licensing.
- (4) For the purpose of exercising those powers, references to the likelihood that a person will again be in contravention of a condition include references to whether he will be in contravention of any equivalent obligation imposed—
- (a) by section 38 of this Act;
 - (b) by conditions set under section 45 of this Act; or
 - (c) by directions under section 190 of this Act.
- (5) OFCOM are not to exercise any powers conferred by virtue of this paragraph if they consider that the exercise of those powers would be incompatible with the requirements of the Directives.
- (6) In this paragraph “enforcement powers” includes—
- (a) the Director’s powers under sections 16 to 18 and 53 of the 1984 Act; and
 - (b) in the case of a licence issued to a particular person, every power of his under the licence to require information for the purpose of computing the amount of the liability to a charge.
- (7) In this paragraph “the Directives” means the Authorisation Directive or any of the following Directives (as defined in Chapter 1 of Part 2 of this Act)—
- (a) the Access Directive;
 - (b) the Framework Directive;
 - (c) the Universal Service Directive.

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- (8) In sub-paragraph (7) “the Authorisation Directive” means Directive [2002/20/EC](#) of the European Parliament and of the Council on the authorisation of electronic communications networks and services.

Saving for agreements having effect by reference to licensing regime

- 14 (1) This paragraph has effect where an agreement entered into for the purposes of a condition of a licence under section 7 of the 1984 Act has effect immediately before the abolition of licensing subject to a provision which entitles a party to it to terminate the agreement if he or another party ceases to be a Schedule 2 public operator.
- (2) The right of termination is not to be exercisable by reason of the effect of the coming into force of any provision of this Act if—
- (a) a general condition,
 - (b) an access-related condition, or
 - (c) a provision made by or having effect as if made under an SMP condition,
- imposes requirements on one or both of the parties to the agreement that correspond to those for the purposes of which the agreement was originally entered into.
- (3) In any such case, the agreement shall have effect in relation to times after the abolition of licensing as if references in the agreement to a Schedule 2 public operator were references to the provider of a public electronic communications network.
- (4) In this paragraph “Schedule 2 public operator” has the same meaning as in Schedule 1 to the Telecommunications (Licence Modifications) (Standard Schedules) Regulations 1999 ([S.I. 1999/2450](#)).
- (5) Expressions used in this paragraph and in Chapter 1 of Part 2 of this Act have the same meanings in this paragraph as in that Chapter.

Fees for approvals for the purposes of licence conditions

- 15 (1) This paragraph has effect where a general condition set under section 45 of this Act requires apparatus to be approved by reference to a standard previously designated for the purposes of section 24(6) of the 1984 Act.
- (2) The Secretary of State may by order provide for the charging of fees in respect of the giving of approvals for the purposes of the condition.
- (3) Fees charged under this paragraph are to be paid to the person giving the approvals and, to the extent authorised by the Secretary of State, may be retained by that person.
- (4) To the extent that they are not retained by that person, the fees must be paid into the Consolidated Fund.
- (5) Any order made under section 24(13) of the 1984 Act that is in force immediately before the coming into force of the repeal of section 24 of that Act shall have effect after the coming into force of the repeal as an order made under this paragraph.

Allocated telephone numbers

- 16 (1) Where immediately before the abolition of licensing telephone numbers are allocated to a person holding a licence under section 7 of the 1984 Act for the purposes of the conditions of that licence, those numbers shall be treated, after the abolition of

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licensing as allocated to that person for the purposes of general conditions such as are mentioned in section 58 of this Act.

- (2) An allocation having effect by virtue of sub-paragraph (1) may be withdrawn by OFCOM at any time, but only in accordance with section 61 of this Act.
- (3) An allocation shall only continue to have effect in accordance with this paragraph for so long as the person to whom the allocation was made for the purposes of the licence conditions is a communications provider.
- (4) The power by virtue of section 58 for general conditions to make provision for the making of periodic payments in respect of the allocation of telephone numbers shall be exercisable, at any time after the coming into force of that section, in relation to an allocation having effect by virtue of this paragraph as it has effect in relation to an allocation made under that section.
- (5) Expressions used in this paragraph and in Chapter 1 of Part 2 of this Act have the same meanings in this paragraph as in that Chapter.

Electronic communications code

- 17 (1) Sub-paragraph (2) applies where, immediately before the coming into force of section 106 of this Act, the telecommunications code set out in Schedule 2 to the 1984 Act applies to a person by virtue of the provisions of his licence under section 7 of that Act.
- (2) That person shall be treated after the commencement of section 106 of this Act as a person in whose case the electronic communications code applies by virtue of a direction given by OFCOM.
- (3) The deemed direction shall be assumed to be one given in relation to so much of any electronic communications network as—
 - (a) was included immediately before the commencement of section 106 of this Act in the telecommunication system which was the operator's system for the purposes of the application of the code; or
 - (b) which would have been so included if it had been being provided at that time.
- (4) So much of the code in Schedule 2 to the 1984 Act as has effect immediately before the commencement of Schedule 3 to this Act—
 - (a) in relation to telecommunication apparatus, or
 - (b) in relation a telecommunication system,
 is to have effect after the commencement of that Schedule in relation to so much of the apparatus or system as is electronic communications apparatus or the operator's network for the purposes of the application of that Schedule to this Act by virtue of this paragraph or section 106(3)(b) of this Act.
- (5) A right which for the purposes of the code in Schedule 2 to the 1984 Act has effect immediately before the commencement of Schedule 3 to this Act as conferred for purposes connected with the provision of a telecommunication service is to have effect after the commencement of that Schedule as conferred for the purposes of the corresponding electronic communications service.
- (6) Any agreement which, immediately before the repeal of the provisions contained in section 10(3A) and (3B) of the 1984 Act or section 189 of the 1990 Act, is a relevant agreement for the purposes of those provisions shall be deemed in relation to times

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after the coming into force of that repeal to be a relevant agreement for the purposes of paragraph 29 of the electronic communications code.

- (7) In this paragraph “the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of this Act.

Saving for guarantees of liabilities of telecommunications code operators

- 18 (1) This paragraph applies where, immediately before the abolition of licensing, a person holding a licence under section 7 of the 1984 Act (“the operator”) —
- (a) is a person to whom the telecommunications code applies in respect of the running of a telecommunications system by him (“the operator’s system”); and
 - (b) in pursuance of a condition of his licence imposed for the purpose of securing that sufficient funds are available to meet code-related liabilities specified in the licence, is a party to any guarantee arrangements.
- (2) Arrangements are guarantee arrangements for the purposes of this paragraph if they are arrangements under which a person (the “guarantor”) is obliged, in circumstances specified in the arrangements, to make payments in respect of a failure by the operator to meet a code-related liability specified in the licence.
- (3) The guarantor’s obligation to make payments under the guarantee arrangements is not to arise by reason only of the abolition of licensing.
- (4) In relation to times after the abolition of licensing, the guarantee arrangements are to have effect, notwithstanding the operator’s licence having ceased to have effect on the abolition of licensing and subject to sub-paragraph (7), as if the following references continued to have effect—
- (a) references in those arrangements to the code-related liabilities specified in the licence; and
 - (b) (subject to sub-paragraph (5)(a)) references, for the purposes of any provision identifying the circumstances in which payments are to be made under the arrangements, to events specified in the licence.
- (5) In relation to such times, those arrangements are also to have effect—
- (a) as if references (directly or indirectly) to the revocation, or to the expiration without renewal, of the operator’s licence were references to his becoming subject to a direction by virtue of which he is prohibited from providing the whole or a part of his network; and
 - (b) as if references to the telecommunications code were references to the electronic communications code.
- (6) In sub-paragraph (5) the reference to a person’s becoming subject to a direction by virtue of which he is prohibited from providing the whole or a part of an electronic communications network—
- (a) does not include a reference to his becoming subject to a direction imposing a prohibition for a fixed period of less than eighteen months or to a direction that will have to be revoked if not confirmed; but
 - (b) except in the case of a direction imposing a prohibition for such a fixed period, does include a reference to the confirmation of a direction that would otherwise have had to be revoked.

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

- (7) The guarantor is not to be liable in respect of any liability arising in connection with or as a result of activities carried on after the abolition of licensing except in so far as those activities are activities carried on for the purposes of providing the operator's network.
- (8) In this paragraph "code-related liabilities", in relation to the operator, means liabilities arising or incurred by him—
- (a) by reason of the application to him of the telecommunications code;
 - (b) by reason of its ceasing to apply to him; or
 - (c) otherwise in respect of activities carried on by him in connection with running the operator's system.
- (9) In this paragraph—
- "the electronic communications code" has the same meaning as in Chapter 1 of Part 2 of this Act;
- "the operator's network" means so much of any electronic communications network provided by the operator as is a network in relation to which the electronic communications code applies in the operator's case by virtue of paragraph 17(3)(a) of this Schedule;
- "the telecommunications code" means the code set out in Schedule 2 to the 1984 Act (as it had effect immediately before the abolition of licensing).

Compulsory purchase

- 19 Where—
- (a) a compulsory purchase order made under section 34 or 35 of the 1984 Act,
 - (b) a vesting order, or an application for a vesting order, made under section 36 of that Act, or
 - (c) an authorisation given by the Secretary of State under section 37, 38 or 39 of that Act,
- is effective immediately before the commencement of Schedule 4 to this Act, it is to have effect after the commencement of that Schedule as if made or given under that Schedule.

Notices under section 1D of the Wireless Telegraphy Act 1949

- 20 (1) This paragraph applies to procedures set out in a notice given by the Secretary of State under section 1D of the Wireless Telegraphy Act 1949 (c. 54) and in force immediately before the commencement of sub-paragraph (4) of paragraph 8 of Schedule 17 to this Act.
- (2) In relation to times after the commencement of that sub-paragraph, the procedures are to have effect as if prescribed by OFCOM by regulations under section 1D(3) of the Wireless Telegraphy Act 1949 (c. 54).
- (3) So much of any notice having effect in accordance with this paragraph as authorises or requires anything to be done by or in relation to the Secretary of State is to have effect in relation to times after the commencement of paragraph 8 of Schedule 17 to this Act as if it authorised or required that thing to be done by or in relation to OFCOM.

Notices under regulations under section 3 of the Wireless Telegraphy Act 1998

- 21 (1) This paragraph applies to procedures set out in a notice issued by the Secretary of State under regulations under section 3 of the Wireless Telegraphy Act 1998 (c. 6) and in force immediately before the commencement of section 167 of this Act.
- (2) In relation to times after the commencement of section 167 of this Act, the procedures are to have effect as if prescribed by OFCOM by regulations under section 3 of that Act.
- (3) So much of any notice having effect in accordance with this paragraph as authorises or requires anything to be done by or in relation to the Secretary of State is to have effect in relation to times after the commencement of section 167 of this Act as if it authorised or required that thing to be done by or in relation to OFCOM.

Disputes about interconnection

- 22 (1) Where—
- (a) before the revocation by this Act of the Telecommunications (Interconnection) Regulations 1997 (S.I. 1997/2931) a dispute was referred to the Director under regulation 6 of those regulations, and
 - (b) that dispute has not been resolved when the revocation comes into force,
- Chapter 3 of Part 2 of this Act (except sections 189 and 190) is to have effect as if that dispute were a dispute which, immediately after the commencement of section 185 of this Act, was referred to OFCOM under that section.
- (2) Where a dispute—
- (a) has arisen or arises about anything occurring or existing before the time when the revocation of those regulations comes into force (“the relevant time”),
 - (b) relates to matters disputes about which would (before that time) have been referable to the Director under regulation 6,
 - (c) is neither a dispute which was referred to him before that time nor a dispute arising after that time which is referable to OFCOM under section 185, and
 - (d) is referred to OFCOM after that time either during the transitional period or in a case in which OFCOM are satisfied that the circumstances that prevented the making of a reference before the end of that period are exceptional,
- sub-paragraph (1) is to have effect as if the dispute were a dispute arising before the relevant time in the case of which a reference to the Director had been made under regulation 6 before that time.
- (3) Where OFCOM make a determination for resolving a dispute falling to be resolved in accordance with sub-paragraph (1) or (2)—
- (a) their powers on making that determination are to be those which would have been exercisable by the Director under those regulations (instead of those under Chapter 3 of Part 2);
 - (b) conditions of a licence under section 7 of the 1984 Act requiring compliance with directions given by the Director under regulation 6 of those regulations are to continue to have effect as if they also applied to directions given by OFCOM by virtue of paragraph (a); and
 - (c) paragraph 13 of this Schedule has effect as if the reference in sub-paragraph (1)(d) to directions given by the Director under that regulation included a reference to directions given by OFCOM by virtue of paragraph (a) of this sub-paragraph.

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

- (4) But OFCOM are not to give a direction by virtue of sub-paragraph (3)(a) containing provision which they would have no power to include in—
 - (a) a condition set under Chapter 1 of Part 2 of this Act; or
 - (b) a direction under section 190.
- (5) Where the Director gave a direction under regulation 6 of those regulations at any time before the coming into force of their revocation, the direction is to continue, after the revocation comes into force, to have effect (and be enforceable in accordance with paragraph 13 of this Schedule) to the extent that it is continued in force under this paragraph.
- (6) The direction is continued in force under this paragraph only where OFCOM have at any time after the passing of this Act given notice to the persons to whom it applies that it is continued in force.
- (7) OFCOM are to give such a notice only if they consider that the direction makes provision corresponding to that which they have power to include in—
 - (a) conditions set under Chapter 1 of Part 2 of this Act; or
 - (b) directions under section 190.
- (8) OFCOM may at any time by notice to the person to whom it applies revoke (in whole or in part) a direction which—
 - (a) was given by virtue of sub-paragraph (3)(a); or
 - (b) is a direction to which a notice under sub-paragraph (6) relates.
- (9) Where a direction which OFCOM have power to revoke under sub-paragraph (8) makes provision corresponding to anything that OFCOM have power to include in a condition set under Chapter 1 of Part 2 of this Act, it shall be their duty, as soon as reasonably practicable after giving the direction or as the case may be the notice under sub-paragraph (6)—
 - (a) to take all steps necessary for enabling them to decide whether or not to set such a condition for the purpose of replacing the direction; and
 - (b) to decide whether or not to exercise their power to set a condition under that Chapter for that purpose.
- (10) It shall be the duty of OFCOM—
 - (a) as soon as reasonably practicable after making a decision required by sub-paragraph (9), but
 - (b) in a case where that decision is a decision to set a condition, not before the coming into force of that condition,to give a notice under sub-paragraph (8) revoking the direction in question.
- (11) The duties imposed by sub-paragraphs (9) and (10) apply only where OFCOM have not previously revoked the direction in question.
- (12) Section 192 applies to a decision by OFCOM to give a notice under this paragraph as it applies to a decision by them under Part 2 of this Act.
- (13) In this paragraph “transitional period” means the period which is the transitional period (within the meaning of section 408) in relation to this paragraph.

Appeals against wireless telegraphy and telecommunications decisions

- 23 (1) This paragraph applies where—
- (a) a decision was made before the commencement of section 192;
 - (b) the decision has effect after the commencement of a provision of this Act as a decision made by OFCOM, or is a decision not to do something which (if done) would so have had effect; and
 - (c) the decision is one against which an appeal was or could have been brought under—
 - (i) section 1F of the Wireless Telegraphy Act 1949 (c. 54); or
 - (ii) section 46B of the 1984 Act.
- (2) If no such appeal has been brought before the commencement of section 192 of this Act, that section applies to the decision as it applies to decisions by OFCOM under Part 2 of this Act (or that Act of 1949), but as if that section had been in force when the decision was made.
- (3) If an appeal under section 1F of that Act of 1949 or section 46B of the 1984 Act—
- (a) has been brought against the decision, but
 - (b) has not been concluded before the commencement of section 192 of this Act,
- the court in which it was brought may stay or sist the appeal as from the commencement of that section of this Act.
- (4) If the court stays or sists the appeal under sub-paragraph (3), the appellant is to have a new right of appeal under section 192 against the decision as if (subject to sub-paragraph (7)) it were a decision to which that section applies that had been made immediately after the commencement of that section.
- (5) Tribunal rules (within the meaning of Chapter 3 of Part 2 of this Act) may, in relation to an appeal stayed or sisted under sub-paragraph (3), make transitional provision—
- (a) for requiring steps taken and things done for the purposes of that appeal to be taken into account, to the extent set out in the rules, in the case of an appeal brought by virtue of sub-paragraph (4); and
 - (b) for enabling the Tribunal in an appeal under sub-paragraph (4) to give directions to OFCOM as to the carrying out of functions of theirs that are the same as or correspond to those in the course of carrying out which the maker of the appealed decision made that decision.
- (6) If, in a case falling within sub-paragraph (3), the court does not stay or sist the appeal—
- (a) it must determine the appeal in the manner in which the Tribunal is required under section 195 of this Act to determine an appeal under section 192; but
 - (b) its powers on determining the appeal include a power to give directions to OFCOM as to the carrying out of any functions of theirs that correspond to those in the course of which the appealed decision was made.
- (7) On an appeal brought or continued under this paragraph against a decision, the court or the Tribunal, in determining what was the appropriate action for the maker of the decision to take, must determine that question according to the law in force at the time when the decision was made.

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

Section 94 of the Telecommunications Act 1984

- 24 (1) Subject to sub-paragraph (2), provisions of Schedule 17 to this Act amending section 94 of the 1984 Act do not affect—
- (a) the continuation, after the coming into force of the amendment, of any duty of a person previously given a direction under that section to give effect to it; or
 - (b) the power of the Secretary of State after the amendment comes into force to make grants under subsection (6) of that section to such a person.
- (2) A direction under that section which was given to the Director before the relevant transfer date shall have effect in relation to times on and after that date as if it were a direction to OFCOM.
- (3) In sub-paragraph (2) “the relevant transfer date” means the date of the coming into force of the provisions of Schedule 17 to this Act substituting “OFCOM” for “the Director” in section 94(8) of the 1984 Act.

Competition Commission: specialist panel members

- 25 The persons who—
- (a) have been appointed as members of the Competition Commission by the Secretary of State under section 13(10) of the 1984 Act, and
 - (b) hold office immediately before the date on which section 194 comes into force,
- shall continue to hold office as members of the Competition Commission as if they had been appointed to that office by the Secretary of State under section 194(1).

Transitory amendments to telecommunications terms in Broadcasting Act 1990

- 26 (1) This paragraph has effect, in the case of each of the provisions of the 1990 Act to which it applies, in relation to times between—
- (a) the commencement of Chapter 1 of Part 2 of this Act; and
 - (b) the commencement of so much of this Act (apart from this paragraph) as amends or repeals that provision.
- (2) The provisions of the 1990 Act set out in sub-paragraph (3) shall have effect (subject to sub-paragraph (4)) as if—
- (a) for every reference to a telecommunication system there were substituted a reference to an electronic communications network; and
 - (b) for references to running such a system there were substituted references to providing it.
- (3) Those provisions of the 1990 Act are—
- (a) section 46 (licensable programme services);
 - (b) section 51(1)(a) (procedures for consideration of applications for additional services licences);
 - (c) section 72 (local delivery services);
 - (d) section 75 (procedures for consideration of applications for local delivery licences);
 - (e) section 112 (licensable sound programme services);

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

- (f) section 117(1)(a) (procedures for consideration of applications for additional services licences);
 - (g) section 181 (apparatus deemed to be apparatus for wireless telegraphy).
- (4) Sections 46(2) (licensable programme services), 112(2) (licensable sound programme services) and 201(2) (programme services) of the 1990 Act shall each have effect as if for paragraph (b) there were substituted—
- “(b) a service which satisfies the conditions in section 233(5) of the Communications Act 2003;”.
- (5) In sections 48 and 114 of the 1990 Act (additional services), references to electronic signals shall have effect as references to signals within the meaning of section 32 of this Act.
- (6) Section 75(2) of the 1990 Act (consultation with relevant licensing authorities) shall have effect as if in paragraph (b) for the words “would be required to be licensed” there were substituted “is a system which (but for repeals made by the Communications Act 2003) would have been required to be licensed”.
- (7) In section 181 of the 1990 Act (apparatus deemed to be apparatus for wireless telegraphy), “connected”—
- (a) shall continue to be construed in accordance (notwithstanding its repeal) with section 4 of the 1984 Act; but
 - (b) shall be so construed as if, in that section of the 1984 Act, a reference to an electronic communications network were substituted for every reference to a telecommunication system.
- (8) Part 5 of Schedule 2 to the 1990 Act (restriction on holding of licences by operators of public telecommunication systems) and the Broadcasting (Restrictions on the Holding of Licences) Order 1991 (S.I. 1991/1176) shall have effect as if references to a national public telecommunications operator were references to a person who provides an electronic communications network so as to make it available for use by members of the public in the whole, or substantially the whole, of the United Kingdom.

Activities of the Welsh Authority

- 27 (1) No approval shall be required under section 205 for the continued provision after the commencement of that section of any service that was being provided by the Welsh Authority immediately before the commencement of that section.
- (2) Where any activities are being carried on immediately before the commencement of section 206 by the Welsh Authority, no approval is required under that section in respect of the continued carrying on of the activities by the Authority.
- (3) Where any activities are being carried on immediately before the commencement of section 206 by an S4C company, no approval is required under that section in respect of the carrying on after that commencement by that company or another S4C company of those activities.

Gaelic Broadcasting

- 28 The persons who are members of Comataidh Craolaidh Gaidhlig immediately before the date on which section 208 comes into force—

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

- (a) shall continue to hold office as members of Seirbheis nam Meadhanan Gàidhlig as if they had been appointed to that office by OFCOM;
 - (b) shall hold and vacate office in accordance with the terms of their appointment by the ITC;
 - (c) shall hold office for the period for which they were appointed by the ITC; and
 - (d) after the end of that period, shall be eligible for re-appointment as members of Seirbheis nam Meadhanan Gàidhlig.
- 29 (1) The continuance in force of the Multiplex Licence (Broadcasting of Programmes in Gaelic) Order 1996 (S.I. 1996/2758) made under section 32 of the 1996 Act is not affected by the amendment of that section by Schedule 15 to this Act.
- (2) But in relation to times after the television transfer date, that order shall have effect as if—
- (a) the reference in that order to the ITC were a reference to OFCOM; and
 - (b) the reference to the application of section 28 of the 1996 Act to a frequency were omitted.

Pre-transfer Broadcasting Act licences

- 30 (1) Subject to any express provision made by this Act in relation to a particular description of Broadcasting Act licence, neither—
- (a) the transfer from a pre-commencement regulator to OFCOM of the function of granting or awarding such licences or of any other power exercisable in relation to such licences, nor
 - (b) any other modification by or by virtue of this Act of the power to grant or award such licences or of a provision having effect in relation to such licences,
- shall affect the continuing validity of a licence by or under which the provision of a service is authorised immediately before the coming into force of the transfer or modification.
- (2) Accordingly, such a licence shall continue to have effect, after the coming into force of the transfer or modification—
- (a) on the same terms and conditions and for the same period as it would have done if this Act had not been passed; but
 - (b) as if, in relation to times after the coming into force of any relevant transfer of functions to OFCOM, every reference in the licence to a pre-commencement regulator were a reference to OFCOM.
- (3) Sub-paragraph (2) is subject to the following provisions of this Act—
- (a) those under which a licence is to have effect as if the period for which it is granted were the period determined under this Act; and
 - (b) those under which the conditions of a licence fall to be varied for the purpose of imposing a condition required by this Act.
- (4) Anything done at any time before the relevant transfer date under or for the purposes of enforcing any provision of a Broadcasting Act licence is to have effect in relation to times on or after that date—
- (a) to the extent that it was done by or in relation to the ITC or Radio Authority, and

(b) so far as necessary for preserving its effect or for facilitating the taking of further action by OFCOM,
as a thing done by or in relation to OFCOM.

(5) In sub-paragraph (4) “relevant transfer date”—

- (a) in relation to licences under Part 1 of the 1990 Act or Part 1 of the 1996 Act, means the television transfer date; and
- (b) in relation to licences under Part 3 of the 1990 Act or Part 2 of the 1996 Act, means the radio transfer date.

Channels 3 and 5

31 A determination made by the ITC under or for the purposes of section 14 or 28 of the 1990 Act (Channels 3 and 5) is to have effect on and after the television transfer date as a determination under that section by OFCOM.

Saving pending replacement of licences for Channels 3 and 5 and the public teletext service

- 32 (1) The regulatory regime for a Channel 3 service, and that for Channel 5 and the existing teletext service, shall not include the self-regulation conditions in any case in which the service or (as the case may be) Channel 5 is provided under a licence granted before the television transfer date.
- (2) In sub-paragraph (1) “the self-regulation conditions” means the conditions which (apart from that sub-paragraph) are included by virtue of sections 265 to 269 of this Act in the regulatory regime for Channel 3 services, for Channel 5 and for the public teletext service.
- (3) In relation to a licence granted before the television transfer date for a Channel 3 service, Channel 5 or the existing teletext service, section 263 shall have effect as if the reference in subsection (3)(a) of that section to a corresponding or additional service to be provided in analogue form were a reference to a corresponding or additional service to be provided in digital form.
- (4) In this paragraph “the existing teletext service” means the existing service within the meaning of section 221 of this Act.

Digital additional licences

- 33 (1) This paragraph applies where immediately before the coming into force of section 242 of this Act a person holds a digital additional services licence under Part 1 of the 1996 Act in respect of a digital sound programme service and with a view to the inclusion of the broadcasting of that service by means of a television multiplex service licensed under Part 1 of the 1996 Act.
- (2) The licence is to have effect on and after the coming into force of section 242 of this Act as if it were a national digital sound programme licence or (as the case may be) were comprised in any national digital sound programme licence already held by the licence holder for the service in question.
- (3) Where a licence has effect in accordance with this paragraph, it shall not (to the extent that it so has effect) authorise the broadcasting of the digital sound programme service in question by means of a radio multiplex service.

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

(4) In this paragraph—

“digital additional services licence” has the same meaning as in Part 1 of the 1996 Act; and

“national digital sound programme licence” has the same meaning as in Part 2 of that Act.

Programme quotas

34 Any order which—

(a) was made under section 16(5)(a) of the 1990 Act (definitions of “qualifying programmes” and “independent productions”), and

(b) is in force immediately before the commencement of sections 277 and 309 of this Act and paragraphs 1 and 7 of Schedule 12 to this Act,

is to have effect in relation to times after the commencement of those sections and those paragraphs as an order made in exercise of the corresponding powers conferred by those sections and those paragraphs.

Continuity in relation to appointed news provider

35 Where a body holds an appointment for the purposes of section 31(2) of the 1990 Act immediately before the date of the commencement of section 280 of this Act—

(a) that appointment shall have effect in relation to times on and after that date as an appointment for the purposes of arrangements entered into in accordance with conditions imposed under section 280 of this Act;

(b) the arrangements under which that appointment was made shall have effect in relation to such times as arrangements so entered into; and

(c) so much of the appointment or arrangements, or of any agreement to which the body is a party, as makes provision by reference to the body’s ceasing to be nominated under section 32 of the 1990 Act shall have effect in relation to such times as if references to ceasing to be so nominated were references to becoming a body falling within section 281(2) of this Act.

Networking arrangements

36 (1) Where arrangements approved for the purposes of section 39 of the 1990 Act (networking arrangements) are in force immediately before the commencement of section 291 of this Act, those arrangements are to have effect for the purposes of this Act, and of any conditions imposed under that section of this Act, as approved networking arrangements.

(2) For the purposes of proceedings in relation to a report under Schedule 4 to the 1990 Act at any time after the commencement of Schedule 11 to this Act, that report is to have effect as if it were a report under that Schedule to this Act.

Determination of qualifying revenue

37 (1) A statement of the ITC that is for the time being in force immediately before the television transfer date for the purposes of—

(a) Schedule 7 to the 1990 Act (statement of principles for determining qualifying revenue), or

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

- (b) Schedule 1 to the 1996 Act (corresponding statement for the purposes of that Act,
is to have effect on and after that date as a statement by OFCOM.
- (2) On and after the television transfer date a determination by the ITC under paragraph 2 of Part 1 of either of those Schedules is to have effect as a determination under that paragraph by OFCOM, and sub-paragraph (2) of that paragraph is to have effect accordingly.

Rules for political broadcasts

- 38 Where—
- (a) rules made by the ITC for the purposes of section 36 of the 1990 Act (party political broadcasts on Channel 3, Channel 4 or Channel 5), or
 - (b) rules made by the Radio Authority for the purposes of section 107 of the 1990 Act (party political broadcasts on national radio services),
- are in force immediately before the commencement of section 333 of this Act, those rules are to have effect after its commencement as rules made by OFCOM for the purposes of that section of this Act.

Functions under section 88 of the 1990 Act

- 39 A requirement imposed or notice given before the radio transfer date by the Radio Authority under section 88 of the 1990 Act (restriction on holding of licences) is to have effect on and after that date as if it were imposed or given by OFCOM.

Notices under section 94 of the 1990 Act

- 40 A notice given by the Secretary of State or any other Minister of the Crown under section 94 of the 1990 Act (government control over licensed services) is to have effect on and after the radio transfer date as a notice given to OFCOM under section 336 of this Act.

Programme standards: television

- 41 (1) This paragraph applies as respects times on or after the television transfer date and before the first coming into force, in the case of the holder of a licence under Part 1 of the 1990 Act or Part 1 of the 1996 Act, of conditions imposed under section 325 of this Act.
- (2) Sections 6 to 12 of the 1990 Act (general provisions about the content of licensed services) are to have effect in the case of that licence holder as if references in those sections to the ITC were references to OFCOM.
- (3) A code drawn up by the ITC under section 6, 7 or 9 of the 1990 Act is to have effect as if it had been drawn up by OFCOM.

Programme standards: radio

- 42 (1) This paragraph applies as respects times on or after the radio transfer date and before the first coming into force, in the case of the holder of a licence under Part 3 of the 1990 Act or Part 2 of the 1996 Act, of conditions imposed under section 325 of this Act.

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

- (2) Sections 90 to 96 of the 1990 Act (general provisions about the content of licensed services) are to have effect as if references in those sections to the Radio Authority were references to OFCOM.
- (3) A code drawn up by the Radio Authority under section 90, 91 or 93 of the 1990 Act is to have effect as if it had been drawn up by OFCOM.

Standards code

- 43
- (1) In relation to any time after the commencement of section 319 of this Act, a code in force immediately before its commencement as a code drawn up under section 6, 7, 9, 90, 91 or 93 of the 1990 Act or section 108 of the 1996 Act is to have effect (subject to sub-paragraphs (2) and (3)) as if it were a code issued by OFCOM for the purpose of setting standards under section 319 of this Act.
 - (2) A code under the 1990 Act shall have effect by virtue of sub-paragraph (1) in relation only to the following—
 - (a) in the case of the codes under sections 6, 7 and 9, services the provision of which is authorised by licences under Part 1 of the 1990 Act and S4C; and
 - (b) in the case of the codes under sections 90, 91 and 93, services the provision of which is authorised by licences under Part 3 of that Act.
 - (3) In the case of the code under section 108 of the 1996 Act, the code shall have effect by virtue of sub-paragraph (1)—
 - (a) in relation only to services provided by the BBC or the Welsh Authority; and
 - (b) to the extent only that it contains provision that applies to those services and, in the case of services provided by the Welsh Authority, relates to matters other than advertising and impartiality.

Local and national radio licences

- 44
- (1) Section 103 of the 1990 Act (restriction on changes of control affecting holders of national licences) is to apply in relation to a pre-transfer national licence as it applies in relation to a national licence within the meaning of Part 3 of the 1990 Act.
 - (2) Anything done by or in relation to the Radio Authority under any of sections 98 to 102 or 103A of the 1990 Act, so far as it has been done—
 - (a) before the radio transfer date, and
 - (b) for the purposes of, or in connection with, the grant or renewal of a pre-transfer national licence,
 is to have effect for the purposes of, and in connection with, the grant or renewal of a licence at times on or after that date as if done by or in relation to OFCOM in connection with or for the purposes of the grant or renewal of national licence (within the meaning of Part 3 of that Act).
 - (3) Anything done by or in relation to the Radio Authority under any of sections 104 to 105 of the 1990 Act, so far as it has been done—
 - (a) before the radio transfer date, and
 - (b) for the purposes of, or in connection with, the grant or renewal of a pre-transfer local licence,
 is to have effect for the purposes of, and in connection with, the grant or renewal of a licence at times on or after that date as if done by or in relation to OFCOM in

connection with, or for the purposes of, the grant or renewal of local licence (within the meaning of Part 3 of that Act).

- (4) In this paragraph “pre-transfer local licence” and “pre-transfer national licence” each has the same meaning as in section 253 of this Act.

Section 111B of the 1990 Act

45 (1) Section 111B of the 1990 Act (power to suspend satellite services) is to have effect in relation to a licence to provide a formerly regulated radio service (within the meaning of section 251) as it applies in relation to a licence to provide a radio licensable content service, but as if the reference in subsection (1)(b) of that section to a condition included in the licence in pursuance of the provisions there mentioned included a reference to a condition included in the licence in pursuance of section 90(1)(a) of that Act.

- (2) In relation to any time falling—

- (a) on or after the radio transfer date, and
- (b) before the first coming into force, in the case of the holder of a licence under Part 3 of the 1990 Act or Part 2 of the 1996 Act, of conditions imposed under section 325 of this Act,

section 111B of the 1990 Act is to have effect in relation to a licence to provide a radio licensable content service as if the reference in subsection (1)(b) of section 111B of that Act to a condition included in the licence in pursuance of the provisions there mentioned were a reference to a condition included in the licence in pursuance of section 90(1)(a) of that Act.

Section 185 of the 1990 Act

46 (1) A determination or nomination made for the purposes of section 185 of the 1990 Act (the national television archive) by the ITC is to have effect on and after the television transfer date as a determination or nomination made by OFCOM.

- (2) Sub-paragraph (1) applies in the case of a determination so far only as it relates to a financial year beginning on or after the television transfer date.

Section 28 of the 1996 Act

47 (1) The repeal by this Act of section 28 of the 1996 Act does not affect any power to vary a licence under Part 1 of the 1990 Act which is—

- (a) conferred on the ITC by an order under that section; and
- (b) transferred to OFCOM by this Act.

- (2) Nor does it affect so much of any order under that section in force immediately before the repeal as—

- (a) modifies section 16 of the 1996 Act in its application in relation to the renewal of a licence first granted before the television transfer date; or
- (b) imposes a prohibition on the use of digital capacity reserved before that date;

but so much of any such prohibition as requires the consent of the ITC for the use of any digital capacity shall have effect after the television transfer date as if the consent required were OFCOM’s consent.

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

- (3) Sub-paragraph (1) only saves the power so far as it is exercisable in relation to a licence granted before the television transfer date.

Section 48 of the 1996 Act

- 48 Subsections (4) to (6) of section 48 of the 1996 Act (reservations of capacity for national radio multiplex licences to independent national broadcasters) are to apply in relation to conditions included in pursuance of that section in licences granted before the radio transfer date as they apply in relation to conditions included in licences by virtue of the amendments of that section made by this Act.

Applications for extension of pre-transfer licences

- 49 (1) Section 253(4)(a) does not prevent the determination by OFCOM of a day falling less than one year after the making of the determination where—
- (a) OFCOM consider that the day by which they would need to publish a notice is a day which is not more than 15 months after the commencement date; and
 - (b) the determination of that day is made as soon as practicable after the commencement date.
- (2) Where the day determined by OFCOM for the purposes of paragraph (b) of section 253(3) is a day in the period of three months beginning with the day after the determination, that paragraph shall have effect as if for the words “three months before” there were substituted “on”.
- (3) In this paragraph, the “commencement date” is the date on which section 253 comes into force.

Applications for renewal of licences under 1990 Act and 1996 Act

- 50 (1) A provision set out in sub-paragraph (2) does not prevent the determination by OFCOM of a date falling less than one year after the making of the determination where—
- (a) OFCOM consider that the relevant date for the purposes of the section in question is a date which is not more than 15 months after the commencement date; and
 - (b) the determination of the relevant date is made as soon as practicable after the commencement date.
- (2) Those provisions are—
- (a) section 53(12) of the 1990 Act;
 - (b) section 103A(12) of the 1990 Act;
 - (c) section 104A(14) of the 1990 Act;
 - (d) section 16(12A) of the 1996 Act;
 - (e) section 58(12A) of the 1996 Act.
- (3) An application which is made before the commencement date in accordance with a provision set out in sub-paragraph (2) shall be treated after that date as if it had been made in accordance with that provision as amended by this Act.

- (4) Where, in a case where a provision set out in sub-paragraph (5) applies, the relevant date for the purposes of the section in question is a date in the period of three months beginning with—
- (a) the commencement date, or
 - (b) the day after the day on which the relevant date is determined,
- that provision shall have effect as if the words “the day falling three months before” were omitted.
- (5) Those provisions are—
- (a) section 53(2) of the 1990 Act;
 - (b) section 103A(2) of the 1990 Act;
 - (c) section 104A(3) of the 1990 Act;
 - (d) section 16(3) of the 1996 Act;
 - (e) section 58(3) of the 1996 Act.
- (6) In this paragraph, the “commencement date”, in relation to any provision set out in sub-paragraph (2) or (5) is the date on which the provision of Schedule 15 inserting or amending that provision comes into force.

Listed events rules

- 51 (1) Subject to sub-paragraph (2), Part 4 of the 1996 Act (sporting and other events of national interest) is to have effect in relation to times on or after the television transfer date as if anything done before that date by or in relation to the ITC had been done by or in relation to OFCOM.
- (2) The code drawn up by the ITC under section 104 of the 1996 Act (code of guidance as to the operation of Part 4) and in force immediately before the commencement of section 301 of this Act is to continue to have effect (notwithstanding the substitutions made by that section of this Act)—
- (a) until the code drawn up by OFCOM under that section comes into force; but
 - (b) in relation to times on or after the transfer date and before the coming into force of OFCOM’s code, as if references in section 104(2) of that Act and in the code to the ITC were references to OFCOM.
- (3) If a provision of sections 300 to 302 of this Act comes into force before the television transfer date, a reference to OFCOM in an amendment made by that provision is to be construed in relation to times before that date as a reference to the ITC.
- (4) On the date on which section 300 of this Act comes into force, the Secretary of State shall revise the list maintained for the purposes of Part 4 of the 1996 Act in order to allocate each event which is a listed event on that date either to Group A or to Group B.
- (5) Where—
- (a) the events listed in the list in force immediately before the Secretary of State revises it under sub-paragraph (4) are treated, for any of the purposes of the code in force under section 104 of the 1996 Act at that time, as divided into two categories, and
 - (b) the Secretary of State’s revision under that sub-paragraph makes the same division,
- section 97(2) of the 1996 Act shall not apply in relation to that revision of that list.

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

- (6) In this paragraph “the transfer date” is the date on which paragraph 13 of Schedule 1 comes into force.

Complaints to the Broadcasting Standards Commission

- 52 (1) On and after the transfer to OFCOM under this Act of the functions of the Broadcasting Standards Commission under Part 5 of the 1996 Act, that Part is to have effect in relation to a fairness complaint made to, but not disposed of by, the Commission before the transfer as if—
- (a) anything done, or treated as done, by or in relation to the Commission for the purposes of, or in connection with, that complaint had been done by or in relation OFCOM; and
 - (b) those functions had been functions of OFCOM at the time when it was done.
- (2) Where immediately before the commencement of section 327 of this Act a licence to provide a licensed service (within the meaning of Part 5 of the 1996 Act) contains a condition included in that licence by virtue of section 119(7) of that Act (conditions requiring compliance with BSC directions), that condition is to have effect on and after the coming into force of section 327 of this Act as a condition requiring the licence holder to comply with directions given to him by OFCOM.
- (3) In this paragraph “fairness complaint” has the same meaning as in Part 5 of the 1996 Act.

Codes of practice drawn up by the Broadcasting Standards Commission

- 53 The code of practice drawn up by the Broadcasting Standards Commission under section 107 of the 1996 Act (code in respect of unjust and unfair treatment and infringements of privacy) is to have effect on and after the transfer under this Act to OFCOM of the Commission’s functions under Part 5 of that Act as if it were the code required to be drawn up under that section by OFCOM.

Media ownership provisions

- 54 (1) Part 4 of Schedule 14 to this Act is to have effect—
- (a) in relation to times before the television transfer date as if references to OFCOM were, in relation to licences under Part 1 of the 1990 Act or Part 1 of the 1996 Act, references to the ITC; and
 - (b) in relation to times before the radio transfer date as if references to OFCOM were, in relation to licences under Part 3 of the 1990 Act or Part 2 of the 1996 Act, references to the Radio Authority.
- (2) A determination by the ITC or the Radio Authority under paragraph 2(2) of Part 2 of Schedule 2 to the 1990 Act which is in force immediately before the commencement of Part 4 of Schedule 14 to this Act is to have effect on and after its commencement as a determination under paragraph 15 of that Schedule to this Act.
- (3) Any guidance issued by the ITC and the Radio Authority under paragraph 2(3) of Part 2 of Schedule 2 to the 1990 Act and in force immediately before the commencement of Part 4 of Schedule 14 to this Act is to have effect on and after its commencement as guidance published under paragraph 15(4) of that Schedule to this Act.

- (4) Anything done under paragraph 15 of Schedule 14 by the ITC or the Radio Authority which is in force immediately before the relevant transfer date is to have effect on and after that date as if done under that paragraph by OFCOM.
- (5) The following powers under enactments in force before the relevant transfer date shall be exercisable by OFCOM at all times on or after that date in relation to a pre-commencement contravention of a requirement imposed by or under Parts 3 to 5 of Schedule 2 to the 1990 Act—
- (a) all the powers and duties of the ITC under section 5 of the 1990 Act and section 5 of the 1996 Act;
 - (b) all the powers and duties of the Radio Authority under section 88 of the 1990 Act and section 44 of the 1996 Act; and
 - (c) all the other powers and duties of the ITC or the Radio Authority in relation to contraventions of conditions imposed under section 5 or 88 of the 1990 Act or section 5 or 44 of the 1996 Act.
- (6) For the purpose of determining whether anything occurring after the relevant transfer date is a pre-commencement contravention of a requirement imposed by or under Parts 3 to 5 of Schedule 2 to the 1990 Act, references in those Parts of that Schedule to the ITC or to the Radio Authority are to be construed as including references to OFCOM.
- (7) In this paragraph—
- “pre-commencement contravention” means a contravention of a requirement which occurred before the coming into force of the repeal by this Act of the provision by or under which the requirement was imposed; and
 - “the relevant transfer date”—
 - (a) in relation to the ITC, means the television transfer date; and
 - (b) in relation to the Radio Authority, means the radio transfer date.

TV licences

- 55 A television licence granted under the Wireless Telegraphy Act 1949 (c. 54) before the coming into force of section 363 of this Act is to have effect after the commencement of that section as a licence for the purposes of that section.

Functions under the Enterprise Act 2002

- 56 (1) This section has effect in so far as, at any time before the coming into force of section 370 of this Act, anything has been done or is treated as done by or in relation to the Director for the purposes of, or in connection with, the carrying out of any of his functions under the Enterprise Act 2002 (c. 40).
- (2) That thing is to have effect on and after that date, and OFCOM may carry out their functions and continue anything begun by that Director, as if—
- (a) that thing had been done by or in relation to OFCOM for the purposes of, or in connection with, their functions under that Act by virtue of that section; and
 - (b) the provisions conferring those functions on OFCOM had been in force at the time it was done.

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- (3) Sub-paragraph (1) does not apply to anything that could not be done by or in relation to OFCOM for the purposes of, or in connection with, the carrying out of their functions under the Enterprise Act 2002 (c. 40).
- (4) Where, by virtue of sub-paragraph (3), sub-paragraph (1) does not apply to something, that thing is to have effect instead as if done by or in relation to the Office of Fair Trading

Functions under the Competition Act 1998

- 57 (1) This paragraph applies in so far as, at any time before the coming into force of section 371 of this Act, anything has been done by or in relation to the Director for the purposes of, or in connection with, the carrying out of any of his functions under the Competition Act 1998 (c. 41).
- (2) That thing is to have effect on and after that date, and OFCOM may carry out their functions and continue anything begun by that Director, as if—
 - (a) that thing had been done by or in relation to OFCOM for the purposes of, or in connection with, their functions under that Act by virtue of that section; and
 - (b) the provisions conferring those functions on OFCOM had been in force at the time it was done.
- (3) Sub-paragraph (1) does not apply to anything that could not be done by or in relation to OFCOM for the purposes of, or in connection with, the carrying out of their functions under the Competition Act 1998.
- (4) Where, by virtue of sub-paragraph (3), sub-paragraph (1) does not apply to something, that thing is to have effect instead as if done by or in relation to the Office of Fair Trading
- 58 (1) Where any regulations made under section 54(4) of the Competition Act 1998 (regulations about concurrent functions of regulators and the Office of Fair Trading) are in force at the coming into force of section 371 of this Act, those regulations—
 - (a) shall, from that time have effect in relation to functions exercisable concurrently by virtue of section 371 of this Act as they have effect in relation to functions exercisable concurrently by virtue of Part 2 of Schedule 10 to the Competition Act 1998; but
 - (b) shall so have effect subject to any amendments or revocations coming into force at or after that time.
- (2) Where, at any time before the coming into force of section 371, anything has been done by or in relation to the Director under or for the purposes of any regulations made under section 54(4) of the Competition Act 1998 that thing is to have effect, so far as necessary for the purposes of paragraph 57 of this Schedule, as if done by or in relation to OFCOM.

Newspaper mergers

- 59 (1) Chapter 2 of Part 5 and any related repeals shall, subject to sub-paragraph (2), not apply in relation to—

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- (a) a transfer of a newspaper or of newspaper assets (within the meaning given by section 57(2) of the Fair Trading Act 1973 (c. 41)) which has been made before the coming into force of section 373 of this Act; or
 - (b) a proposed transfer of a newspaper or of newspaper assets in relation to which an application for the consent of the Secretary of State under section 58 of the Act of 1973 has been made before the coming into force of section 373 of this Act.
- (2) Chapter 2 of Part 5 and any related repeals shall apply in relation to a proposed transfer of a newspaper or of newspaper assets if—
 - (a) an application for the consent of the Secretary of State under section 58 of the Act of 1973 has been made;
 - (b) the application is expressed to depend on the operation of subsection (3) or (4) of that section;
 - (c) no consent is given by the Secretary of State under subsection (3) or (4) of that section; and
 - (d) no further application has been made for the consent of the Secretary of State under that section before the coming into force of section 373 of this Act.
- 60 Chapter 2 of Part 5 and any related repeals shall apply in relation to any transfer of a newspaper or of newspaper assets which is proposed (and not made) before the coming into force of section 373 of this Act and in relation to which no application has been made for the consent of the Secretary of State under section 58 of the Act of 1973 before the coming into force of that section.
- 61 References in paragraphs 59 and 60 to Chapter 2 of Part 5 do not include references to subsections (2) to (4) of section 389 (powers to make transitional and consequential amendments etc.).
- 62 (1) The Secretary of State may, instead of any or all of the conditions attached to a consent given by him (or treated as so given) under section 58 of the Fair Trading Act 1973 (c. 41)), accept undertakings under this paragraph to take, or refrain from taking, action specified or described in the undertakings.
 - (2) If, and so far as, the Secretary of State accepts an undertaking under this paragraph instead of a condition, that condition shall cease to have effect.
 - (3) In deciding whether to accept an undertaking under this paragraph, the Secretary of State may, in particular, consult the Office of Fair Trading and OFCOM.
 - (4) An undertaking under this paragraph—
 - (a) shall come into force when accepted;
 - (b) may be varied or superseded by another undertaking; and
 - (c) may be released by the Secretary of State.
 - (5) The Secretary of State shall, as soon as reasonably practicable, consider any representations received by him in relation to varying or releasing an undertaking under this paragraph.
 - (6) Paragraph 10 of Schedule 7 to the Enterprise Act 2002 (c. 40) (order-making power where final undertakings not fulfilled) shall apply in relation to an undertaking under this paragraph as it applies in relation to an undertaking under paragraph 9 of that Schedule to that Act but as if—
 - (a) in sub-paragraph (2) the words from “for any” to “66(6)” were omitted; and

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- (b) sub-paragraph (3) were omitted.
- (7) The following provisions of the Enterprise Act 2002 (c. 40) shall apply in relation to an undertaking under this paragraph or an order made by virtue of sub-paragraph (6) as they apply in relation to an undertaking under paragraph 9 of Schedule 7 to that Act or (as the case may be) an order under paragraph 10 of that Schedule to that Act—
- (a) section 90 and Schedule 10 (procedural requirements for certain undertakings and orders);
 - (b) section 91 (register of undertakings and orders);
 - (c) section 92 (duty of OFT to monitor undertakings and orders);
 - (d) section 93 (further role of OFT in relation to undertakings and orders); and
 - (e) section 94 (rights to enforce undertakings and orders).
- (8) Section 402 of this Act shall not apply in relation to the power of the Secretary of State to make an order which is exercisable by virtue of sub-paragraph (6) but supplementary provisions of Part 3 of the Enterprise Act 2002 which relate to the making of an order under paragraph 10 of Schedule 7 to that Act shall apply in relation to the making of an order by virtue of sub-paragraph (6).
- (9) Section 402 of this Act shall not apply in relation to the power of the Secretary of State to make an order under section 91(6)(a) of the Enterprise Act 2002 as applied by virtue of sub-paragraph (7)(b) above but supplementary provisions of Part 3 of the Enterprise Act 2002 which relate to the making of an order under section 91(6) (a) of that Act shall apply in relation to the making of an order under that provision as applied by virtue of sub-paragraph (7)(b) above.

Orders in Council under section 6 of the Continental Shelf Act 1964

- 63 If an Order in Council made, or having effect as if made, in exercise of a power conferred by virtue of section 6 of the Continental Shelf Act 1964 (c. 29) is in force immediately before the commencement of section 410 of this Act in relation to provisions of—
- (a) the Wireless Telegraphy Act 1949 (c. 54), or
 - (b) the Wireless Telegraphy Act 1998 (c. 6),
- that Order is to have effect after the commencement of section 410 of this Act as an Order in Council made in exercise of the powers conferred by that section of this Act.

Interpretation of Schedule

- 64 In this Schedule—
- “the 1984 Act” means the Telecommunications Act 1984 (c. 12);
 - “the abolition of licensing” means the coming into force of the repeal by this Act of section 7 of the 1984 Act;
 - “the Director” means the Director General of Telecommunications;
 - “the ITC” means the Independent Television Commission.

SCHEDULE 19

Section 406

REPEALS

(1) Enactments

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Telegraph Act 1899 (c. 38)	The whole Act.
Wireless Telegraphy Act 1949 (c. 54)	In section 1— (a) subsection (1A); (b) in subsection (4), the words “other than a television licence” and the words from “; and a television licence” onwards; (c) subsections (6) and (7). Section 1D(1), (2), (7) and (8). Section 1F. Section 2. In section 3(1), the words after paragraph (d) from “and different” to “classes of case:”. Section 9. In section 10(2), the words after paragraph (b). In section 11(1)— (a) paragraph (i) of the proviso; (b) in paragraph (ii) of the proviso the words “, and paragraph (i) of this proviso shall not apply”. Section 14(1A)(e), (2) and (3)(b). Section 15(4)(c) and the word “or” immediately preceding it. Section 19(2A) and (9). Schedule 2.
Army Act 1955 (3 & 4 Eliz. 2 c. 18)	In section 44B(5), the definition of “telecommunication system” and the word “and” immediately preceding it.
Air Force Act 1955 (3 & 4 Eliz. 2 c. 19)	In section 44B(5), the definition of “telecommunication system” and the word “and” immediately preceding it.
Naval Discipline Act 1957 (c. 53)	In section 29B(5), the definition of “telecommunication system” and the word “and” immediately preceding it.
Opencast Coal Act 1958 (c. 69)	In section 45(3), the word “a” before “telecommunication apparatus”.

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Continental Shelf Act 1964 (c. 29)	Section 6.
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 2, the entries relating to the Broadcasting Standards Commission and the Office of the Director General of Telecommunications.
Marine, &c., Broadcasting (Offences) Act 1967 (c. 41)	Section 6(2) and (7).
Wireless Telegraphy Act 1967 (c. 72)	Section 4. In section 7(5), paragraph (b) and the word “or” immediately preceding it.
Fair Trading Act 1973 (c. 41)	Sections 57 to 62. In section 93B— (a) in subsection (1)(b), the words “the Telecommunications Act 1984 or”; (b) in subsection (5), the words “section 13B of the Telecommunications Act 1984 or”.
House of Commons Disqualification Act 1975 (c. 24)	In Part 2 of Schedule 1, the entries relating to— (a) the Broadcasting Standards Commission; (b) Comataidh Craolaidh Gaidhlig; (c) the Independent Television Commission; (d) the Radio Authority. In Part 3 of Schedule 1, the entry relating to the Director General of Telecommunications.
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Part 2 of Schedule 1, the entries relating to— (a) the Broadcasting Standards Commission; (b) the Independent Television Commission; (c) the Radio Authority; (d) the Tribunal established under Part 2 of the Wireless Telegraphy Act 1949. In Part 3 of Schedule 1, the entries relating to— (a) the Director General of Telecommunications; (b) a Director of the successor company within the meaning of Part 5 of the Telecommunications Act 1984.
Welsh Development Agency Act 1975 (c. 70)	In section 19(11), the definition of “appropriate authority”.

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
British Telecommunications Act 1981 (c. 38)	In section 88— (a) in subsection (1), the words from “, and the special” to “Schedule 5,”; (b) in subsection (2), the words “and 5”. In Schedule 4, paragraphs 2 to 18, 21 and 22. In Schedule 5, paragraphs 1 and 3 to 22.
Acquisition of Land Act 1981 (c. 67)	In section 28, paragraph (f).
Telecommunications Act 1984 (c. 12)	Sections 1 to 30. Sections 34 to 49. In section 50, subsections (2) to (6A). Sections 51 to 55. Section 60. Section 61(1) to (6). Section 62. Section 63(1) to (4). Sections 64 to 67. Sections 69 to 71. In section 72— (a) in subsection (1), the words from the beginning to “this Act,” and the words “and development land tax”; (b) subsections (2), (4) and (5). Section 73. Sections 80 and 81. Section 88. Section 90. In section 91— (a) in subsection (2), the words “or section 80(9)(b) above” and the words “for an offence or (as the case may be) for the forfeiture of any apparatus under that section”; (b) in subsection (4), the words “and in section 80(9)(b) above”. Section 92(4). Section 93. Sections 95 to 97. In section 98(9), the words “and ‘telecommunication apparatus’”.

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	In section 101—
	(a) in subsection (2)(a), the words “or transferred”;
	(b) subsection (4).
	Section 102.
	In section 104—
	(a) in subsection (1), the words “2, 27L 60(1) or (3), 69(2) or” and “, or paragraph 1 of Schedule 5,”;
	(b) subsection (3).
	In section 106(1), the definitions of—
	(a) “commercial activities connected with telecommunications”;
	(b) “consumer”, “monopoly situation”, “practice” and “supply”;
	(c) “the Director”;
	(d) “directory information service”;
	(e) “disabled person” and “disabled”;
	(f) “public telecommunications operator”;
	(g) “public telecommunications system”;
	(h) “telecommunication apparatus”;
	(i) “telecommunication service”;
	(j) “telecommunications operator”;
	(k) “telecommunication system”;
	(l) “transitional period”.
	Section 107(1), (2) and (4).
	In section 109—
	(a) subsections (2) and (3);
	(b) in subsection (4), the words “and the special transitional provisions with respect to patents for inventions and registered designs contained in Schedule 6 to this Act”;
	(c) subsections (5) to (7).
	Schedule 1.
	In Schedule 2—
	(a) in paragraph 1(1), the words from ““telecommunications apparatus” includes any apparatus” onwards;
	(b) in paragraph 9(2), the words “section 11(1) of this Act,”;
	(c) in paragraph 10(2)(b), the words “(within the meaning of section 6 of this Act)”;
	(d) in paragraph 27(1), the words “section 109(2) or (3) of or”.

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	In Schedule 4, paragraphs 2, 3, 12, 16, 28(2), 40, 55(1) and (7), 65, 80(1), 86(1), 89(5) and 90.
	In Schedule 5—
	(a) paragraphs 1 to 7;
	(b) paragraph 8(2) and (4);
	(c) paragraphs 9 to 14;
	(d) paragraphs 16 to 29;
	(e) paragraphs 31 to 33;
	(f) paragraph 35;
	(g) paragraphs 38 to 42;
	(h) paragraph 47;
	(i) in paragraph 48, in sub-paragraph (1), the words “Part 1 of the Industry Act 1972 and” and in sub-paragraph (2), the words “Part 1 of the Industry Act 1972 or”;
	(j) paragraphs 49 to 51.
	Schedule 6.
Companies Consolidation (Consequential Provisions) Act 1985 (c. 9)	In Schedule 2, the entries relating to sections 60(3), 61(4), 66, 70 and 73(1) of and Schedule 5 to the Telecommunications Act 1984.
Surrogacy Arrangements Act 1985 (c. 49)	Section 3(6).
Interception of Communications Act 1985 (c. 56)	Schedule 2.
Housing Act 1985 (c. 68)	Section 298(1).
Airports Act 1986 (c. 31)	Section 62(8).
Insolvency Act 1986 (c. 45)	In Schedule 2A, paragraph 10(1)(a).
Consumer Protection Act 1987 (c. 43)	In Schedule 4, in paragraph 9(1), the words “28(6) and”.
Channel Tunnel Act 1987 (c. 53)	In Part 10 of Schedule 7, paragraph 1(2).
Income and Corporation Taxes Act 1988 (c. 1)	In Schedule 29, in the Table in paragraph 32, the entries relating to sections 62(7) and 72(4) of the Telecommunications Act 1984.
Legal Aid Act 1988 (c. 34)	In Schedule 5, paragraph 11.
Copyright, Designs and Patents Act 1988 (c. 48)	In section 69(2), the word “or” at the end of paragraph (b). In Schedule 2, the word “or” at the end of paragraph 17(2)(b).
	In Schedule 7, paragraph 27.
Housing Act 1988 (c. 50)	In Part 2 of Schedule 10, paragraph 19.

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Electricity Act 1989 (c. 29)	In Schedule 4, in paragraph 12, the definitions of “public telecommunications operator” and of “telecommunication apparatus”, “telecommunication system” and “the telecommunications code”.
Companies Act 1989 (c. 40)	In Schedule 18, paragraph 28. In Schedule 20, paragraph 2.
Planning (Consequential Provisions) Act 1990 (c. 11)	In Schedule 2, paragraph 63.
Courts and Legal Services Act 1990 (c. 41)	In Schedule 10, paragraph 8.
Broadcasting Act 1990 (c. 42)	Sections 1 and 2. In section 4(3), the words from “and the amount” onwards. In section 5— (a) subsection (6A)(a); (b) subsection (6B). Sections 6 to 12. In section 15(3), paragraphs (c) to (e). In section 16— (a) subsections (2) and (3); (b) in subsection (4), the words from “; and in applying” onwards; (c) subsections (5) to (8). Section 20. Section 21A. In section 24, subsections (4) to (6). Sections 25 to 27. In section 29— (a) in subsection (2), paragraph (b) and the word “and” immediately preceding it; (b) subsection (3). Sections 30 to 36. Sections 38 and 39. In section 42A, paragraph (b) and the word “and” immediately preceding it. Chapters 3 and 4 of Part 1. Section 48(5). In section 50— (a) in subsection (1)(b)(ii), the words “(subject to the approval of the Secretary of State)”;

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	(b) subsection (7).
	Section 51(2) and (7).
	In section 53(4), the words “before the relevant date”.
	Section 54(2)
	In section 56(1)(b), the words “, and have the functions conferred by”.
	Section 57.
	Section 59.
	Section 60(1) to (3) and (6).
	In section 61A—
	(a) subsection (1);
	(b) in subsection (2) the words “on or after the notified date”;
	(c) subsections (5) and (6).
	Section 62.
	Section 65.
	In section 66A(2), paragraphs (c) and (d).
	Sections 68 to 70.
	In section 71(1)—
	(a) in the definition of “Channel 3”, the words “by the Commission”;
	(b) the definitions of “the Commission”, “licensable programme service” and “satellite television service”.
	Part 2.
	Sections 83 and 84.
	In section 85, subsections (3) and (4).
	In section 87—
	(a) in subsection (2)(b), sub-paragraph (ii) and the word “or” immediately preceding it;
	(b) in subsection (3), the words from “and the amount” onwards.
	In section 88—
	(a) subsection (6A)(a); and
	(b) subsection (6B).
	Section 89(2).
	Sections 90 to 96.

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	In section 98(3)(a), the word “both” and sub-paragraph (ii) and the word “and” immediately preceding it.
	In section 99(1)(a), the word “both” and sub-paragraph (ii) and the word “and” immediately preceding it.
	In section 103A—
	(a) in subsection (3), the words “before the relevant date”, paragraph (a) and, in paragraph (b), the words “in any other case”;
	(b) in subsection (8), the words from “(whether because” to “any other reason”;
	(c) subsection (10);
	(d) in subsection (11), the definition of “simulcast radio service”.
	In section 104A(5), at the end of paragraph (a), the word “and”.
	In section 104B—
	(a) subsection (1)(b);
	(b) subsections (6) and (7).
	In section 106(1), the words from “, except” onwards.
	Sections 106A to 108.
	Section 110(7).
	Sections 112 and 113.
	Section 114(5).
	In section 116(1)(b)(iii), the words “(subject to the approval of the Secretary of State)”.
	Section 117(2) and (7).
	Section 119(2).
	Section 122 to 125.
	In section 126(1), the definitions of “assigned frequency”, “the Authority” and “licensable sound programme service”.
	Section 134.
	In section 177(6), the definition of “relevant foreign satellite service”.
	Section 180(2) and (3).
	Section 181.
	In section 183—

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	(a) in subsection (3), the words “, which shall be called” onwards; (b) subsection (3A); (c) subsections (6) and (7).
	In section 185(5), the definition of “the Commission”.
	Section 186.
	Section 187(1) and (2).
	In section 188(2), paragraphs (b), (d) and (e).
	Sections 189 to 191.
	In section 196— (a) in subsection (1)(a), the words “, 82”; (b) subsection (2).
	Section 197.
	Section 199(1) to (4) and (6).
	In section 201(1), the words “under this Act”.
	In section 202— (a) in subsection (1), the definition of “telecommunication system”; (b) in subsection (2)(b), the words “1” and “8”; (c) in subsection (5)(a), the words “for general reception, or”.
	Schedule 1.
	In Part 1 of Schedule 2— (a) in paragraph 1(1), the definitions of “coverage area”, of “digital programme service”, of “local delivery licence” and “local delivery service”, of “local digital sound programme service” and “national digital sound programme service”, of “local radio multiplex service” and “national radio multiplex service” and of “television multiplex service”; (b) paragraph 1(8); (c) paragraph 3A; (d) paragraph 3B; (e) paragraph 4.
	In Part 2 of Schedule 2— (a) paragraph 1(1)(a) and (b); (b) in paragraph 1(1)(j)(i), the words “(a), (b) or”; (c) paragraph 1(2) and (3);

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	<ul style="list-style-type: none"> (d) in paragraph 5A(1)(a), the words “granted by the Commission”; (e) paragraph 5A(1)(b) and the word “and” immediately preceding it; (f) in paragraph 5A(2), the words “granted by the Authority”; (g) paragraph 5A(3).
	Parts 3 to 5 of Schedule 2.
	Schedule 4.
	Schedule 5.
	In Schedule 6—
	<ul style="list-style-type: none"> (a) paragraph 2(1); (b) in paragraph 13(2), the words from “and shall include” onwards.
	Schedule 8.
	Schedule 12.
	In Schedule 18—
	<ul style="list-style-type: none"> (a) in Part 1, paragraphs 1(4) to (6), 2(1) and (3) and 4; (b) in Part 2, paragraphs 1(d) and 5.
	In Schedule 19—
	<ul style="list-style-type: none"> (a) in paragraph 8(c), the words “and (where the expenses relate to the Commission’s functions in connection with sound programmes) the Radio Authority”; (b) in paragraph 11(4), the words “or the Radio Authority” and “or, as the case may be, the Authority”.
	In Schedule 20—
	<ul style="list-style-type: none"> (a) paragraph 9; (b) paragraph 24(c)(ii); (c) paragraph 38; (d) paragraph 54.
	In Schedule 22—
	<ul style="list-style-type: none"> (a) paragraphs 1 to 3; (b) in paragraph 4, the words “and 45”; (c) paragraph 5.
New Roads and Street Works Act 1991 (c. 22)	In Schedule 4, in paragraph 7(4), the definitions of “telecommunication apparatus” and “telecommunication system”.
	In Schedule 6, in paragraph 7(4), the definitions of “telecommunication apparatus” and “telecommunication system”.

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
Taxation of Chargeable Gains Act 1992 (c. 12)	In Schedule 10, paragraph 7.
Charities Act 1992 (c. 41)	In section 60(10), the definition of “telecommunication apparatus”.
Competition and Service (Utilities) Act 1992 (c. 43)	Sections 1 to 10. Section 49. In Schedule 1, paragraphs 1, 2, 3(b) and 4.
Carriage of Goods by Sea Act 1992 (c. 50)	In section 5(1), the definition of “telecommunication system” and the word “and” immediately preceding it.
Tribunals and Inquiries Act 1992 (c. 53)	In Part 1 of Schedule 1, the entry at paragraph 45 relating to wireless telegraphy.
Judicial Pensions and Retirement Act 1993 (c. 8)	Section 26(8)(a). In Schedule 5, the entry relating to the President of the tribunal established under section 9 of the Wireless Telegraphy Act 1949. In Schedule 6, paragraph 58. In Schedule 7, paragraph 5(5)(xxxii).
Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)	In Part 2 of Schedule 20, paragraph 19(1).
Cardiff Bay Barrage Act 1993 (c. 42)	In Schedule 4, in paragraph 3(2), the words following paragraph (c). In Schedule 7, paragraph 21(10).
Local Government (Wales) Act 1994 (c. 19)	In Schedule 16, paragraph 72.
Vehicle Excise and Registration Act 1994 (c. 22)	In Schedule 3, paragraph 3(a)(i).
Criminal Justice and Public Order Act 1994 (c. 33)	Section 92.
Deregulation and Contracting Out Act 1994 (c. 40)	Section 8. In Schedule 4, paragraph 3(a).
Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40)	In Schedule 4, paragraph 48(2) and (3).
Criminal Procedure (Scotland) Act 1995 (c. 46)	In Schedule 9, the entry relating to the Wireless Telegraphy Act 1949.
Arbitration Act 1996 (c. 23)	In Schedule 3, paragraph 7.
Broadcasting Act 1996 (c. 55)	Section 1(1A) to (3). Section 2(1), (6) and (7).

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	In section 4(3), the words from “and the amount” onwards.
	Section 5(7)(a).
	Section 6.
	In section 11(5), the words from “not exceeding” onwards.
	Section 12(7).
	In section 16(6), the words “before the relevant date”.
	Section 18(5) and (6).
	Section 19(2) and (4) to (10).
	Sections 20 to 22.
	Section 25(5) and (6).
	Section 28.
	In section 29(2), the word “59,”.
	Sections 30 and 31.
	In section 33(3)(c), the words “or II”.
	Section 34.
	Section 38.
	In section 39(1), the definitions of “the Commission” and “qualifying teletext service”.
	In section 40(4), the words “provided on a frequency or frequencies assigned to the Authority under section 45(1)”.
	In section 43—
	(a) in subsection (2)(b), sub-paragraph (ii) and the word “or” immediately preceding it;
	(b) in subsection (3), the words from “and the amount” onwards.
	Section 44(7)(a).
	Section 45.
	In section 46(1), paragraph (e).
	Section 47(4).
	Section 54(7).
	In section 56(1)(a)(i), the words “to which the licence relates”.
	In section 58—

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
	(a) subsection (5); (b) in subsection (6), the words “before the relevant date”.
	In section 60, subsections (7) to (10).
	In section 61, subsections (3) and (4).
	Section 68.
	Section 71.
	In section 72(1), the definition of “the Authority”.
	Sections 74 to 76.
	Sections 78 and 79.
	Section 80(2).
	Sections 82 to 84.
	Section 86(3).
	Sections 87 to 90.
	Section 91.
	Section 93.
	In section 95, subsections (3) to (7).
	In section 97(3)(b), the words “by the Commission” and “by them”.
	In section 104(4)(d), the words “by the Commission” and “by them”.
	In section 105(1), the definitions of “the Commission” and “live”.
	Section 106.
	In section 107— (a) subsection (2); (b) in subsection (4)(a), the words “or regulatory”.
	Sections 108 and 109.
	In section 110— (a) subsection (2); (b) in subsection (3), the words from “; and in exercising” onwards; (c) in subsection (4), the definition of “a standards complaint” and the word “and” immediately preceding it.
	Sections 112 and 113.
	In section 114—

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

<i>Short title and chapter</i>	<i>Extent of repeal</i>
	<ul style="list-style-type: none"> (a) in subsection (1), the words “or a standards complaint”; (b) in subsection (2), the words “or a standards complaint” and in paragraph (b) the words “, in the case of a fairness complaint,”.
	In section 115—
	<ul style="list-style-type: none"> (a) in subsection (2), paragraph (c); (b) in subsection (3), paragraph (b) and the word “and” immediately preceding it.
	Section 116.
	In section 118, the words “or a standards complaint”.
	In section 119—
	<ul style="list-style-type: none"> (a) in subsection (3), paragraph (c); (b) in subsection (8), the words “or standards complaint” and in paragraph (c) the words “, a regulatory body”; (c) in subsection (9), the words “or standards complaint” and “, 113(1)”; (d) subsection (12).
	In section 120(1), the words “or a standards complaint”.
	Sections 122 to 129.
	In section 130—
	<ul style="list-style-type: none"> (a) in subsection (1), in the definition of “licensed service”, the words from “, subject to” to “125(6),”; (b) the definitions in that subsection of “the appropriate regulatory body”, “the BSC”, “financial year”, “local delivery service”, “regulatory body”, “sexual conduct” and “standards complaint”; (c) in subsection (2), paragraph (b) and the word “and” immediately preceding it.
	Section 142.
	Section 143(3) and (4).
	Section 144(5).
	In section 145(8), the definition of “the relevant authority”.
	In Schedule 2, paragraphs 1(2)(d) to (f), 4, 5, 6(3), 10 and 11.
	Schedule 3.

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
	Schedule 4.
	In Schedule 8, paragraph 4.
	In Schedule 10, paragraphs 1, 3 to 6, 8, 11 to 14, 16, 18 to 20, 22 to 25, 26(a)(ii) and (b) and 27(a).
Channel Tunnel Rail Link Act 1996 (c. 61)	In Part 4 of Schedule 15, in paragraph 1(2), the definitions of “telecommunications code”, “telecommunications operator” and “operator”, “telecommunication apparatus”, “telecommunications code system” and “telecommunication system”.
Telecommunications (Fraud) Act 1997 (c. 4)	The whole Act.
Planning (Consequential Provisions) (Scotland) Act 1997 (c. 11)	In Schedule 2, paragraph 37.
Wireless Telegraphy Act 1998 (c. 6)	In section 1(1), the words “other than a television licence as defined in section 1(7) of that Act”. In section 1(3)— (a) paragraph (a); (b) in paragraph (b) the words from “or provide” to “the Secretary of State”; (c) paragraph (d) and the word “and” immediately preceding it. In section 3— (a) in subsection (1), the words “or determined by him under” and paragraph (a) and the word “and” immediately after it; (b) subsection (2); (c) in subsection (3), paragraph (h) and the word “and” immediately preceding it.
	Section 5.
	Schedule 1.
Petroleum Act 1998 (c. 17)	In Schedule 4— (a) in paragraph 2(3), the words “section 6 (wireless telegraphy) and”; (b) paragraph 19.
Competition Act 1998 (c. 41)	In Schedule 1, paragraph 3. In Schedule 7— (a) paragraph 2(1)(d)(iii); (b) in paragraph 19A(9), in the definition of “merger reference group”, the words “section 59 of the Fair Trading Act 1973 (c. 41),” and in the definition of “special reference group” paragraphs

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
	(b) and (f) and the word “or” at the end of paragraph (m).
	In Schedule 7A, in paragraph 1, in the definition of “merger investigation”, the words “section 59 of the Fair Trading Act 1973 (c. 41),”.
	In Schedule 10—
	(a) paragraph 2(1) to (6), (8) and (9);
	(b) paragraph 9(2) to (4) and (6).
	In Schedule 12, paragraph 14(3).
	In Schedule 13, paragraph 35(2)(a).
Regional Development Agencies Act 1998 (c. 45)	In Schedule 6, paragraph 16(1).
Access to Justice Act 1999 (c. 22)	In Schedule 4, paragraph 26.
Electronic Communications Act 2000 (c. 7)	Sections 11 and 12.
Regulation of Investigatory Powers Act 2000 (c. 23)	Section 18(12)(e).
	In Schedule 4, paragraph 3.
Postal Services Act 2000 (c. 26)	In Schedule 7, paragraph 3(2)(g).
Freedom of Information Act 2000 (c. 36)	In Part 6 of Schedule 1, the entries relating to—
	(a) the Broadcasting Standards Commission;
	(b) the Independent Television Commission;
	(c) the Radio Authority;
	(d) the Scottish Advisory Committee on Telecommunications;
	(e) the Welsh Advisory Committee on Telecommunications.
	In Part 7 of Schedule 1, the entry relating to the Northern Ireland Advisory Committee on Telecommunications.
Countryside and Rights of Way Act 2000 (c. 37)	In section 45(1), the definitions of “telecommunications code” and “telecommunications code system”.
Transport Act 2000 (c. 38)	In Schedule 8, paragraph 14(2).
	In Schedule 9, paragraph 3(2)(e).
Political Parties, Elections and Referendums Act 2000 (c. 41)	Section 11(1) and (2).
	In Schedule 12, in paragraph 4, sub-paragraphs (1) to (5) and in sub-paragraph (7) the definitions of “the 1990 Act”, “licence”, “licensed” and “the licensing body”.

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
	In Schedule 21, paragraph 8.
Criminal Justice and Police Act 2001 (c. 16)	In the table in section 1(1), the entry relating to section 43(1)(b) of the Telecommunications Act 1984.
Anti-terrorism, Crime and Security Act 2001 (c. 24)	In Schedule 4, paragraph 29.
Office of Communications Act 2002 (c. 11)	Section 2. Sections 4 to 6. In the Schedule, paragraphs 1(4), 8(5), 17(8) and (9) and 20.
Tobacco Advertising and Promotion Act 2002 (c. 36)	Section 12(4).
Enterprise Act 2002 (c. 40)	In section 22(3)(a), the words “69(1),”. In section 33(3)(a), the words “69(1),”. In section 46(1)(a), the words “69(1),”. In section 62(4), the words “section 69(1) or”. In section 67(1)(b), the words from “which” to “or 33”. In section 68(2)(c), the words from “which”, where it occurs for the second time, to “or 33”. Section 69. In section 121— (a) in subsection (1), the words “, Part V of the Fair Trading Act 1973 (c. 41)”; (b) in subsection (2), paragraph (b) and the word “or” at the end of the paragraph; (c) in subsection (4)(c), sub-paragraph (i), the word “and” at the end of the sub-paragraph and, in sub-paragraph (ii), the words “in any other case,”; (d) in subsection (8), the words “, Part V of the Act of 1973”; (e) subsection (10). In section 136— (a) in subsection (7), paragraph (a) and the word “and” immediately preceding paragraph (g); (b) in subsection (8), the words “the Director of Telecommunications,”. Section 168(3)(a), (4)(a) and (5)(d).

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<i>Short title and chapter</i>	<i>Extent of repeal</i>
	In Schedule 9, paragraphs 1 and 16.
	In Schedule 25, paragraphs 13(2) to (8), 24(2) to (6), (8) and (9) and 34.
Income Tax (Earnings and Pensions) Act 2003 (c. 1)	In section 320(7), paragraph (d).
European Parliament (Representation) Act 2003(c. 7)	In section 12(4), in the definition of “programme services”, the words from “(including” to “local delivery services”.

Note

1. These repeals, so far as they relate to appeals to the tribunal established under section 9 of the Wireless Telegraphy Act 1949 (c. 54), have effect in relation only to appeals against decisions made after the coming into force of section 192.
2. The repeal of section 63 of the Telecommunications Act 1984 (c. 12) does not affect the power of the Secretary of State or the Treasury to acquire or subscribe for securities of the successor company or of any subsidiary of the successor company other than pursuant to an enactment.
3. The repeals of sections 80 and 81 of the Telecommunications Act 1984 do not apply in relation to apparatus seized before the coming into force of the repeal.
4. The repeal of paragraph 20 of Schedule 5 to the Telecommunications Act 1984 shall be disregarded for the purposes of Schedule 18 to this Act.
5. The repeals of sections 27A to 27L and in section 50 of the Telecommunications Act 1984 and the repeal of sections 1 to 10 of the Competition and Service Utilities Act 1992 do not have effect in relation to any dispute or other matter referred to the Director General of Telecommunications before the coming into force of the repeals.
6. The repeals of sections 26 and 27 of the 1990 Act have effect subject to section 201(2) of this Act.

(2) Instruments

<i>Title and number</i>	<i>Extent of revocation</i>
Planning (Northern Ireland) Order 1991 (S.I. 1991/1220 (N.I. 11))	Article 104(5).
Electricity (Northern Ireland) Order 1992 (S.I. 1992/231 (N.I. 1))	In Schedule 4, in paragraph 1(1), the definitions of “public telecommunications operator” and of “telecommunication apparatus”, “telecommunication system” and “the telecommunications code”.
Telecommunications (Single Emergency Call Number) Regulations 1992 (S.I. 1992/2875)	The whole regulations.
Roads (Northern Ireland) Order 1993 (S.I. 1993/3160 (N.I. 15))	In Article 2(2), the definitions of “telecommunication apparatus”, “the telecommunications code” and “telecommunications code system”.
Airports (Northern Ireland) Order 1994 (S.I. 1994/426 (N.I. 1))	Article 12(7).
Street Works (Northern Ireland) Order 1995 (S.I. 1995/3210 (N.I. 19))	In Schedule 2, in paragraph 7(4), the definitions of “telecommunication apparatus” and “telecommunication system”.

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<i>Title and number</i>	<i>Extent of revocation</i>
Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2))	In Schedule 3, in paragraph 1, the definitions of “public telecommunications operator” and of “telecommunication apparatus”, “telecommunication system” and “the telecommunications code”.
Race Relations (Northern Ireland) Order 1997 (S.I. 1997/869 (N.I. 6))	Paragraphs 4 and 9 of Schedule 2.
Telecommunications (Voice Telephony) Regulations 1997 (S.I. 1997/1886)	The whole regulations.
Telecommunications (Interconnection) Regulations 1997 (S.I. 1997/2931)	The whole regulations.
Telecommunications (Open Network Provision and Leased Lines) Regulations 1997 (S.I. 1997/2932)	The whole regulations.
Telecommunications (Open Network Provision) (Voice Telephony) Regulations 1998 (S.I. 1998/1580)	The whole regulations.
Telecommunications (Licence Modification) (Standard Schedules) Regulations 1999 (S.I. 1999/2450)	The whole regulations.
Telecommunications (Licence Modification) (Fixed Voice Telephony and International Facilities Operator Licences) Regulations 1999 (S.I. 1999/2451)	The whole regulations.
Telecommunications (Licence Modification) (Mobile Public Telecommunications Operators) Regulations 1999 (S.I. 1999/2452)	The whole regulations.
Telecommunications (Licence Modification) (British Telecommunications plc) Regulations 1999 (S.I. 1999/2453)	The whole regulations.
Telecommunications (Licence Modification) (Cable and Local Delivery Operator Licences) Regulations 1999 (S.I. 1999/2454)	The whole regulations.
Telecommunications (Licence Modification) (Kingston Communications (Hull) PLC) Regulations 1999 (S.I. 1999/2455)	The whole regulations.
Telecommunications (Interconnection) (Carrier Pre-section) Regulations 1999 (S.I. 1999/3448)	The whole regulations.
Telecommunications (Interconnection) (Number Portability, etc.) Regulations 1999 (S.I. 1999/3449)	The whole regulations.

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

<i>Title and number</i>	<i>Extent of revocation</i>
Telecommunications (Licence Modification) (Satellite Operator Licences) Regulations 2000 (S.I. 2000/1711)	The whole regulations.
Telecommunications (Licence Modification) (Regional Public Access Mobile Radio Operator Licences) Regulations 2000 (S.I. 2000/1712)	The whole regulations.
Telecommunications (Licence Modification) (Amendment) Regulations 2000 (S.I. 2000/1713)	The whole regulations.
Telecommunications (Licence Modification) (Mobile Data Operator Licences) Regulations 2000 (S.I. 2000/1714)	The whole regulations.
Telecommunications (Licence Modification) (Paging Operator Licences) Regulations 2000 (S.I. 2000/1715)	The whole regulations.
Telecommunications (Services for Disabled Persons) Regulations 2000 (S.I. 2000/2410)	The whole regulations.
Telecommunications (Licence Modifications) (Amendment No. 2) Regulations 2000 (S.I. 2000/2998)	The whole regulations.
Telecommunications (Licence Modifications) (Amendment) Regulations 2001 (S.I. 2001/2495)	The whole regulations.
