



Broadcasting Act 1981

1981 CHAPTER 68

PART I

THE INDEPENDENT BROADCASTING AUTHORITY

Special provisions relating to the Fourth Channel

10 Provision by Authority of second television service

- (1) If the Authority provide a television broadcasting service additional to that already being provided by them under this Act, the programmes (other than advertisements) broadcast in that service shall, subject to subsection (4) and without prejudice to section 12(2), be provided by the Authority themselves.
- (2) In this Act—
 - (a) "ITV" means the television broadcasting service already being provided by the Authority under this Act, and "on ITV" means in that service;
 - (b) "the Fourth Channel" means the additional television broadcasting service referred to in subsection (1) and "on the Fourth Channel" means in that service;
 - (c) "TV programme contractor" means a person whose contract as a programme contractor gives him the right and the duty to provide programmes or parts of programmes for broadcasting on ITV;
 - (d) references to the area of a TV programme contractor are references to the area for which he has the right and the duty to provide programmes or parts of programmes for broadcasting on ITV;
 - (e) references to a TV programme contractor's contract are references to the contract by virtue of which he is such a contractor.
- (3) In consequence of subsection (1)—
 - (a) references in section 2(3) (provision of programmes by programme contractors) to programmes broadcast by the Authority shall not include references to programmes broadcast by them on the Fourth Channel; and

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- (b) section 3(2) (provision of programmes in exceptional cases otherwise than by programme contractors) and section 6 (submission of programme schedules by programme contractors for Authority's approval) shall not apply in the case of the Fourth Channel.
- (4) The programmes (other than advertisements) broadcast on the Fourth Channel so far they consist of programmes broadcast for reception in Wales shall be provided by the Welsh Fourth Channel Authority in accordance with Part II; and accordingly sections 11 and 12 do not apply in relation to the broadcasting by the IBA of television programmes, whether on ITV or otherwise, for reception in Wales.
- (5) In this section "television broadcasting service " does not include a teletext service.

11 Nature of the Fourth Channel, and its relation to ITV

- (1) As regards the programmes (other than advertisements) broadcast on the Fourth Channel it shall be the duty of the Authority—
 - (a) to ensure that the programmes contain a suitable proportion of matter calculated to appeal to tastes and interests not generally catered for by ITV.
 - (b) without prejudice to so much of section 2(2)(a) as relates to the dissemination of education, to ensure that a suitable proportion of the programmes are of an educational nature,
 - (c) to encourage innovation and experiment in the form and content of programmes,
 and generally to give the Fourth Channel a distinctive character of its own.
- (2) While the Authority are providing both ITV and the Fourth Channel it shall be their duty to ensure, so far as is consistent with their duties under subsection (1)—
 - (a) that, as regards each of those services, the programmes broadcast in that service by the Authority in each area maintain a proper balance and wide range in their subject-matter, having regard both to the programmes as a whole and also to the days of the week on which, and the times of the day at which, the programmes are broadcast; and
 - (b) that, as between the two services, a proper balance of subject-matter is maintained, having regard both to the programmes broadcast in those services as a whole and also to the days of the week on which, and the times of the day at which, the various programmes are broadcast;
 and so long as the Authority are under the duty imposed by this subsection, so much of section 2(2)(b) as relates to the maintenance of a proper balance and wide range in the programmes broadcast by the Authority shall not apply in the case of television programmes so broadcast.
- (3) Section 4(1)(d) (programmes to contain a suitable proportion of matter catering for the tastes and outlook of persons served by the station or stations in question and, where another language as well as English is in common use among such persons, a suitable proportion of matter in that language) shall not apply in the case of programmes broadcast on the Fourth Channel.

12 Provision of programmes (other than advertisements) for the Fourth Channel

- (1) Subject to subsection (2), the Authority may, for the purpose of providing programmes (other than advertisements) for broadcasting on the Fourth Channel make such

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arrangements for obtaining and assembling the necessary material, enter into such contracts, employ such persons, acquire such property and do such things as may appear to them to be necessary or expedient.

This subsection is without prejudice to the generality of section 3(1) and paragraph 4(1) of Schedule 1.

- (2) The Authority shall arrange for the following activities involved in providing programmes (other than advertisements) for broadcasting on the Fourth Channel to be performed by a subsidiary of the Authority formed by them for the purpose, namely—
 - (a) obtaining and assembling the necessary material; and
 - (b) such of the other activities involved in providing such programmes as appear to the Authority appropriate.
- (3) As respects the selection of programmes (other than advertisements) for broadcasting on the Fourth Channel it shall be the duty of the Authority—
 - (a) to have regard, in particular, to their duties under section 11(1); and
 - (b) to secure that, so far as is consistent with their duties in relation to the Fourth Channel under sections 2(2) and 11, a substantial proportion of the programmes broadcast on the Fourth Channel are supplied otherwise than by persons of either of the following descriptions, namely a TV programme contractor and a body corporate under the control of a TV programme contractor.
- (4) In this section " subsidiary " shall be construed in accordance with section 154 of the Companies Act 1948.

13 Advertisements on the Fourth Channel

- (1) The programmes broadcast by the Authority on the Fourth Channel for reception in the area of any TV programme contractor may, so long as the provisions of this Act are complied with in relation thereto, include advertisements provided for insertion therein by that contractor in consideration of payments to him.
- (2) The contract of every TV programme contractor shall be framed so as to give him the right, in consideration of payments made to the Authority and so long as the provisions of this Act are complied with in relation thereto, to provide advertisements for inclusion in the programmes broadcast by the Authority on the Fourth Channel for reception in his area.
- (3) For any period in which programmes are to be broadcast on the Fourth Channel for reception in the area of a TV programme contractor it shall be the duty of the Authority to make suitable arrangements—
 - (a) for the contractor to receive advance information about the programmes other than advertisements which are to be so broadcast in that period and about the periods which will be available for the broadcasting of advertisements ; and
 - (b) for the inclusion, in the programmes so broadcast in that period, of advertisements provided for the purpose by the contractor in the exercise of his right to do so under his contract.
- (4) In relation to the programmes broadcast by the Authority on the Fourth Channel, the provisions of sections 8 and 9 (together with Schedule 2) shall have effect with the following modifications, that is to say—
 - (a) section 8(1) shall not apply ;

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- (b) section 8(2) shall apply to orders for the inclusion by a TV programme contractor of advertisements among those provided by him for insertion in those programmes ;
 - (c) section 8(9) and the reference to section 8(9) in section 8(6), shall not apply ;
 - (d) section 9(4) and, in section 9(5), the words from " and directions under subsection (4)" onwards shall not apply.
- (5) Where two or more TV programme contractors share the same area, the preceding provisions of this section shall, in the case of each of them, apply as if the only programmes broadcast or to be broadcast by the Authority on the Fourth Channel for reception in that area were those so broadcast or to be broadcast in periods in respect of which his contract gives him the right and the duty to provide programmes or parts of programmes for reception in that area on ITV.