

*Status: Point in time view as at 18/06/2012. This version of this part contains provisions that are prospective.*

*Changes to legislation: Broadcasting Act 1990, Part I is up to date with all changes known to be in force on or before 30 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*



# Broadcasting Act 1990

## 1990 CHAPTER 42

### <sup>F1</sup>PART I

#### INDEPENDENT TELEVISION SERVICES

##### Textual Amendments

- F1** Pt I (ss.1-71) applied (1.10.1996) by 1988 c. 48, s.72, as replaced 1996 c. 55, s. 138, **Sch. 9 para. 1**; S.I. 1996/2120, art. 4, **Sch. 1**

##### Modifications etc. (not altering text)

- C1** Pt. I: transfer of functions (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 1 para. 3(a)** (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

#### CHAPTER 1

##### REGULATION BY COMMISSION OF TELEVISION SERVICES GENERALLY

##### *Establishment of Independent Television Commission*

### <sup>F2</sup>1 The Independent Television Commission.

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##### Textual Amendments

- F2** S. 1 repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 19(1)** Note 1 (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

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### *Function of Commission*

## **F<sup>3</sup>2 Regulation by Commission of provision of television services.**

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#### **Textual Amendments**

**F3** S. 2 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

### *General provisions about licences*

## **3 Licences under Part I.**

- (1) Any licence granted by [<sup>F4</sup>OFCOM] under this Part shall be in writing and (subject to the provisions of this Part) shall continue in force for such period as is provided, in relation to a licence of the kind in question, by the relevant provision of [<sup>F5</sup> Chapter 2 or 5 of this Part or section 235 of the Communications Act 2003].
- (2) A licence may be so granted for the provision of such a service as is specified in the licence or for the provision of a service of such a description as is so specified.
- (3) [<sup>F4</sup>OFCOM] —
  - (a) shall not grant a licence to any person unless they are satisfied that he is a fit and proper person to hold it; and
  - (b) shall do all that they can to secure that, if they cease to be so satisfied in the case of any person holding a licence, that person does not remain the holder of the licence;

and nothing in this Part shall be construed as affecting the operation of this subsection or of section 5(1) or (2)(b) or (c).

[<sup>F6</sup>(3A) Where [<sup>F4</sup>OFCOM] are not satisfied that a BBC company which has applied for a licence is a fit and proper person to hold it, they shall, before refusing the application, notify the Secretary of State that they are not so satisfied.]

- (4) [<sup>F4</sup>OFCOM] may vary a licence by a notice served on the licence holder if—
  - (a) in the case of a variation of the period for which the licence is to continue in force, the licence holder consents; or
  - (b) in the case of any other variation, the licence holder has been given a reasonable opportunity of making representations to [<sup>F4</sup>OFCOM] about the variation.
- (5) Paragraph (a) of subsection (4) does not affect the operation of section 41(1)(b); and that subsection shall not authorise the variation of any conditions included in a licence in pursuance of section 19(1) or 52(1) or in pursuance of any other provision of this Part which applies section 19(1).
- (6) A licence granted to any person under this Part shall not be transferable to any other person without the previous consent in writing of [<sup>F4</sup>OFCOM] .
- (7) Without prejudice to the generality of subsection (6), [<sup>F4</sup>OFCOM] shall not give their consent for the purposes of that subsection unless they are satisfied that any such other

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person would be in a position to comply with all of the conditions included in the licence which would have effect during the period for which it is to be in force.

- [<sup>F7</sup>(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 [<sup>F8</sup>a licence under section 8 of the Wireless Telegraphy Act 2006]; 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).]

#### Textual Amendments

- F4** Words in s. 3 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 1\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F5** Words in s. 3(1) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 1\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F6** S. 3(3A) inserted (24.7.1996) by [1996 c. 55, ss. 136, 149\(1\)\(f\), Sch. 8 para. 1](#)
- F7** S. 3(8) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 1\(4\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F8** Words in s. 3(8)(a) substituted (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\), s. 126\(2\), Sch. 7 para. 10](#)

#### 4 General licence conditions.

- (1) A licence may include—
- (a) such conditions as appear to [<sup>F9</sup>OFCOM] to be appropriate having regard to any duties which are or may be imposed on them, or on the licence holder, by or under this Act [<sup>F10</sup>, the Broadcasting Act 1996 or the Communications Act 2003];
  - (b) conditions requiring the payment by the licence holder to [<sup>F9</sup>OFCOM] (whether on the grant of the licence or at such times thereafter as may be determined by or under the licence, or both) of a fee or fees of an amount or amounts so determined;
  - (c) conditions requiring the licence holder to provide [<sup>F9</sup>OFCOM], in such manner and at such times as they may reasonably require, with such information as they may require for the purpose of exercising the functions assigned to them by or under this Act [<sup>F11</sup>, the Broadcasting Act 1996 or the Communications Act 2003];
  - (d) conditions providing for such incidental and supplemental matters as appear to [<sup>F9</sup>OFCOM] to be appropriate.
- (2) A licence may in particular include conditions requiring the licence holder—
- (a) to comply with any direction given by [<sup>F9</sup>OFCOM] as to such matters as are specified in the licence or are of a description so specified; or
  - (b) (except to the extent that [<sup>F9</sup>OFCOM] consent to his doing or not doing them) not to do or to do such things as are specified in the licence or are of a description so specified.
- (3) The fees required to be paid to [<sup>F9</sup>OFCOM] by virtue of subsection (1)(b) shall be in accordance with such tariff as may from time to time be fixed by [<sup>F9</sup>OFCOM]; <sup>F12</sup>....

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- (4) A tariff fixed under subsection (3) may specify different fees in relation to different cases or circumstances; and [F9OFCOM] shall publish every such tariff in such manner as they consider appropriate.
- (5) Where the holder of any licence—
- (a) is required by virtue of any condition [F13contained in the licence] to provide [F9OFCOM] with any information, and
  - (b) in purported compliance with that condition provides them with information which is false in a material particular,
- he shall be taken for the purposes of sections 41 and 42 [F14or (as the case may be) sections 237 and 238 of the Communications Act 2003 (enforcement of television licensable content service licences)] to have failed to comply with that condition.
- (6) Nothing in this Act which authorises or requires the inclusion in a licence of conditions relating to any particular matter or having effect for any particular purpose shall be taken as derogating from the generality of subsection (1).

#### Textual Amendments

- F9** Words in s. 4 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 2\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F10** Words in s. 4(1)(a) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 2\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F11** Words in s. 4(1)(c) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 2\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F12** Words in s. 4(3) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 2\(4\), Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F13** Words in s. 4(5) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 2\(5\)\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F14** Words in s. 4(5) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 2\(5\)\(b\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

#### Modifications etc. (not altering text)

- C2** [S. 4\(1\)\(c\)](#) modified (20.7.2004) by [The Contracting Out \(Functions relating to Broadcast Advertising\) and Specification of Relevant Functions Order 2004 \(S.I. 2004/1975\), arts. 1, 10\(1\)\(a\)\(2\)\(a\)](#) (with art. 5)

## 5 Restrictions on the holding of licences.

- (1) [F15OFCOM] shall do all that they can to secure—
- (a) that a person does not become or remain the holder of a licence if he is a person who is a disqualified person in relation to that licence by virtue of Part II of Schedule 2 to this Act; and
  - [F16(b) that a person does not become the holder of a licence if requirements imposed by or under Schedule 14 to the Communications Act 2003 would be contravened were he to do so; and
  - (c) that those requirements are not contravened in the case of a person who already holds a licence.]
- (2) [F15OFCOM] may accordingly—

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- (a) require any applicant for a licence to provide them with such information as they may reasonably require for the purpose of determining—
  - (i) whether he is such a disqualified person as is mentioned in subsection (1)(a),
  - (ii) whether any such requirements as are mentioned in subsection (1)(b) would preclude them from granting a licence to him, and
  - (iii) if so, what steps would be required to be taken by or in relation to him in order for any such requirements to be complied with;
- (b) revoke the award of a licence to a body where a relevant change takes place after the award, but before the grant, of the licence;
- (c) make the grant of a licence to any person conditional on the taking of any specified steps that appear to them to be required to be taken as mentioned in paragraph (a)(iii);
- (d) impose conditions in any licence enabling them to require the licence holder, if a body corporate, to give to them advance notice of proposals affecting—
  - (i) shareholdings in the body, or
  - (ii) the directors of the body,where such proposals are known to the body;
- [<sup>F17</sup>(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;]
  - (e) impose conditions in any licence enabling them to give the licence holder directions requiring him to take, or arrange for the taking of, any specified steps appearing to them to be required to be taken in order for any such requirements as are mentioned in subsection (1)(b) to be complied with.

[<sup>F18</sup>(2A) Before revoking in pursuance of subsection (2)(b) the award of a licence to a BBC company, [<sup>F15</sup>OFCOM] shall give the Secretary of State notice of their intention to do so, specifying the relevant change.]

(3) Where [<sup>F15</sup>OFCOM] —

  - (a) revoke the award of any licence in pursuance of subsection (2)(b), or
  - (b) determine that any condition imposed by them in relation to any licence in pursuance of subsection (2)(c) has not been satisfied,

any provisions of this Part relating to the awarding of licences of the kind in question shall (subject to subsection (4)) have effect as if the person to whom the licence was awarded or granted had not made an application for it.

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(4) Those provisions shall not so have effect if <sup>F15</sup>[OFCOM] decide that it would be desirable to publish a fresh notice under this Part in respect of the grant of a licence, or (as the case may be) a further licence, to provide the service in question.

(5) Every licence shall include such conditions as <sup>F15</sup>[OFCOM] consider necessary or expedient to ensure that where—

- (a) the holder of the licence is a body, and
- (b) a relevant change takes place after the grant of the licence,

<sup>F15</sup>[OFCOM] may revoke the licence by notice served on the holder of the licence and taking effect forthwith or on a date specified in the notice.

<sup>F19</sup>(6) <sup>F15</sup>[OFCOM] shall not serve any such notice on the licence holder unless—

- (a) <sup>F15</sup>[OFCOM] have notified him of the matters <sup>F20</sup>[constituting their grounds for revoking the licence] and given him a reasonable opportunity of making representations to them about those matters, and
- (b) in a case where the relevant change is one falling within subsection (6A)—
  - (i) they have also given him an opportunity of complying with <sup>F21</sup>[the requirements imposed by or under Schedule 14 to the Communications Act 2003,] within a period specified in the notification, and
  - (ii) the period specified in the notification has elapsed.

(6A) A relevant change falls within this subsection if it consists only in one or more of the following—

- <sup>F22</sup>(a) .....
- (b) a change in the national market share (within the meaning of <sup>F23</sup>[Part 1 of Schedule 14 to the Communications Act 2003] ) of one or more national newspapers (within the meaning of that Part of that Schedule);
- (c) a change in the local market share <sup>F24</sup>... in a particular area of one or more local newspapers (within the meaning of that Part of that Schedule).]

<sup>F25</sup>(6AA) For the purposes of this section, 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.

(6AB) In subsection (6AA) “the relevant six months” means the six months ending with the last whole calendar month to end before the time in question.

(6AC) For the purposes of subsection (6AA), the number of copies of a newspaper sold 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.

(6AD) In relation to a newspaper which is distributed free of charge (rather than sold), references in this section to the number of copies sold include references to the number of copies distributed.]

<sup>F26</sup>(6B) .....

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[<sup>F27</sup>(6C) [<sup>F15</sup>OFCOM] shall not serve any such notice as is mentioned in subsection (5) on a BBC company unless they have given the Secretary of State notice of their intention to do so, specifying the relevant change..

<sup>F27</sup>(6D) Where [<sup>F15</sup>OFCOM] receive any written representations from a BBC company under subsection (6), they shall send a copy of the representations to the Secretary of State.]

(7) In this section “relevant change”, in relation to a body to which a licence has been awarded or granted, means—

- (a) any change affecting the nature or characteristics of the body, or
- (b) any change in the persons having control over or interests in the body, [<sup>F28</sup>or
- (c) any other change giving rise to [<sup>F29</sup>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]]

being [<sup>F30</sup>(in any case)] a change which is such that, if it fell to [<sup>F15</sup>OFCOM] to determine whether to award the licence to the body in the new circumstances of the case, they would be induced by the change to refrain from so awarding it.

#### Textual Amendments

- F15** Words in s. 5 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 3\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F16** S. 5(1)(b)(c) substituted for s. 5(1)(b) (29.12.2003) by [Communications Act 2003 \(c. 21\), ss. 350\(2\), 411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F17** S. 5(2)(da)(db) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 3\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F18** S. 5(2A) inserted (24.7.1996) by [1996 c. 55, ss. 136, 149\(1\), Sch. 8 para. 2\(2\)](#)
- F19** S. 5(6)(6A)(6B) substituted for s. 5(6) (1.11.1996) by [1996 c. 55, s. 73, Sch. 2 Pt. V para. 12\(2\)](#); [S.I. 1996/2120, art. 5, Sch. 2](#)
- F20** Words in s. 5(6)(a) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 3\(4\)\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F21** Words in s. 5(6)(b)(i) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 3\(4\)\(b\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F22** S. 5(6A)(a) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 3\(5\)\(a\), Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F23** Words in s. 5(6A)(b) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 3\(5\)\(b\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F24** Words in s. 5(6A)(c) omitted (15.6.2011) by virtue of [The Media Ownership \(Radio and Cross-media\) Order 2011 \(S.I. 2011/1503\), arts. 1, 11\(2\)](#)
- F25** S. 5(6AA)-(6AD) inserted (15.6.2011) by [The Media Ownership \(Radio and Cross-media\) Order 2011 \(S.I. 2011/1503\), arts. 1, 11\(3\)](#)
- F26** S. 5(6B) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 3\(6\), Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F27** S. 5(6C)(6D) inserted (24.7.1996) by [1996 c. 55, ss. 136, 149\(1\), Sch. 8 para. 2\(3\)](#)
- F28** S. 5(7)(c) and the word “or” immediately preceding it inserted (1.11.1996) by [1996 c. 55, s. 73, Sch. 2 Pt. V para. 12\(3\)\(a\)](#); [S.I. 1996/2120, art. 5, Sch. 2](#)
- F29** Words in s. 5(7) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 3\(7\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F30** Words in s. 5(7) substituted (1.11.1996) by [1996 c. 55, s. 73, Sch. 2 Pt. V para. 12\(3\)\(b\)](#); [S.I. 1996/2120, art. 5, Sch. 2](#)

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**Modifications etc. (not altering text)**

- C3 S. 5 modified (temp.) (17.7.2003) by [The Communications Act 2003 \(Commencement No. 1\) Order 2003 \(S.I. 2003/1900\)](#), [art. 5](#)
- C4 S. 5(1) modified (1.11.1996) by [1996 c. 55, s. 143\(1\)\(2\)](#); [S.I. 1996/2120](#), [art. 5](#), [Sch. 2](#)
- C5 S. 5(1)(a) amended (1.11.1996) by [1996 c. 55, s. 145\(7\)](#); [S.I. 1996/2120](#), [art. 5](#), [Sch. 2](#)

*General provisions about licensed services*

**F316 General requirements as to licensed services.**

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**Textual Amendments**

- F31 Ss. 6-12 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [s. 411\(2\)](#), [Sch. 15 para. 4](#), [Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), [art. 3\(1\)](#), [Sch. 1](#) (with [art. 11](#))

**F317 General code for programmes.**

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**Textual Amendments**

- F31 Ss. 6-12 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [s. 411\(2\)](#), [Sch. 15 para. 4](#), [Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), [art. 3\(1\)](#), [Sch. 1](#) (with [art. 11](#))

**F318 General provisions as to advertisements.**

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**Textual Amendments**

- F31 Ss. 6-12 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [s. 411\(2\)](#), [Sch. 15 para. 4](#), [Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), [art. 3\(1\)](#), [Sch. 1](#) (with [art. 11](#))

**F319 Control of advertisements.**

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**Textual Amendments**

- F31 Ss. 6-12 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [s. 411\(2\)](#), [Sch. 15 para. 4](#), [Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), [art. 3\(1\)](#), [Sch. 1](#) (with [art. 11](#))

**F3110 Government control over licensed services.**

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**Textual Amendments**

**F31** Ss. 6-12 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), Sch. 15 para. 4, [Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), Sch. 1 (with art. 11)

**F31 11 Monitoring by Commission of programmes included in licensed services.**

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**Textual Amendments**

**F31** Ss. 6-12 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), Sch. 15 para. 4, [Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), Sch. 1 (with art. 11)

**F31 12 Audience research.**

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**Textual Amendments**

**F31** Ss. 6-12 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), Sch. 15 para. 4, [Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), Sch. 1 (with art. 11)

*Prohibition on providing unlicensed television services*

**13 Prohibition on providing television services without a licence.**

(1) Subject to subsection (2), any person who provides any [<sup>F32</sup>relevant regulated television service] without being authorised to do so by or under a licence under this Part [<sup>F33</sup>or Part I of the Broadcasting Act 1996] shall be guilty of an offence.

[<sup>F34</sup>(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.]

(2) The Secretary of State may, after consultation with [<sup>F35</sup>OFCOM] , by order provide that subsection (1) shall not apply to such services or descriptions of services as are specified in the order.

(3) A person guilty of an offence under this section shall be liable—  
(a) on summary conviction, to a fine not exceeding the statutory maximum;  
(b) on conviction on indictment, to a fine.

(4) No proceedings in respect of an offence under this section shall be instituted—  
(a) in England and Wales, except by or with the consent of the Director of Public Prosecutions;  
(b) in Northern Ireland, except by or with the consent of the Director of Public Prosecutions for Northern Ireland.

*Status: Point in time view as at 18/06/2012. This version of this part contains provisions that are prospective.*

*Changes to legislation: Broadcasting Act 1990, Part I is up to date with all changes known to be in force on or before 30 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (5) Without prejudice to subsection (3), compliance with this section shall be enforceable by civil proceedings by the Crown for an injunction or interdict or for any other appropriate relief.
- (6) Any order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F32** Words in s. 13(1) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 5\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F33** words in s. 13(1) inserted (1.10.1996) by [1996 c. 55, s. 148\(1\), Sch. 10 Pt. I para. 2\(1\)\(b\)](#); [S.I. 1996/2120, art. 4, Sch. 1](#)
- F34** S. 13(1A) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 5\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F35** Words in s. 13(2) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 5\(4\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

#### Modifications etc. (not altering text)

- C6** S. 13 excluded (temp. until 11.10.1997) by [S.I. 1997/1682, regs. 1, 4\(3\)](#)
- C7** S. 13(1) excluded by [S.I. 1990/2537, art. 2\(1\)](#)  
 S. 13(1) excluded (5.1.1995) by [S.I. 1995/3172, art. 2](#)

## CHAPTER II

### TELEVISION BROADCASTING ON CHANNELS 3, 4 AND 5

#### Channel 3

#### 14 Establishment of Channel 3.

- (1) [<sup>F36</sup>OFCOM] shall do all that they can to secure the provision, in accordance with this Chapter, of a nationwide system of television broadcasting services to be known as Channel 3.
- (2) Subject to subsection (5), Channel 3 shall be structured on a regional basis, with each of the services comprised within it (“Channel 3 services”) being provided for such area in the United Kingdom as [<sup>F36</sup>OFCOM] may determine in the case of that service.
- (3) If it appears to [<sup>F36</sup>OFCOM] that it would be appropriate for a particular Channel 3 service to do so, they may determine that the service shall include the provision of different programmes—
  - (a) for such different parts of the area for which it is provided, or
  - (b) for such different communities living within that area,
 as they may determine.
- (4) If [<sup>F36</sup>OFCOM] so determine in the case of a particular Channel 3 service, that service shall be provided for a particular area only between such times of the day or on such days of the week (or both) as [<sup>F36</sup>OFCOM] may determine.

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*Status: Point in time view as at 18/06/2012. This version of this part contains provisions that are prospective.*  
*Changes to legislation: Broadcasting Act 1990, Part I is up to date with all changes known to be in force on or before 30 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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(5) If [<sup>F36</sup>OFCOM] so determine, a Channel 3 service may be provided for two or more areas for which regional Channel 3 services are provided, but any such service may only be so provided between particular times of the day.

(6) In this Part—

“regional Channel 3 service” means a Channel 3 service provided for a particular area determined under subsection (2); and

“national Channel 3 service” means a Channel 3 service provided as mentioned in subsection (5).

<sup>F37</sup>(7) .....

[<sup>F38</sup>(7A) The areas mentioned in subsection (2) must at all times include at least one area that comprises, or falls entirely within, Scotland.]

(8) In this section and section 15 “programme” does not include an advertisement.

#### Textual Amendments

**F36** Words in s. 14 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 6](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**F37** [S. 14\(7\)](#) repealed (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), ss. 24(1)(a), 47(1), [Sch. 2](#)

**F38** [S. 14\(7A\)](#) inserted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), ss. [24\(1\)\(b\)](#), 47(1)

## 15 Applications for Channel 3 licences.

(1) Where [<sup>F39</sup>OFCOM] propose to grant a licence to provide a Channel 3 service they shall publish, in such manner as they consider appropriate, a notice—

- (a) stating that they propose to grant such a licence;
- (b) specifying—
  - (i) if the service is to be a regional Channel 3 service, the area in the United Kingdom for which the service is to be provided,
  - (ii) if the service is to include the provision of such programmes as are mentioned in section 14(3), the different parts of that area, or (as the case may be) the different communities living within it, for which such programmes are to be provided,
  - (iii) if the service is to be provided as mentioned in section 14(4), the times of the day or the days of the week (or both) between or on which it is to be provided, and
  - (iv) if the service is to be a national Channel 3 service, the areas in the United Kingdom for which it is to be provided and the times of the day between which it is to be provided;
- (c) inviting applications for the licence and specifying the closing date for such applications; and
- (d) specifying—
  - (i) the fee payable on any application made in pursuance of the notice, and
  - (ii) the percentage of qualifying revenue for each accounting period that would be payable by an applicant in pursuance of section 19(1)(c) if he were granted the licence.

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- (2) [F39OFCOM] shall, when publishing a notice under subsection (1), publish with the notice general guidance to applicants for the licence in question which contains examples of the kinds of programme whose inclusion in the service proposed by any such applicant under subsection (3)(b) would be likely to result in a finding by [F39OFCOM] that the service would comply with the requirements [F40] 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.]
  
- (3) Any application made in pursuance of a notice under this section must be in writing and accompanied by—
  - (a) the fee specified in the notice under subsection (1)(d)(i);
  - (b) the applicant’s proposals for providing a service that would comply with the requirements [F41] 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]
  - [F42](c) .....
  - [F42](d) .....
  - [F42](e) .....
  - (f) the applicant’s cash bid in respect of the licence;
  - (g) such information as [F39OFCOM] may reasonably require as to the applicant’s present financial position and his projected financial position during the period for which the licence would be in force; and
  - (h) such other information as [F39OFCOM] may reasonably require for the purpose of considering the application.
  
- [F43](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.]
  
- (4) At any time after receiving such an application and before determining it [F39OFCOM] may require the applicant to furnish additional information under any of [F44] paragraphs (b)], (g) and (h) of subsection (3).
  
- (5) Any information to be furnished to [F39OFCOM] under this section shall, if they so require, be in such form or verified in such manner as they may specify.
  
- (6) [F39OFCOM] shall, as soon as reasonably practicable after the date specified in a notice under this section as the closing date for applications, publish in such manner as they consider appropriate—
  - (a) the following matters, namely—
    - (i) the name of every person who has made an application to them in pursuance of the notice,

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- (ii) the proposals submitted by him under subsection (3)(b), and
  - (iii) such other information connected with his application as [F39]OFCOM] consider appropriate; and
- (b) a notice—
- (i) inviting representations to be made to them with respect to any matters published by them in accordance with paragraph (a) (ii) and (iii) above, and
  - (ii) specifying the manner in which, and the time by which, any such representations are to be so made.
- (7) In this Part “cash bid”, in relation to a licence, means an offer to pay to [F39]OFCOM] a specified amount of money in respect of the first complete calendar year falling within the period for which the licence is in force (being an amount which, as increased by the appropriate percentage, is also to be payable in respect of subsequent years falling wholly or partly within that period).

#### Textual Amendments

- F39** Words in s. 15 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 7\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F40** Words in s. 15(2) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 7\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F41** Words in s. 15(3)(b) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 7\(4\)\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F42** S. 15(3)(c)-(e) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 7\(4\)\(b\), Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F43** S. 15(3A) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 7\(5\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F44** Words in s. 15(4) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 7\(6\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

#### Modifications etc. (not altering text)

- C8** Ss. 15-17A excluded (29.12.2003) by [Communications Act 2003 \(c. 21\), ss. 215\(3\), 411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

## 16 Procedure to be followed by Commission in connection with consideration of applications for licences.

- (1) Where a person has made an application for a Channel 3 licence in accordance with section 15, [F45]OFCOM] shall not proceed to consider whether to award him the licence on the basis of his cash bid in accordance with section 17 unless it appears to them—
- (a) that his proposed service would comply with the requirements [F46]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], and

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(b) that he would be able to maintain that service throughout the period for which the licence would be in force,

and any reference to an applicant in section 17 (except in section 17(12)(b)) is accordingly a reference to an applicant in whose case it appears to [F45OFCOM] that the requirements of paragraphs (a) and (b) above are satisfied.

F47(2) .....

F47(3) .....

(4) In deciding whether an applicant's proposed service would comply with the requirements [F48] 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,]

[F45OFCOM] shall take into account any representations made to them in pursuance of section 15(6)(b) with respect to that service; F49 ....

F50(5) .....

F50(6) .....

F50(7) .....

F50(8) .....

#### Textual Amendments

- F45** Words in s. 16 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 8\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F46** Words in s. 16(1) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 8\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F47** S. 16(2)(3) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 8\(4\)](#), [Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F48** Words in s. 16(4) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 8\(5\)\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F49** Words in s. 16(4) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 8\(5\)\(b\)](#), [Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F50** S. 16(5)-(8) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 8\(6\)](#), [Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

#### Modifications etc. (not altering text)

- C8** Ss. 15-17A excluded (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 215\(3\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

### 17 Award of licence to person submitting highest cash bid.

(1) Subject to the following provisions of this section, [F51OFCOM] shall, after considering all the cash bids submitted by the applicants for a Channel 3 licence, award the licence to the applicant who submitted the highest bid.

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- (2) Where two or more applicants for a particular licence have submitted cash bids specifying an identical amount which is higher than the amount of any other cash bid submitted in respect of the licence, then (unless they propose to exercise their power under subsection (3) in relation to the licence) [F51OFCOM] shall invite those applicants to submit further cash bids in respect of that licence; and, in relation to any person who has submitted a further cash bid in pursuance of this subsection, any reference in this Part to his cash bid is a reference to that further bid.
- (3) [F51OFCOM] may disregard the requirement imposed by subsection (1) and award the licence to an applicant who has not submitted the highest bid if it appears to them that there are exceptional circumstances which make it appropriate for them to award the licence to that applicant.
- (4) Without prejudice to the generality of subsection (3), [F51OFCOM] may regard the following circumstances as exceptional circumstances which make it appropriate to award the licence to an applicant who has not submitted the highest bid, namely where it appears to [F51OFCOM] —
  - (a) that the quality of the service proposed by such an applicant is exceptionally high; and
  - (b) that the quality of that proposed service is substantially higher than the quality of the service proposed—
    - (i) by the applicant who has submitted the highest bid, or
    - (ii) in a case falling within subsection (2), by each of the applicants who have submitted equal highest bids;and where it appears to [F51OFCOM] , in the context of the licence, that any circumstances are to be regarded as exceptional circumstances for the purposes of subsection (3), those circumstances may be so regarded by them despite the fact that similar circumstances have been so regarded by them in the context of any other licence or licences.
- (5) If it appears to [F51OFCOM] , in the case of the applicant to whom (apart from this subsection) they would award the licence in accordance with the preceding provisions of this section, that there are grounds for suspecting that any relevant source of funds is such that it would not be in the public interest for the licence to be awarded to him—
  - (a) they shall refer his application to the Secretary of State, together with—
    - (i) a copy of all documents submitted to them by the applicant, and
    - (ii) a summary of their deliberations on the application; and
  - (b) they shall not award the licence to him unless the Secretary of State has given his approval.
- (6) On such a reference the Secretary of State may only refuse to give his approval to the licence being awarded to the applicant in question if he is satisfied that any relevant source of funds is such that it would not be in the public interest for the licence to be so awarded.
- (7) In subsections (5) and (6) “relevant source of funds”, in relation to an applicant, means any source of funds to which he might (directly or indirectly) have recourse for the purpose of—
  - (a) paying any amounts payable by him by virtue of section 19(1), or
  - (b) otherwise financing the provision of his proposed service.

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*Status: Point in time view as at 18/06/2012. This version of this part contains provisions that are prospective.*

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- (8) In a case where any requirement such as is mentioned in section 5(1)(b) operates to preclude [F51OFCOM] from awarding a licence to the applicant to whom (apart from any such requirement) they would have awarded it in accordance with the preceding provisions of this section, they shall award the licence in accordance with rules made by them for regulating the awarding of licences in such cases; and any such rules may provide for the awarding of licences by reference to orders of preference notified to [F51OFCOM] by applicants at the time of making their applications.
- (9) Any such rules shall be published by [F51OFCOM] in such manner as they consider appropriate, but shall not come into force unless they have been approved by the Secretary of State.
- (10) Where [F51OFCOM] are, by virtue of subsection (5), precluded from awarding the licence to an applicant, the preceding provisions of this section shall (subject to subsection (14)) have effect as if that person had not made an application for the licence.
- (11) Where [F51OFCOM] have awarded a Channel 3 licence to any person in accordance with this section, they shall, as soon as reasonably practicable after awarding the licence—
- (a) publish the matters specified in subsection (12) in such manner as they consider appropriate; and
  - (b) grant the licence to that person.
- (12) The matters referred to in subsection (11)(a) are—
- (a) the name of the person to whom the licence has been awarded and the amount of his cash bid;
  - (b) the name of every other applicant in whose case it appeared to [F51OFCOM] that his proposed service would comply with the requirements [F52] 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];
    - (c) where the licence has, by virtue of subsection (3) above, been awarded to an applicant who has not submitted the highest cash bid, [F51OFCOM]’s reasons for the licence having been so awarded; and
    - (d) such other information as [F51OFCOM] consider appropriate.
- (13) In a case where the licence has been awarded to any person by virtue of the operation of this section, in accordance with any provision of this Part, on the revocation of an earlier grant of the licence, subsection (12) shall have effect as if—
- (a) paragraph (b) were omitted; and
  - (b) the matters specified in that subsection included an indication of the circumstances in which the licence has been awarded to that person.
- (14) Subsections (1) to (9) shall not have effect as mentioned in subsection (10) if [F51OFCOM] decide that it would be desirable to publish a fresh notice under section 15(1) in respect of the grant of the licence; and similarly, where any of the following provisions of this Part provides, in connection with the revocation of a licence, for this section to have effect as if the former holder of the licence had not



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made an application for it, this section shall not so have effect if [<sup>F51</sup>OFCOM] decide that it would be desirable to publish a further notice under this Part in respect of the grant of a further licence to provide the service in question.

#### Textual Amendments

- F51** Words in s. 17 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 9\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F52** Words in s. 17(12)(b) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 9\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))

#### Modifications etc. (not altering text)

- C8** Ss. 15-17A excluded (29.12.2003) by [Communications Act 2003 \(c. 21\), ss. 215\(3\), 411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- C9** S. 17 applied (with modifications) (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 10 para. 5\(4\)\(5\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- C10** S. 17(5)-(7) applied (with modifications) (29.12.2003) by [Communications Act 2003 \(c. 21\), ss. 222\(5\), 411\(2\)](#) (with [s. 222\(11\), Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- C11** S. 17(5)-(7) applied (with modifications) (29.12.2003) by [Communications Act 2003 \(c. 21\), ss. 216\(5\), 411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))

#### [<sup>F53</sup>17A Award of Channel 3 licence subject to conditions.

- (1) [<sup>F54</sup>OFCOM] may, when awarding a Channel 3 licence to any person, make the grant of the licence to him conditional on his compliance before the grant with such specified requirements relating to the financing of the service as appear to them to be appropriate, having regard to—
- any duties which are or may be imposed on them, or on the licence holder, by or under this Act, and
  - any information provided to them under section 15(3)(g) by the person to whom the licence is awarded as to his projected financial position during the period for which the licence would be in force.
- (2) Where [<sup>F54</sup>OFCOM] determine that any condition imposed by them in relation to a Channel 3 licence in pursuance of subsection (1) has not been satisfied, section 17 shall (subject to subsection (3)) have effect as if the person to whom the licence was awarded had not made an application for it.
- (3) Section 17 shall not so have effect if [<sup>F54</sup>OFCOM] decide that it would be desirable to publish a fresh notice under section 15(1) in respect of the grant of the licence.]

#### Textual Amendments

- F53** S. 17A inserted (1.10.1996) by [1996 c. 55, s. 86\(1\)](#); [S.I. 1996/2120, art. 4, Sch. 1](#)
- F54** Words in ss. 17A-19 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 10](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))

#### Modifications etc. (not altering text)

- C8** Ss. 15-17A excluded (29.12.2003) by [Communications Act 2003 \(c. 21\), ss. 215\(3\), 411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))

*Status: Point in time view as at 18/06/2012. This version of this part contains provisions that are prospective.*

*Changes to legislation: Broadcasting Act 1990, Part I is up to date with all changes known to be in force on or before 30 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**C12** S. 17A applied (with modifications) (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 10 para. 5\(4\)\(6\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))

## 18 Failure to begin providing licensed service and financial penalties on revocation of licence.

- (1) If at any time after a Channel 3 licence has been granted to any person but before the licence has come into force—
- (a) that person indicates to [<sup>F54</sup>OFCOM] that he does not intend to provide the service in question, or
  - (b) [<sup>F54</sup>OFCOM] for any other reason have reasonable grounds for believing that that person will not provide that service once the licence has come into force,
- then, subject to subsection (2)—
- (i) [<sup>F54</sup>OFCOM] shall serve on him a notice revoking the licence as from the time the notice is served on him, and
  - (ii) section 17 shall (subject to section 17(14)) have effect as if he had not made an application for the licence.

- (2) Subsection (1) shall not apply in the case of any person by virtue of paragraph (b) of that subsection unless [<sup>F54</sup>OFCOM] have served on him a notice stating their grounds for believing that he will not provide the service in question once his licence has come into force; and they shall not serve such a notice on him unless they have given him a reasonable opportunity of making representations to them about the matters complained of.

- (3) Where [<sup>F54</sup>OFCOM] revoke a Channel 3 licence under this section or under any other provision of this Part, they shall serve on the licence holder a notice requiring him to pay to them, within a specified period, [<sup>F55</sup>a specified financial penalty].

[<sup>F56</sup>(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.]

- (5) Any financial penalty payable by any body by virtue of subsection (3) shall, in addition to being recoverable from that body as provided by section 68(5), be recoverable by [<sup>F54</sup>OFCOM] as a debt due to them from any person who controls that body.

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#### Textual Amendments

- F54** Words in ss. 17A-19 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 10](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F55** Words in s. 18(3) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 13 para. 2\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F56** S. 18(3A)-(3D) substituted for 18(4) (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 13 para. 2\(2\)\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

#### Modifications etc. (not altering text)

- C13** S. 18(3B)(a): power to amend conferred (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 13 para. 9](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- C14** S. 18(3C)(a): power to amend conferred (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 13 para. 9](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- C15** S. 18(3) modified (1.11.1996) by [1996 c. 55](#), s. [145\(6\)\(a\)](#); [S.I. 1996/2120](#), art. 4, [Sch. 1](#); [S.I. 1996/2120](#), art. 5, [Sch. 2](#)

### 19 Additional payments to be made in respect of Channel 3 licences.

- (1) A Channel 3 licence shall include conditions requiring the licence holder to pay to <sup>F54</sup>[OFCCOM] (in addition to any fees required to be so paid by virtue of section 4(1)(b))—
- in respect of the first complete calendar year falling within the period for which the licence is in force, the amount specified in his cash bid;
  - in respect of each subsequent year falling wholly or partly within that period, the amount so specified as increased by the appropriate percentage; and
  - in respect of each accounting period of his falling within the period referred to in paragraph (a), an amount representing such percentage of the qualifying revenue for that accounting period as was specified in relation to the licence under section 15(1)(d)(ii).
- (2) For the purposes of subsection (1)(c) the qualifying revenue for any accounting period of the licence holder shall (subject to subsection (6)) consist of all payments received or to be received by him or by any connected person—
- in consideration of the inclusion in the licensed service in that period of advertisements or other programmes, or
  - in respect of charges made in that period for the reception of programmes included in that service.
- (3) If, in connection with the inclusion of any advertisements or other programmes whose inclusion is paid for by payments falling within subsection (2)(a), any payments are made to the licence holder or any connected person to meet any payments payable by the licence holder by virtue of subsection (1)(c), those payments shall be regarded as made in consideration of the inclusion of the programmes in question.
- (4) In the case of an advertisement included under arrangements made between—
- the licence holder or any connected person, and
  - a person acting as an advertising agent,
- the amount of any receipt by the licence holder or any connected person that represents a payment by the advertiser from which the advertising agent has deducted any amount

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by way of commission shall, except in a case falling within subsection (5), be the amount of the payment by the advertiser after the deduction of [F54OFCOM] .

- (5) If the amount deducted by way of commission as mentioned in subsection (4) exceeds 15 per cent. of the payment by the advertiser, the amount of the receipt in question shall be taken to be the amount of the payment less 15 per cent.
- (6) If, in any accounting period of the licence holder, the licence holder or any connected person derives, in relation to any programme to be included in the licensed service, any financial benefit (whether direct or indirect) from payments made by any person, by way of sponsorship, for the purpose of defraying or contributing towards costs incurred or to be incurred in connection with that programme, the qualifying revenue for that accounting period shall be taken for the purposes of subsection (1)(c) to include the amount of the financial benefit so derived by the licence holder or the connected person, as the case may be.
- (7) A Channel 3 licence may include conditions—
- (a) enabling [F54OFCOM] to estimate before the beginning of an accounting period the amount due for that period by virtue of subsection (1)(c); and
  - (b) requiring the licence holder to pay the estimated amount by monthly instalments throughout that period.
- (8) Such a licence may in particular include conditions—
- (a) authorising [F54OFCOM] to revise any estimate on one or more occasions, and to adjust the instalments payable by the licence holder to take account of the revised estimate;
  - (b) providing for the adjustment of any overpayment or underpayment.
- (9) Where—
- (a) the first complete accounting period of the licence holder falling within the period referred to in subsection (1)(a) (“the licence period”) does not begin at the same time as that period, or
  - (b) the last complete accounting period of his falling within the licence period does not end at the same time as that period,
- any reference in subsection (1)(c) to an accounting period of his shall include a reference to such part of the accounting period preceding that first complete accounting period, or (as the case may be) following that last complete accounting period, as falls within the licence period; and other references to accounting periods in this Part shall be construed accordingly.
- (10) In this Part “the appropriate percentage”, in relation to any year (“the relevant year”), means the percentage which corresponds to the percentage increase between—
- (a) the retail prices index for the month of November in the year preceding the first complete calendar year falling within the period for which the licence in question is in force; and
  - (b) the retail prices index for the month of November in the year preceding the relevant year;

and for this purpose “the retail prices index” means the general index of prices (for all items) published by the [F57Statistics Board].

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#### Textual Amendments

- F54** Words in ss. 17A-19 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 10](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F57** Words in s. 19(10) substituted (1.4.2008) by [Statistics and Registration Service Act 2007 \(c. 18\)](#), s. 74(1), [Sch. 3 para. 6\(2\)](#); [S.I. 2008/839](#), art. 2

#### Modifications etc. (not altering text)

- C16** S. 19(2)-(6) applied (with modifications) (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 9 para. 8\(7\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- C17** S. 19(2)-(6) applied (with modifications) (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 237\(5\)](#), [411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

### <sup>F58</sup>20 Duration and renewal of Channel 3 licences.

#### Textual Amendments

- F58** S. 20 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

### 21 Restriction on changes in control over Channel 3 licence holder.

(1) Where—

- (a) any change in the persons having control over—
- (i) a body to which a Channel 3 licence has been awarded or transferred in accordance with this Part of this Act, or
  - (ii) an associated programme provider,
- takes place within the relevant period, and
- (b) that change takes place without having been previously approved for the purposes of this section by [<sup>F59</sup>OFCOM] ,

then (subject to subsection (4)) [<sup>F59</sup>OFCOM] may, if the licence has not yet been granted, refuse to grant it to the body referred to in paragraph (a)(i) above or, if it has already been granted, serve on that body a notice revoking it.

(2) In subsection (1)—

“associated programme provider”, in relation to such a body as is mentioned in paragraph (a)(i) of that subsection, means any body which is connected with that body and [<sup>F60</sup>is or is likely to be involved, to a substantial extent, in the provision of the programmes included] in the licensed service; and

“the relevant period”, in relation to a Channel 3 licence, means the period beginning with the date of the award of the licence and ending on the first anniversary of the date of its coming into force;

and paragraph 3 in Part I of Schedule 2 to this Act shall have effect for the purposes of this subsection as if a body to which a Channel 3 licence has been awarded but not yet granted were the holder of such a licence.

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- (3) [<sup>F59</sup>OFCOM] shall refuse to approve for the purposes of this section such a change as is mentioned in subsection (1)(a)—
- (a) if it appears to them that the change would be prejudicial to the provision under the licence, by the body referred to in subsection (1)(a)(i), of a service which accords with the proposals submitted under section 15(3)(b) by that body (or, as the case may be, by the person to whom the licence was originally awarded), or
  - (b) it appears to them that the change would be prejudicial to the provision of Channel 3 as such a nationwide system of services as is mentioned in section 14(1);
- and [<sup>F59</sup>OFCOM] may refuse so to approve any such change if, in any circumstances not falling within paragraph (a) or (b) above, they consider it appropriate to do so.
- (4) [<sup>F59</sup>OFCOM] shall not under subsection (1) refuse to grant a licence to, or serve a notice on, any body unless they have given it a reasonable opportunity of making representations to them about the matters complained of.
- (5) Where under subsection (1) [<sup>F59</sup>OFCOM] refuse to grant a licence to any body, section 17 shall (subject to section 17(14)) have effect as if that body had not made an application for the licence; and, where under that subsection they serve on any body a notice revoking its licence, subsections (6) and (7) of section 42 shall apply in relation to that notice as they apply in relation to a notice served under subsection (3) of that section.

#### Textual Amendments

- F59** Words in s. 21 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 11\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F60** Words in s. 21(2) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 11\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))

#### <sup>F61</sup>21A Variation of regional Channel 3 licence following change of control.

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#### Textual Amendments

- F61** S. 21A repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))

#### 22 Temporary provision of regional Channel 3 service for additional area.

- (1) Where it appears to [<sup>F62</sup>OFCOM] —
- (a) that (whether as a result of the revocation of an existing regional Channel 3 licence or for any other reason) there will be, in the case of a particular area determined under section 14(2), a temporary lack of any regional Channel 3 service licensed to be provided for that area, but
  - (b) that it would be reasonably practicable for the holder of a licence to provide a regional Channel 3 service for any other such area to provide his licensed service for the area referred to in paragraph (a) as well,

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[<sup>F62</sup>OFCOM] may invite the holder of that licence temporarily to provide his licensed service for that additional area.

- (2) If the holder of that licence agrees so to provide his licensed service, [<sup>F62</sup>OFCOM] shall authorise the provision of that service for the additional area in question, during such period as they may determine, by means of a variation of the licence to that effect.

#### Textual Amendments

**F62** Words in s. 22 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 12](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))

### Channel 4

PROSPECTIVE

#### 23 The Channel Four Television Corporation.

- (1) There shall be a corporation to be called the Channel Four Television Corporation (in this Part referred to as “the Corporation”).
- (2) The Corporation shall consist of—
- (a) a chairman and a deputy chairman appointed by [<sup>F63</sup>OFCOM] ; and
  - (b) such number of other members, not being less than eleven nor more than thirteen, as [<sup>F63</sup>OFCOM] may from time to time determine.
- (3) The other members referred to in subsection (2)(b) shall consist of—
- (a) persons appointed by [<sup>F63</sup>OFCOM] ; and
  - (b) ex-officio members of the Corporation;
- and the total number of members appointed by [<sup>F63</sup>OFCOM] under subsection (2)(a) and paragraph (a) above shall exceed the number of ex-officio members.
- (4) Any appointment made by [<sup>F63</sup>OFCOM] under subsection (2)(a) or (3)(a) shall require the approval of the Secretary of State.
- (5) For the purposes of subsection (3) the following persons shall be ex-officio members of the Corporation, namely—
- (a) the chief executive of the Corporation; and
  - (b) such other employees of the Corporation as may for the time being be nominated by the chief executive and the chairman of the Corporation acting jointly.
- (6) Schedule 3 to this Act shall have effect with respect to the Corporation.

#### Textual Amendments

**F63** Words in s. 23 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 13](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))



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**Modifications etc. (not altering text)**

**C18** S. 23: transfer of functions (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 1 para. 4](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

**24 Channel 4 to be provided by Corporation as licensed service.**

- (1) [<sup>F64</sup>The Corporation must] secure the continued provision (subject to and in accordance with the provisions of this Part) of the television broadcasting service known as Channel 4.
- (2) All the shares in the body corporate referred to in section 12(2) of the 1981 Act (activities to be carried on by subsidiary of Independent Broadcasting Authority) shall vest in the Corporation on 1st January 1993.
- (3) Channel 4 shall be provided by the Corporation under a licence granted to them by [<sup>F65</sup>OFCOM], and shall be so provided for so much of England, Scotland and Northern Ireland as may from time to time be reasonably practicable.

- <sup>F66</sup>(4) .....
- <sup>F66</sup>(5) .....
- <sup>F67</sup>(6) .....

**Textual Amendments**

- F64** Words in s. 24(1) substituted (8.6.2010) by [Digital Economy Act 2010 \(c. 24\)](#), ss. 22(5), 47(1)
- F65** Words in s. 24(3) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 14](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)
- F66** S. 24(4)(5) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)
- F67** S. 24(6) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 199(3), 411(2), [Sch. 19\(1\)](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

PROSPECTIVE

**<sup>F68</sup>25 Conditions to be included in Channel 4 licence.**

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**Textual Amendments**

- F68** S. 25 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

**<sup>F69</sup>26 Revenue deficits of Corporation to be funded by Channel 3 licensees.**

.....



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**Textual Amendments**

**F69** S. 26 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 201, 411(2), [Sch. 19\(1\)](#) Note 1 6 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**<sup>F70</sup>27 Application of excess revenues of Corporation.**

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**Textual Amendments**

**F70** S. 27 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 201, 411(2), [Sch. 19\(1\)](#) Note 1 6 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

*Channel 5*

**28 Channel 5.**

- (1) [<sup>F71</sup>OFCOM] shall do all that they can to secure the provision of a television broadcasting service for any such minimum area of the United Kingdom as may be determined by them in accordance with subsection (2); and any such service shall be known as Channel 5.
- (2) In determining the minimum area of the United Kingdom for which Channel 5 is to be provided [<sup>F71</sup>OFCOM] shall have regard to the following consideration, namely that the service should, so far as is reasonably practicable, make the most effective use of the frequencies on which it is to be provided.
- (3) If [<sup>F71</sup>OFCOM] so determine, Channel 5 shall be provided under a particular licence only between such times of the day or on such days of the week (or both) as they may determine.
- (4) Where [<sup>F71</sup>OFCOM] have granted a licence to provide Channel 5, they may, if it appears to them to be appropriate to do so in view of any lack of facilities available for transmitting the service, dispense with any requirement to provide the service for such part of the area referred to in subsection (2) as they may determine; and any such dispensation shall have effect for such period as they may determine.

**Textual Amendments**

**F71** Words in s. 28 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 15](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**29 Application to Channel 5 of provisions relating to Channel 3.**

- (1) Subject to subsections (2) and (3), sections 15 to 21 shall apply in relation to a Channel 5 licence as they apply in relation to a regional Channel 3 licence.
- (2) In its application in relation to a Channel 5 licence—

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(a) section 15(1)(b)(i) shall be read as referring to any such minimum area of the United Kingdom as is determined by [<sup>F72</sup>OFCOM] in accordance with section 28(2); <sup>F73</sup>...

<sup>F73</sup>(b) .....

<sup>F74</sup>(3) .....

**Textual Amendments**

**F72** Words in s. 29(2)(a) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 16\(2\)](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

**F73** S. 29(2)(b) and the word immediately preceding it repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 16\(1\)\(a\)](#), [Sch. 19\(1\)](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

**F74** S. 29(3) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 16\(1\)\(b\)](#), [Sch. 19\(1\)](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

**<sup>F75</sup>30 Initial Channel 5 licensee required to retune equipment susceptible to interference.**

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**Textual Amendments**

**F75** Ss. 30-36 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 280(10), s. 296(11), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

*Provision of news programmes*

**<sup>F75</sup>31 Provision of news on Channels 3 and 5.**

.....

**Textual Amendments**

**F75** Ss. 30-36 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 280(10), s. 296(11), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

**<sup>F75</sup>31A Appointment of news provider by holders of regional Channel 3 licences.**

.....

**Textual Amendments**

**F75** Ss. 30-36 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 280(10), s. 296(11), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

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**F75 32 Nomination of bodies to provide news for regional Channel 3 services.**

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**Textual Amendments**

**F75** Ss. 30-36 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 280(10), s. 296(11), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

*Miscellaneous provisions relating to Channels 3, 4 and 5*

**F75 33 Conditions requiring holder of Channel 3 or Channel 5 licence to deliver promised service.**

.....

**Textual Amendments**

**F75** Ss. 30-36 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 280(10), s. 296(11), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**F75 34 Schools programmes.**

.....

**Textual Amendments**

**F75** Ss. 30-36 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 280(10), s. 296(11), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**F75 35 Subtitling for the deaf.**

.....

**Textual Amendments**

**F75** Ss. 30-36 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 280(10), s. 296(11), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**F75 36 Party political broadcasts.**

.....

**Textual Amendments**

**F75** Ss. 30-36 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 280(10), s. 296(11), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

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### 37 Announcements of programme schedules.

- (1) Any Channel 3 licence or licence to provide Channel 4 may include conditions requiring the licence holder to include in the licensed service such announcements concerning relevant programme schedules as [<sup>F76</sup>OFCOM] may determine.
- (2) In this section “relevant programme schedules” means—
  - (a) in relation to a Channel 3 licence, programme schedules for programmes to be broadcast on Channel 4 and, where any part of the area for which the licensed service is to be provided is in Wales, programme schedules for programmes to be broadcast on S4C; and
  - (b) in relation to the licence to provide Channel 4, programme schedules for programmes to be included in any Channel 3 service.

#### Textual Amendments

**F76** Words in s. 37(1) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 17](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

### 38 Promotion of equal opportunities in relation to employment by licence holder.

- (1) Any Channel 3 licence or licence to provide Channel 4 or Channel 5 shall include conditions requiring the licence holder—
  - (a) to make arrangements for promoting, in relation to employment by him, equality of opportunity between men and women and between persons of different racial groups; and
  - (b) to review those arrangements from time to time.
- (2) In subsection (1) “racial group” has the same meaning as in the <sup>M1</sup>Race Relations Act 1976.

#### Marginal Citations

**M1** 1976 c. 74.

### 39 Networking arrangements between holders of regional Channel 3 licences.

- (1) This section has effect with respect to the making of arrangements which—
  - (a) apply to all the holders of regional Channel 3 licences, and
  - (b) provide for programmes made, commissioned or acquired by or on behalf of one or more of the holders of such licences to be available for broadcasting in all regional Channel 3 services,  
 being arrangements made for the purpose of enabling regional Channel 3 services (taken as a whole) to be a nationwide system of such services which is able to compete effectively with other television programme services provided in the United Kingdom; and any such arrangements are referred to in this section as “networking arrangements”.
- (2) Any application for a regional Channel 3 licence shall, in addition to being accompanied by any such proposals as are mentioned in section 15(3)(b) to

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- (e), be accompanied by the applicant's proposals for participating in networking arrangements made under this section; and—
- (a) where a person has duly made such an application, the Commission—
- (i) shall, as soon as reasonably practicable after the closing date for applications for the licence, send details of his proposals for participating in such arrangements to the [<sup>F77</sup>the Office of Fair Trading], and
- (ii) (without prejudice to the operation of section 16(1)) shall not proceed to consider whether to award him the licence as mentioned in that provision unless it appears to the Commission that any such proposals are satisfactory; and
- (b) section 33 shall apply to any such proposals as it applies to the proposals submitted by the applicant under section 15(3)(c) to (e).
- (3) The Commission may publish, in such manner as they consider appropriate, general guidance to applicants for a regional Channel 3 licence as to the kinds of proposals which they would consider satisfactory for the purposes of subsection (2)(a); but before doing so the Commission—
- (a) shall consult [<sup>F78</sup>the Office of Fair Trading], and
- (b) if [<sup>F79</sup>it] requests them to make any change in the guidance, shall incorporate the change in the guidance.
- (4) Each regional Channel 3 licence shall include conditions requiring the licence holder to do all that he can to secure—
- (a) (in the case of a licence granted before the relevant date) that, by that date, networking arrangements have been made which—
- (i) have been entered into by all the holders of regional Channel 3 licences, and
- (ii) have been approved by the Commission; and
- (b) (in any case) that, so long as he provides his licensed service, there are in force networking arrangements which have been so entered into and approved (unless there are for the time being in force any arrangements made by the Commission under subsection (5)).
- (5) If—
- (a) no such arrangements as are mentioned in subsection (4)(a) are made by the relevant date, or
- (b) any such arrangements are so made but cease to be in force at any time before 1st January 1995,
- the Commission may themselves draw up such networking arrangements as they consider appropriate; and, if they do so—
- (i) they shall notify all the holders of regional Channel 3 licences of those arrangements, and
- (ii) those arrangements shall (subject to subsection (6)) come into force on a date determined by the Commission;
- and each regional Channel 3 licence shall include conditions requiring the licence holder to give effect to any arrangements made by the Commission under this subsection as for the time being in force.
- (6) No arrangements made by the Commission under subsection (5) shall come into force at any time after 31st December 1994.

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- (7) Where—
- (a) any such arrangements have come into force in accordance with subsection (6), but
  - (b) any networking arrangements are subsequently—
    - (i) entered into by all the holders of regional Channel 3 licences, and
    - (ii) approved by the Commission,
 the arrangements referred to in paragraph (a) shall cease to have effect on the coming into force of the arrangements referred to in paragraph (b).
- (8) Where any arrangements have been approved by the Commission under subsection (4) or (7)(b), no modification of those arrangements shall be made by the holders of regional Channel 3 licences unless it too has been so approved.
- (9) Where any arrangements have been made by the Commission under subsection (5), they may (whether before or after the date specified in subsection (6)) make such modification of those arrangements as they consider appropriate; and, if they do so—
- (a) they shall notify all the holders of regional Channel 3 licences of the modification, and
  - (b) the modification shall come into force on a date determined by the Commission.
- <sup>F80</sup>(9A) The matters to which the Commission shall have regard in deciding whether to approve any arrangements or modification under subsection (4) or (8) include the likely effect of the arrangements in question, or (as the case may be) those arrangements as proposed to be modified, on the ability of the holders of regional Channel 3 licences to maintain the quality and range—
- (a) of the regional programmes (as defined by section 21A(9)) included in each regional Channel 3 service, and
  - (b) of the other programmes included in each service which contribute to the regional character of the service.]
- <sup>F81</sup>[(10) Without prejudice to the generality of their power to refuse to approve any arrangements or modification under subsection (4) or (8), the Commission shall refuse to do so if—
- (a) they are not satisfied that the arrangements in question, or (as the case may be) those arrangements as proposed to be modified, would be appropriate for the purpose mentioned in subsection (1), or
  - (b) it appears to them that the arrangements in question, or (as the case may be) those arrangements as proposed to be modified, would be likely to prejudice the ability of the holder of any regional Channel 3 licence to comply with—
    - (i) any condition imposed in pursuance of section 33(1), for the purpose of securing the implementation of proposals relating to the matters specified in section 16(2)(c), or
    - (ii) any condition imposed in pursuance of subsection (3) of section 21A in relation to the matters specified in paragraph (a) of that subsection.]
- (11) Where the Commission have—
- (a) approved any arrangements or modification under subsection (4), (7)(b) or (8), or
  - (b) given with respect to any arrangements or modification the notification required by subsection (5)(i) or (9)(a),

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they shall, as soon as reasonably practicable after giving their approval or (as the case may be) that notification—

- (i) publish details of the arrangements or modification in such manner as they consider appropriate, and
- (ii) comply with the appropriate requirement specified in subsection (12) (a) or (b).

(12) The appropriate requirement referred to in paragraph (ii) of subsection (11) is—

- (a) in the case of any such arrangements as are referred to in paragraph (a) or (b) of that subsection, to refer those arrangements to [<sup>F82</sup>the Office of Fair Trading], and
- (b) in the case of any such modification as is so referred to, to inform [<sup>F83</sup>it] of that modification;

and Schedule 4 to this Act shall have effect with respect to any reference made under paragraph (a) above and matters arising out of any such reference, including the subsequent modification of the arrangements to which it relates.

(13) In this section “the relevant date” means the date which the Commission determine to be that by which any such arrangements as are mentioned in subsection (4) would need to have been made by the holders of regional Channel 3 licences in order for the arrangements to be fully in operation at the time when those persons begin to provide their licensed services.

#### Textual Amendments

- F77** Words in s. 39(2) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 24\(3\)\(a\)](#); [S.I. 2003/766](#), art. 2, [Sch.](#) (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))
- F78** Words in s. 39(3) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 24\(3\)\(b\)\(i\)](#); [S.I. 2003/766](#), art. 2, [Sch.](#) (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))
- F79** Word in s. 39(3) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 24\(3\)\(b\)\(ii\)](#); [S.I. 2003/766](#), art. 2, [Sch.](#) (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))
- F80** S. 39(9A) inserted (1.10.1996) by [1996 c. 55](#), s. 79(2) (with s. 43(1)(6)); [S.I. 1996/2120](#), art. 4 [Sch. 1](#)
- F81** S. 39(10) substituted (1.10.1996) by [1996 c. 55](#), s. 79(3) (with s. 43(1)(6)); [S.I. 1996/2120](#), art. 4, [Sch. 1](#)
- F82** Words in s. 39(12) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 24\(3\)\(c\)\(i\)](#); [S.I. 2003/766](#), art. 2, [Sch.](#) (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))
- F83** Word in s. 39(12) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 24\(3\)\(c\)\(ii\)](#); [S.I. 2003/766](#), art. 2, [Sch.](#) (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))

#### *Enforcement of licences*

#### **40 Power to direct licensee to broadcast correction or [<sup>F84</sup>a statement of findings] or not to repeat programme.**

- (1) If [<sup>F85</sup>OFCOM] are satisfied—
- (a) that the holder of a Channel 3 or Channel 5 licence has failed to comply with any condition of the licence, and
  - (b) that that failure can be appropriately remedied by the inclusion in the licensed service of a correction or [<sup>F84</sup>a statement of findings] (or both) under this subsection,

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they may (subject to subsection (2)) direct the licence holder to include in the licensed service a correction or [<sup>F84</sup>a statement of findings] (or both) in such form, and at such time or times, as they may determine.

- (2) [<sup>F85</sup>OFCOM] shall not give any person a direction under subsection (1) unless they have given him a reasonable opportunity of making representations to them about the matters complained of.
- (3) Where the holder of a licence includes a correction or [<sup>F84</sup>a statement of findings] in the licensed service in pursuance of a direction under subsection (1), he may announce that he is doing so in pursuance of such a direction.
- (4) If [<sup>F85</sup>OFCOM] are satisfied that the inclusion by the holder of a Channel 3 or Channel 5 licence of any programme in the licensed service involved a failure by him to comply with any condition of the licence, they may direct him not to include that programme in that service on any future occasion.
- (5) This section shall apply in relation to Channel 4 as if any reference to a Channel 3 licence were a reference to the licence to provide Channel 4.
- [<sup>F86</sup>(6) For the purposes of this section a statement of findings, in relation to a case in which OFCOM are satisfied that the holder of a licence has contravened the conditions of his licence, is a statement of OFCOM's findings in relation to that contravention.]

#### Textual Amendments

- F84** Words in s. 40 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), ss. 344\(2\), 411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F85** Words in ss. 40-42 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 18\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F86** S. 40(6) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), ss. 344\(3\), 411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

#### Modifications etc. (not altering text)

- C19** S. 40 applied (with modifications) (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 10 para. 8\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- C20** S. 40(1)-(4) applied (1.10.1996) by [1996 c. 55, s. 23\(8\)](#) (with s. 43(1)(6)); [S.I. 1996/2120, art. 4, Sch. 1](#)
- C21** S. 40(1) modified (20.7.2004) by [The Contracting Out \(Functions relating to Broadcast Advertising\) and Specification of Relevant Functions Order 2004 \(S.I. 2004/1975\), art. 1, Sch. para. 2\(a\)](#) (with art. 5)

## 41 Power to impose financial penalty or shorten licence period.

- (1) If [<sup>F85</sup>OFCOM] are satisfied that the holder of a Channel 3 or Channel 5 licence has failed to comply with any condition of the licence or with any direction given by [<sup>F85</sup>OFCOM] under or by virtue of any provision of this Part [<sup>F87</sup>, Part 5 of the Broadcasting Act 1996 or Part 3 of the Communications Act 2003], they may (subject to the following provisions of this section) serve on him—
  - (a) a notice requiring him to pay, within a specified period, a specified financial penalty to [<sup>F85</sup>OFCOM]; or
  - (b) a notice reducing the period for which the licence is to be in force by a specified period not exceeding two years.



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- [<sup>F88</sup>(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.]
- (3) [<sup>F85</sup>OFCOM] shall not serve on any person such a notice as is mentioned in subsection (1)(a) or (b) unless they have given him a reasonable opportunity of making representations to them about the matters complained of.
- (4) Where a licence is due to expire on a particular date by virtue of a notice served on any person under subsection (1)(b), [<sup>F85</sup>OFCOM] may, on the application of that person, revoke that notice by a further notice served on him at any time before that date, if they are satisfied that, since the date of the earlier notice, his conduct in relation to the operation of the licensed service has been such as to justify the revocation of that notice.
- (5) It is hereby declared that any exercise by [<sup>F85</sup>OFCOM] of their powers under subsection (1) of this section in respect of any failure to comply with any condition of a licence shall not preclude any exercise by them of their powers under section 40 in respect of that failure.
- (6) This section shall apply in relation to Channel 4 as if—
- any reference to a Channel 3 licence were a reference to the licence to provide Channel 4; and
  - subsection (1)(b) were omitted.

#### Textual Amendments

**F85** Words in ss. 40–42 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 18\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

**F87** Words in s. 41(1) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 18\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

**F88** S. 41(1A)–(1C) substituted for s. 41(2) (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 13 para. 3\(1\)\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

#### Modifications etc. (not altering text)

**C22** S. 41(1) modified (20.7.2004) by [The Contracting Out \(Functions relating to Broadcast Advertising\) and Specification of Relevant Functions Order 2004 \(S.I. 2004/1975\), art. 1, Sch. para. 3\(a\)](#) (with art. 5)

## 42 Power to revoke Channel 3 or 5 licence.

- (1) If [<sup>F85</sup>OFCOM] are satisfied—
- that the holder of a Channel 3 or Channel 5 licence is failing to comply with any condition of the licence or with any direction given by them under or by

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virtue of any provision of this Part [F89, Part 5 of the Broadcasting Act 1996 or Part 3 of the Communications Act 2003], and

- (b) that that failure is such that, if not remedied, it would justify the revocation of the licence,

they shall (subject to subsection (8)) serve on the holder of the licence a notice under subsection (2).

- (2) A notice under this subsection is a notice—

- (a) stating that [F85OFCOM] are satisfied as mentioned in subsection (1);  
 (b) specifying the respects in which, in their opinion, the licence holder is failing to comply with any such condition or direction as is there mentioned; and  
 (c) stating that, unless the licence holder takes, within such period as is specified in the notice, such steps to remedy the failure as are so specified, [F85OFCOM] will revoke his licence under subsection (3).

- (3) If at the end of the period specified in a notice under subsection (2) [F85OFCOM] are satisfied—

- (a) that the person on whom the notice was served has failed to take the steps specified in it, and  
 (b) that it is necessary in the public interest to revoke his licence,

they shall (subject to subsection (8)) serve on that person a notice revoking his licence.

- (4) If [F85OFCOM] are satisfied in the case of any Channel 3 or Channel 5 licence—

- (a) that the holder of the licence has ceased to provide the licensed service before the end of the period for which the licence is to continue in force, and  
 (b) that it is appropriate for them to do so,

they shall (subject to subsection (8)) serve on him a notice revoking his licence.

- (5) If [F85OFCOM] are satisfied—

- (a) that the holder of a Channel 3 or Channel 5 licence provided them, in connection with his application for the licence, with information which was false in a material particular, or  
 (b) that, in connection with his application for the licence, the holder of such a licence withheld any material information with the intention of causing them to be misled,

they may (subject to subsection (8)) serve on him a notice revoking his licence.

- (6) Subject to subsection (7), any notice served under subsection (3), (4) or (5) shall take effect as from the time when it is served on the licence holder.

- (7) If it appears to [F85OFCOM] to be appropriate to do so for the purpose of preserving continuity in the provision of the service in question, they may provide in any such notice for it to take effect as from a date specified in it.

- (8) [F85OFCOM] shall not serve any notice on a person under this section unless they have given him a reasonable opportunity of making representations to them about the matters complained of.

#### Textual Amendments

**F85** Words in ss. 40-42 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 18\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))

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**F89** Words in s. 42(1)(a) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 18\(2\)](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

**Modifications etc. (not altering text)**

**C23** S. 42 modified (1.10.1996) by [1996 c. 55, s. 4\(5\)\(6\)](#) (with [s. 43\(1\)\(6\)](#)); S.I. 1996/2120, art. 4, [Sch. 1](#)

**C24** S. 42 extended (with modifications) (1.10.1996) by [1996 c. 55, s. 17\(6\)](#) (with [s. 43\(1\)\(6\)](#)); S.I. 1996/2120, art. 4, [Sch. 1](#)

**C25** S. 42 applied (with modifications) (1.10.1996) by [1996 c. 55, s. 23\(8\)\(9\)](#) (with [s. 43\(1\)\(6\)](#)); S.I. 1996/2120, art. 4, [Sch. 1](#)

S. 42 applied (with modifications) (1.10.1996) by [1996 c. 55, s. 27\(8\)\(9\)](#) (with [s. 43\(1\)\(6\)](#)); S.I. 1996/2120, art. 4, [Sch. 1](#)

S. 42 applied (1.10.1996) by [1996 c. 55, s. 27\(8\)](#) (with [s. 43\(1\)\(6\)](#)); S.I. 1996/2120, art. 4, [Sch. 1](#)

**C26** S. 42 applied (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 10 para. 11](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

**C27** S. 42(1) modified (20.7.2004) by [The Contracting Out \(Functions relating to Broadcast Advertising\) and Specification of Relevant Functions Order 2004 \(S.I. 2004/1975\), art. 1, Sch. para. 3\(b\)](#) (with art. 5)

<sup>F90</sup>[CHAPTER IIA

RESTRICTED SERVICES

**Textual Amendments**

**F90** Chapter heading and Ss. 42A, 42B inserted (1.4.1997) by [1996 c. 55, s. 85](#) (with [s. 43\(1\)\(6\)](#)); S.I. 1997/1005, [art. 4](#)

**42A Restricted services.**

In this Part “restricted service” means a service which—

- (a) consists in the broadcasting of television programmes for a particular establishment or other defined location, or a particular event, in the United Kingdom,<sup>F91</sup> ...

<sup>F91</sup>(b) .....

**Textual Amendments**

**F91** S. 42A(b) and the word immediately preceding it repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

**42B Licensing etc. of restricted services.**

- (1) An application for a licence to provide a restricted service shall be made in such manner as [<sup>F92</sup>OFCOM] may determine, and shall be accompanied by such fee (if any) as [<sup>F92</sup>OFCOM] may determine.
- (2) Subject to [<sup>F93</sup>subsections (3) to (3C)], sections 40 to 42 shall apply in relation to such a licence as they apply in relation to a licence to provide a Channel 3 service.

*Status: Point in time view as at 18/06/2012. This version of this part contains provisions that are prospective.*

*Changes to legislation: Broadcasting Act 1990, Part I is up to date with all changes known to be in force on or before 30 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) In its application to a licence to provide a restricted service, section 41 shall have effect with the omission of [F94 subsections (1A) to (1C)]; and the maximum amount which the holder of such a licence may be required to pay by way of a financial penalty imposed in pursuance of subsection (1)(a) of that section [F95 is the maximum penalty given by subsection (3A).]

[F96(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.]]

#### Textual Amendments

- F92** Words in s. 42B(1) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 19](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F93** Words in s. 42B(2) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 13 para. 4\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F94** Words in s. 42B(3) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 13 para. 4\(2\)\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F95** Words in s. 42B(3) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 13 para. 4\(2\)\(b\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F96** Ss. 42B(3A)-(3C) substituted for 42B(4) (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 13 para. 4\(3\)\(4\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

#### Modifications etc. (not altering text)

- C28** S. 42B(3A)(a): power to amend conferred (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 13 para. 9](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

## F97 CHAPTER III

### SATELLITE TELEVISION SERVICES

#### Textual Amendments

- F97** Pt. I Ch. III repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

F97 43 **Satellite television services.**

.....

*Status: Point in time view as at 18/06/2012. This version of this part contains provisions that are prospective.*

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**F97F98 44 Licensing etc. of domestic satellite services.**

.....

**Textual Amendments**

**F98** S. 44 repealed (11.7.1997) by [S.I. 1997/1682](#), arts. 1(2), 2, [Sch. para. 4](#)

**F97 45 Licensing etc. of satellite television services.**

.....

**F97 45A Special power of revocation and suspension on certain grounds in case of licence to provide satellite television service.**

.....

**F99 CHAPTER IV.**

LICENSABLE PROGRAMME SERVICES

**Textual Amendments**

**F99** Pt. I Ch. IV repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**F99 46 Licensable programme services.**

.....

**F99 47 Licensing etc. of licensable programme services.**

.....

**CHAPTER V**

ADDITIONAL SERVICES PROVIDED ON TELEVISION BROADCASTING FREQUENCIES

**48 Additional services.**

- (1) In this Part “additional service” means any service which consists in the sending of [<sup>F100</sup>electronic] signals for transmission by wireless telegraphy by means of the use of the spare capacity within the signals carrying any television broadcasting service provided—[<sup>F101</sup> on a relevant frequency].
- (2) For the purposes of this Part the spare capacity within the signals carrying any such broadcasting service shall be taken to be—[<sup>F102</sup> 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

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(b) is determined by OFCOM to be available for the provision of additional services;]

and references in this Part to spare capacity shall be construed accordingly.

[<sup>F103</sup>(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.]

(3) [<sup>F104</sup>OFCEM] shall, when determining under subsection [<sup>F105</sup>(2)(b)] the extent and nature of the spare capacity available for the provision of additional services in the case of any frequency, have regard—

[<sup>F106</sup>(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

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

(4) A person holding a licence to provide a Channel 3 service or Channel 4 or 5 shall be taken for the purposes of this Part to be authorised by his licence—

[<sup>F107</sup>(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).]

<sup>F108</sup>(5) . . . . .

[<sup>F109</sup>(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.]

#### Textual Amendments

**F100** Words in s. 48(1) substituted (25.7.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 20\(2\)\(a\)](#) (with [Sch. 15 para. 20\(8\), Sch. 18](#)); S.I. 2003/1900, art. 2(1), Sch. 1

**F101** Words in s. 48(1) substituted for s. 48(1)(a)(b) (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 20\(2\)\(b\)](#) (with [Sch. 15 para. 20\(8\), Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**F102** Words in s. 48(2) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 20\(3\)](#) (with [Sch. 15 para. 20\(8\), Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**F103** S. 48(2A) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 20\(4\)](#) (with [Sch. 15 para. 20\(8\), Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**F104** Words in s. 48(3) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 20\(5\)\(a\)](#) (with [Sch. 15 para. 20\(8\), Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)



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- F105** Words in s. 48(3) substituted (29.12.2003) by **Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 20(5)(b)** (with **Sch. 15 para. 20(8), Sch. 18**); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F106** S. 48(3)(a)-(aa) substituted for s. 48(3)(a)-(c) (29.12.2003) by **Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 20(5)(c)** (with **Sch. 15 para. 20(8), Sch. 18**); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F107** S. 48(4)(a)(b) substituted (29.12.2003) by **Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 20(6)** (with **Sch. 15 para. 20(8), Sch. 18**); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F108** S. 48(5) repealed (29.12.2003) by **Communications Act 2003 (c. 21), s. 411(2), Sch. 19(1)** Note 1 (with **Sch. 18**); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F109** S. 48(6) substituted (29.12.2003) by **Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 20(7)** (with **Sch. 15 para. 20(8), Sch. 18**); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

#### 49 Licensing of additional services.

- (1) Subject to subsection (2), [F110OFCOM] shall do all that they can to secure that, in the case of each [F111relevant frequency], all of the spare capacity available for the provision of additional services on that frequency is used for the provision of such services under additional services licences granted by [F110OFCOM] in accordance with this section.
- [F112(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).]
- (4) An additional services licence may relate to the use of spare capacity within more than one frequency; and two or more additional services licences may relate to the use of spare capacity within the same frequency where it is to be used at different times, or in different areas, in the case of each of those licences.
- (5) An additional services licence may include provisions enabling the licence holder, subject to and in accordance with such conditions as [F110OFCOM] may impose, to authorise any person to whom this subsection applies to provide any additional service on the spare capacity allocated by the licence.
- (6) Subsection (5) applies to any person who is not a disqualified person in relation to an additional services licence by virtue of Part II of Schedule 2 to this Act.
- (7) Any conditions included in an additional services licence shall apply in relation to the provision of additional services by a person authorised as mentioned in subsection (5) as they apply in relation to the provision of such services by the licence holder; and any failure by such a person to comply with any such conditions shall be treated for the purposes of this Part as a failure on the part of the licence holder to comply with those conditions.
- (8) Every licence under this Part to provide a television broadcasting service shall include such conditions as appear to [F110OFCOM] to be appropriate for securing that the licence holder grants—
- to any person who holds a licence to provide additional services on the frequency on which that broadcasting service is provided, and
  - to any person who is authorised by any such person as mentioned in subsection (5) to provide additional services on that frequency,
- access to facilities reasonably required by that person for the purposes of, or in connection with, the provision of any such additional services.

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- (9) Any person who grants to any other person access to facilities in accordance with conditions imposed under subsection (8) may require that other person to pay a reasonable charge in respect thereof; and any dispute as to the amount of any such charge shall be determined by [F110OFCOM] .
- (10) In this Part “additional services licence” means a licence to provide additional services [F113and “relevant frequency” has the same meaning as in section 48.]

#### Textual Amendments

- F110** Words in s. 49 substituted (29.12.2003) by **Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 21(2)** (with **Sch. 18**); **S.I. 2003/3142, art. 3(1), Sch. 1** (with art. 11)
- F111** Words in s. 49(1) substituted for s. 49(1)(a)(b) (29.12.2003) by **Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 21(3)** (with **Sch. 18**); **S.I. 2003/3142, art. 3(1), Sch. 1** (with art. 11)
- F112** S. 49(1A) substituted for s. 49(2)(3) (29.12.2003) by **Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 21(4)** (with **Sch. 18**); **S.I. 2003/3142, art. 3(1), Sch. 1** (with arts. 8, 11)
- F113** Words in s. 49(10) inserted (29.12.2003) by **Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 21(5)** (with **Sch. 18**); **S.I. 2003/3142, art. 3(1), Sch. 1** (with art. 11)

## 50 Applications for additional services licences.

- (1) Where [F114OFCOM] propose to grant a licence to provide additional services they shall publish, in such manner as they consider appropriate, a notice—
- (a) stating that they propose to grant such a licence;
  - (b) specifying—
    - (i) the television broadcasting service or services on whose frequency or frequencies the services are to be provided, and
    - (ii) [F115... the extent and nature of the spare capacity which is to be allocated by the licence;
  - (c) inviting applications for the licence and specifying the closing date for such applications; and
  - (d) specifying—
    - (i) the fee payable on any application made in pursuance of the notice, and
    - (ii) the percentage of qualifying revenue for each accounting period that would be payable by an applicant in pursuance of section 52(1)(c) if he were granted the licence.
- (2) [F114OFCOM] may, if they think fit, specify under subsection (1)(d)(ii)—
- (a) different percentages in relation to different accounting periods falling within the period for which the licence would be in force;
  - (b) a nil percentage in relation to any accounting period so falling.
- (3) Any application made in pursuance of a notice under this section must be in writing and accompanied by—
- (a) the fee specified in the notice under subsection (1)(d)(i);
  - (b) a technical plan indicating—
    - (i) the nature of any additional services which the applicant proposes to provide, and



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- (ii) so far as known to the applicant, the nature of any additional services which any other person proposes to provide in accordance with section 49(5);
  - (c) the applicant's cash bid in respect of the licence; and
  - (d) such information as [F114OFCOM] may reasonably require as to the applicant's present financial position and his projected financial position during the period for which the licence would be in force.
- (4) At any time after receiving such an application and before determining it [F114OFCOM] may require the applicant to furnish additional information under subsection (3)(b) or (d).
- (5) Any information to be furnished to [F114OFCOM] under this section shall, if they so require, be in such form or verified in such manner as they may specify.
- (6) [F114OFCOM] shall, as soon as reasonably practicable after the date specified in a notice under this section as the closing date for applications, publish in such manner as they consider appropriate—
- (a) the name of every person who has made an application to them in pursuance of the notice;
  - (b) particulars of the technical plan submitted by him under subsection (3)(b); and
  - (c) such other information connected with his application as [F114OFCOM] consider appropriate.

F116(7) .....

#### Textual Amendments

- F114** Words in s. 50 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 22\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F115** Words in s. 50(1)(b)(ii) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 22\(3\), Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F116** S. 50(7) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 22\(4\), Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))

## 51 Procedure to be followed by Commission in connection with consideration of applications for, and awarding of, licences.

- (1) Where a person has made an application for an additional services licence in accordance with section 50, [F117OFCOM] shall not proceed to consider whether to award him the licence on the basis of his cash bid in accordance with subsections (3) and (4) below unless it appears to them—
- [F118(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]
  - (b) 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;

and any reference to an applicant in section 17 (as applied by subsection (3) below) is accordingly a reference to an applicant in whose case it appears to [F117OFCOM] that the requirements of paragraphs (a) and (b) above are satisfied.

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<sup>F119</sup>(2) .....

(3) Subject to subsection (4), [<sup>F120</sup>section s17 and 17A] shall apply in relation to an additional services licence as [<sup>F120</sup>they apply] in relation to a Channel 3 licence.

(4) In the application of section 17 in relation to an additional services licence—

- (a) the provisions of subsection (4) down to the end of paragraph (b) shall be omitted;
- (b) in subsection (7)(a), the reference to section 19(1) shall be construed as a reference to section 52(1); and
- (c) 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 [<sup>F117</sup>OFCOM] that the requirement specified in section 51(1)(a) was satisfied;”.

(5) If at any time after an additional services licence has been granted to any person but before the licence has come into force—

- (a) that person indicates to [<sup>F117</sup>OFCOM] that none of the services in question will be provided once the licence has come into force, or
- (b) [<sup>F117</sup>OFCOM] for any other reason have reasonable grounds for believing that none of those services will be so provided,

then, subject to subsection (6)—

- (i) [<sup>F117</sup>OFCOM] shall serve on him a notice revoking the licence as from the time the notice is served on him, and
- (ii) section 17 (as applied by subsection (3) above) shall, subject to section 17(14), have effect as if he had not made an application for the licence.

(6) Subsection (5) shall not apply in the case of any person by virtue of paragraph (b) of that subsection unless [<sup>F117</sup>OFCOM] have served on him a notice stating their grounds for believing that none of the services in question will be provided once his licence has come into force; and they shall not serve such a notice on him unless they have given him a reasonable opportunity of making representations to them about the matters complained of.

<sup>F121</sup>(7) .....

#### Textual Amendments

**F117** Words in s. 51 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 23\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

**F118** S. 51(1)(a) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 23\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

**F119** S. 51(2) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 23\(4\), Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

**F120** Words in S. 51(3) substituted (1.10.1996) by [1996 c. 55, s. 86\(2\)](#) (with [s. 43\(1\)\(6\)](#)); [S.I. 1996/2120, art. 4, Sch. 1](#)

**F121** S. 51(7) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 23\(4\), Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)

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## 52 Additional payments to be made in respect of additional services licences.

- (1) An additional services licence shall include conditions requiring the licence holder to pay to [F122OFCOM] (in addition to any fees required to be so paid by virtue of section 4(1)(b))—
  - (a) in respect of the first complete calendar year falling within the period for which the licence is in force, the amount specified in his cash bid;
  - (b) in respect of each subsequent year falling wholly or partly within that period, the amount so specified as increased by the appropriate percentage; and
  - (c) in respect of each accounting period of his falling within the period referred to in paragraph (a), an amount representing such percentage of the qualifying revenue for that accounting period as was specified in relation to the licence under section 50(1)(d)(ii).
- (2) For the purposes of subsection (1)(c) the qualifying revenue for any accounting period of the licence holder shall consist of all amounts which are received or to be received by him or by any connected person and are referable to the right under his licence to use, or to authorise any other person to use, in that period the spare capacity allocated by the licence.
- (3) An additional services licence may include conditions—
  - (a) enabling [F122OFCOM] to estimate before the beginning of an accounting period the amount due for that period by virtue of subsection (1)(c); and
  - (b) requiring the licence holder to pay the estimated amount by monthly instalments throughout that period.
- (4) Such a licence may in particular include conditions—
  - (a) authorising [F122OFCOM] to revise any estimate on one or more occasions, and to adjust the instalments payable by the licence holder to take account of the revised estimate;
  - (b) providing for the adjustment of any overpayment or underpayment.
- (5) Where—
  - (a) the first complete accounting period of the licence holder falling within the period referred to in subsection (1)(a) (“the licence period”) does not begin at the same time as that period, or
  - (b) the last complete accounting period of his falling within the licence period does not end at the same time as that period,

any reference in subsection (1)(c) to an accounting period of his shall include a reference to such part of the accounting period preceding that first complete accounting period, or (as the case may be) following that last complete accounting period, as falls within the licence period; and other references to accounting periods in this Part shall be construed accordingly.

### Textual Amendments

**F122** Words in s. 52 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 24](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

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### 53 Duration of licences, and renewal of licences for provision of services on assigned frequencies.

- (1) <sup>F123</sup>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—
- (a) shall, subject to the provisions of this Part, continue in force for a period of ten years, and
  - (b) may (subject to the following provisions of this section) be renewed on one or more occasions for a period of ten years beginning with the date of renewal.
- (2) An application for the renewal of a licence under subsection (1) may be made by the licence holder not earlier than four years before the date on which it would otherwise cease to be in force and not later than <sup>F124</sup>the day falling three months before] the relevant date.
- <sup>F125</sup>(3) .....
- (4) Where an application is made for the renewal of a licence under subsection (1) <sup>F126</sup>..., <sup>F127</sup>[OFCOM] may postpone the consideration of it by them for as long as they think appropriate having regard to subsection (9).
- (5) Where an application for the renewal of an additional services licence has been duly made to <sup>F127</sup>[OFCOM], they may only (subject to subsection (6)) refuse the application if—
- (a) they are not satisfied that any additional service specified in the technical plan submitted under section 50(3)(b) would, if the licence were renewed, be provided as proposed in that plan, or
  - (b) they propose to grant a fresh additional services licence for the provision of any additional service which would differ in any material respect from any such service authorised to be provided under the applicant’s licence, or
  - (c) they propose to determine that all or part of the spare capacity allocated by the licence is to cease to be available for the provision of additional services in order that it may be used by any relevant person for the purpose of enhancing the technical quality of his television broadcasting service;
- and in paragraph (c) “relevant person” means the person providing a television broadcasting service on whose frequency the licensed service has been provided.
- (6) Section 17(5) to (7) shall apply in relation to an applicant for the renewal of an additional services licence as those provisions apply in relation to such an applicant as is mentioned in section 17(5), but as if—
- (a) any reference to the awarding of a Channel 3 licence to the applicant were a reference to the renewal of the applicant’s licence under this section; and
  - (b) in section 17(7), the reference to section 19(1) were a reference to section 52(1).
- (7) On the grant of any such application <sup>F127</sup>[OFCOM] —
- (a) shall determine an amount which is to be payable to <sup>F127</sup>[OFCOM] by the licence holder in respect of the first complete calendar year falling within the period for which the licence is to be renewed; and
  - (b) may specify a different percentage from that specified under section 50(1)(d)
    - (ii) as the percentage of qualifying revenue for each accounting period of his

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- that will be payable by the applicant in pursuance of section 52(1)(c) during the period for which the licence is to be renewed;
- and [F127OFCOM] may specify under paragraph (b) either of the things mentioned in section 50(2).
- (8) The amount determined by [F127OFCOM] under subsection (7)(a) in connection with the renewal of a licence shall be such amount as would, in their opinion, be [F128the 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).]
- [F129(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.]
- (9) Where [F127OFCOM] have granted a person’s application under this section they shall formally renew his licence not later than the relevant date or, if that is not reasonably practicable, as soon after that date as is reasonably practicable; and they shall not so renew his licence unless they have notified him of—
- (a) the amount determined by them under subsection (7)(a), and
  - (b) any percentage specified by them under subsection (7)(b),
- and he has, within such period as is specified in that notification, notified them that he consents to the licence being renewed on those terms.
- (10) Where an additional services licence is renewed under this section—
- (a) any conditions included in it in pursuance of section 52 shall have effect during the period for which the licence has been renewed—
    - (i) as if the amount determined by [F127OFCOM] under subsection (7)(a) above were an amount specified in a cash bid submitted by the licence holder, and
    - (ii) subject to any determination made under subsection (7)(b) above; and
  - (b) (subject to paragraph (a)) that section shall have effect in relation to the period for which the licence has been renewed as it has effect in relation to the period for which an additional services licence is originally in force.
- (11) In this section “the relevant date”, in relation to an additional services licence, means the date which [F127OFCOM] determine to be that by which they would need to publish a notice under section 50 if they were to grant, as from the date on which that licence would expire if not renewed, a fresh licence to provide the additional services formerly provided under that licence.
- [F130(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.
- (13) In this section “the television transfer date” has the same meaning as in the Communications Act 2003.]

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#### Textual Amendments

**F123** Words in s. 53(1) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 25\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))

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- F124** Words in s. 53(2) inserted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 25(3)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F125** S. 53(3) repealed (11.7.1997) by S.I. 1997/1682, reg. 2, **Sch. para.8**
- F126** Words in s. 53(4) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 19(1)** Note 1 (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F127** Words in s. 53(4)-(11) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 25(4)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F128** Words in s. 53(8) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 25(5)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F129** S. 53(8A) inserted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 25(6)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F130** S. 53(12)(13) inserted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 25(7)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**Modifications etc. (not altering text)**

- C29** S. 53(2) modified (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 18 para. 50(3)-(6)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- C30** S. 53(12) restricted (29.12.2003) by Communications Act 2003 (c. 21), para. 50(2)(a), (6), s. 411(2), **Sch. 18 para. 50(1)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**54 Additional services not to interfere with other transmissions.**

- (1) An additional services licence may include such conditions as [<sup>F131</sup>OFCOM] consider appropriate for securing that the provision of any additional service under the licence does not cause any interference with—
- (a) the television broadcasting service or services on whose frequency or frequencies it is provided, or
  - (b) any other wireless telegraphy transmissions.

<sup>F132</sup>(2) .....

**Textual Amendments**

- F131** Words in s. 54(1) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 26(2)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F132** S. 54(2) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 26(3), **Sch. 19(1)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**55 Enforcement of additional services licences.**

- (1) If [<sup>F133</sup>OFCOM] are satisfied that the holder of an additional services licence has failed to comply with any condition of the licence or with any direction given by [<sup>F133</sup>OFCOM] under or by virtue of any provision of this Part, they may (subject to subsection (3)) serve on him a notice requiring him to pay, within a specified period, a specified financial penalty to [<sup>F133</sup>OFCOM].
- [<sup>F134</sup>(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”).



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- (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.]
- (3) [<sup>F133</sup>OFCOM] shall not serve on any person a notice under subsection (1) unless they have given him a reasonable opportunity of making representations to them about the matters complained of.
- (4) Section 42 shall apply in relation to an additional services licence as it applies in relation to a licence to provide a Channel 3 service, but with the omission of subsection (7) [<sup>F135</sup>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.]

#### Textual Amendments

- F133** Words in s. 55 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 27\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F134** S. 55(1A)-(1C) substituted for S. 55(2) (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 13 para. 5](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F135** Words in s. 55(4) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 27\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))

#### Modifications etc. (not altering text)

- C31** [S. 55\(1\)](#) modified (20.7.2004) by [The Contracting Out \(Functions relating to Broadcast Advertising and Specification of Relevant Functions Order 2004 \(S.I. 2004/1975\), art. 1, Sch. para. 3\(c\)](#) (with [art. 5](#))

## CHAPTER VI

### TELEVISION BROADCASTING BY WELSH AUTHORITY

#### 56 Welsh Authority to continue in existence as Sianel Pedwar Cymru.

- (1) The authority which at the commencement of this section is called the Welsh Fourth Channel Authority shall continue in existence as a body corporate but—
- shall be known as Sianel Pedwar Cymru (or S4C); and
  - shall be constituted in accordance with <sup>F136</sup>... this Act;
- and in this Act references to the Welsh Authority are references to that authority.
- (2) The Welsh Authority shall consist of—
- a chairman appointed by the Secretary of State; and
  - such number of other members appointed by the Secretary of State, not being less than four nor more than eight, as he may from time to time determine.
- (3) Schedule 6 to this Act shall have effect with respect to the Welsh Authority.

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#### Textual Amendments

**F136** Words in s. 56(1)(b) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

### <sup>F137</sup>57 Function and duties of Welsh Authority.

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#### Textual Amendments

**F137** S. 57 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), 206(8), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

### 58 Sources of programmes for S4C.

- [<sup>F138</sup>(1) For the purpose mentioned in subsection (1A) the BBC shall—
- (a) provide to the Welsh Authority (free of charge) sufficient television programmes in Welsh to occupy not less than ten hours' transmission time per week; and
  - (b) do so in a way which meets the reasonable requirements of the Authority.
- (1A) The purpose is to enable the Welsh Authority to fulfil—
- (a) so much of the public service remit for S4C as is contained in paragraph 3(2) (a) and (b) of Schedule 12 to the Communications Act 2003; and
  - (b) so much of the public service remit for S4C Digital as is contained in paragraph 3(3) of that Schedule.]

(2) It shall be the duty of the Channel Four Television Corporation—

    - (a) to provide the Welsh Authority with programme schedules for the programmes broadcast on Channel 4, including information as to the periods available for the broadcasting of advertisements, far enough in advance to enable the Welsh Authority to [<sup>F139</sup>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]; and
    - (b) to provide the Welsh Authority (free of charge) with any programmes which are required by the Authority for the purpose of complying with that provision.

(3) The programmes broadcast on S4C may, to the extent that they are not provided under subsection (1) or (2), be obtained by the Welsh Authority from such persons as they think fit.

(4) Where any programmes provided under subsection (2) each form part of a series of programmes, the Welsh Authority shall ensure that the intervals between those programmes when broadcast on S4C normally correspond to the intervals between them when broadcast on Channel 4.

(5) The Welsh Authority shall publish, in such manner as they consider appropriate, advance notice of the programme schedules for the programmes to be broadcast on S4C.



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[<sup>F140</sup>(6) In this section “programme” does not include an advertisement.]

**Textual Amendments**

**F138** S. 58(1)(1A) substituted for s. 58(1) (12.8.2009) by [The Welsh Authority \(Digital Switchover\) Order 2009 \(S.I. 2009/1968\)](#), arts. 1, **4(2)**

**F139** Words in s. 58(2)(a) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 15 para. 28(3)** (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**F140** S. 58(6) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 15 para. 28(4)** (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**Modifications etc. (not altering text)**

**C32** S. 58(5) applied (1.10.1996) by [1996 c. 55](#), s. **29(2)** (with s. 43(1)(6)); [S.I. 1996/2120](#), art. 4, **Sch. 1**

<sup>F141</sup>**59** Requirements to be complied with in relation to S4C programmes.

**Textual Amendments**

**F141** S. 59 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 19(1)** Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**60** Advertising on S4C.

<sup>F142</sup>(1) .....

<sup>F142</sup>(2) .....

<sup>F142</sup>(3) .....

(4) The Welsh Authority shall—

(a) from time to time consult the Secretary of State as to the classes and descriptions of advertisements which must not be broadcast on S4C and the methods of advertising or sponsorship which must not be employed in, or in connection with, the provision of S4C;

[<sup>F143</sup>(aa) from time to time consult the Secretary of State as to the forms and methods of product placement that should not be employed in the provision of S4C (including the descriptions of products, services or trade marks for which product placement should not be employed);] and

(b) carry out any directions which he may give to them in respect of such matters.

(5) The Welsh Authority shall not act as an advertising agent.

<sup>F144</sup>(6) .....

**Textual Amendments**

**F142** S. 60(1)-(3) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 19(1)** Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

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**F143** S. 60(4)(aa) inserted (16.4.2010) by [The Audiovisual Media Services \(Product Placement\) Regulations 2010 \(S.I. 2010/831\)](#), regs. 1(1), **10(1)**

**F144** S. 60(6) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**Modifications etc. (not altering text)**

**C33** S. 60 applied (1.10.1996) by [1996 c. 55](#), [s. 29\(2\)](#) (with [s. 43\(1\)\(6\)](#)); [S.I. 1996/2120](#), art. 4, [Sch. 1](#)

**[<sup>F145</sup>61 Funding of Welsh Authority.**

- (1) The Secretary of State shall secure that in 2012 and each subsequent year the Welsh Authority are paid an amount which he considers sufficient to cover the cost to the Authority during that year of—
  - (a) providing the Authority's public services (within the meaning of section 207 of the Communications Act 2003), and
  - (b) arranging for the broadcasting or distribution of those services.
- (2) The Secretary of State may discharge the duty in subsection (1) by making payments himself or entering into an agreement with another person for that person to do so (or both).
- (3) If under this section the Welsh Authority are paid an amount for any year which exceeds the cost referred to in subsection (1), the Authority may pay the difference from the public service fund referred to in section 61A to the person (or pro rata to the persons) from whom payments were received.
- (4) Any sums required by the Secretary of State under this section shall be paid out of money provided by Parliament.]

**Textual Amendments**

**F145** S. 61 substituted (14.2.2012) by [Public Bodies Act 2011 \(c. 24\)](#), [ss. 31](#), 38(1)

**[<sup>F146</sup>61A Welsh Authority public service fund.**

<sup>F147</sup>(1) .....

- (2) All amounts received by the Welsh Authority under section 61 <sup>F148</sup>... shall be kept by the Authority in a separate fund (in this section referred to as “the public service fund”) which may be applied only for the purposes of [<sup>F149</sup>their functions in relation to the provision of the services that are public services of the Authority (within the meaning of section 207 of the Communications Act 2003).]
- (3) No S4C company shall receive any direct or indirect subsidy from the public service fund.
- (4) The Welsh Authority shall secure that no television programme which has been wholly or partly financed out of the public service fund is included in a television programme service provided by an S4C company before it is first broadcast [<sup>F150</sup> on a television programme service that is one of their public services (within the meaning of section 207 of the Communications Act 2003)].

<sup>F151</sup>(5) .....

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F151(6)] .....

**Textual Amendments**

- F146 S. 61A inserted (1.10.1996) by 1996 c. 55, s. 81(1); S.I. 1996/2120, art. 4 Sch. 1
- F147 S. 61A(1) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 19(1) Note 1 (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F148 Words in s. 61A(2) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 19(1) Note 1 (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F149 Words in s. 61A(2) substituted (29.12.2003) by Communications Act 2003 (c. 21), ss. 207(8)(a), 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F150 Words in s. 61A(4) substituted (29.12.2003) by Communications Act 2003 (c. 21), ss. 207(8)(b), 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F151 S. 61A(5)(6) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 19(1) Note 1 (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

F152 62 **Information to be supplied to Commission by Welsh Authority.**

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**Textual Amendments**

- F152 S. 62 repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 19(1) Note 1 (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**63 Government control over S4C.**

- (1) If it appears to him to be necessary or expedient to do so in connection with his functions as such, the Secretary of State or any other Minister of the Crown may at any time by notice require the Welsh Authority to broadcast, at such times as may be specified in the notice, any announcement specified in the notice, with or without visual images of any picture, scene or object mentioned in the announcement; and it shall be the duty of the Authority to comply with the notice.
- (2) Where the Welsh Authority broadcast any announcement in pursuance of a notice under subsection (1), they may announce that they are doing so in pursuance of such a notice.
- (3) The Secretary of State may at any time by notice require the Welsh Authority to refrain from broadcasting any matter or classes of matter specified in the notice; and it shall be the duty of the Authority to comply with the notice.
- (4) Where the Secretary of State has given the Welsh Authority a notice under subsection (3), the Authority may broadcast an announcement of the giving of the notice or, when it has been revoked or has expired, of its revocation or expiration.
- (5) The powers conferred by this section are in addition to any power specifically conferred on the Secretary of State by any other provision of this Act.

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## 64 Audience research by Welsh Authority.

- (1) The Welsh Authority shall make arrangements for ascertaining—
- (a) the state of public opinion concerning programmes broadcast on S4C;
  - (b) any effects of such programmes on the attitudes or behaviour of persons who watch them; and
  - (c) the types of programme that members of the public would like to be broadcast on S4C.
- (2) Those arrangements shall—
- (a) secure that, so far as is reasonably practicable, any research undertaken in pursuance of the arrangements is undertaken by persons who are neither members nor employees of the Welsh Authority; and
  - (b) include provision for full consideration by the Authority of the results of any such research.

### Modifications etc. (not altering text)

**C34** S. 64 applied (1.10.1996) by 1996 c. 55, s. 29(2) (with s. 43(1)(6)); S.I. 1996/2120, art. 4, Sch. 1

## CHAPTER VII

### SUPPLEMENTAL

## <sup>F153</sup>65 Assignment of frequencies by Secretary of State.

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### Textual Amendments

**F153** S. 65 repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 19(1) Note 1 (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

## 66 Requirements relating to transmission and distribution of services.

- (1) During such period as the Secretary of State may by order specify, all Channel 3 services shall be broadcast [<sup>F154</sup>so as to be available for reception by members of the public] by a single person under arrangements made with him by the persons licensed to provide those services; and every Channel 3 licence shall include such conditions as appear to [<sup>F155</sup>OFCOM] to be appropriate—
- (a) for securing that result and
  - (b) for securing that the costs incurred in respect of the broadcasting of those services (taken as a whole) during that period in accordance with those arrangements are shared by those persons in such manner as may be approved by the Secretary of State.
- (2) Any Channel 3 licence shall include such conditions as appear to [<sup>F155</sup>OFCOM] to be appropriate for securing that the costs incurred in respect of the distribution of Channel 3 services (taken as a whole) during such period as the Secretary of State may by order specify are shared by the persons licensed to provide those services in such manner as

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may be approved by the Secretary of State. In this subsection “distribution”, in relation to Channel 3 services, means the conveyance of those services (by whatever means and whether directly or indirectly) to the broadcasting stations from which they are broadcast [<sup>F154</sup>so as to be available for reception by members of the public].

[<sup>F156</sup>(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]

- (3) The Secretary of State may, at any time during the period referred to in subsection (1) or (2), by order provide for that period to be extended by such further period as is specified in the order; and any conditions included in a Channel 3 licence in pursuance of that subsection shall accordingly, in any such case, have effect in relation to that period as so extended.
- (4) Any Channel 3 licence or licence to provide Channel 4 or 5 shall include such conditions as appear to [<sup>F155</sup>OFCOM] to be appropriate for requiring the signals carrying the licensed service to attain high standards in terms of technical quality and reliability throughout so much of the relevant area as is for the time being reasonably practicable.
- (5) Before imposing any conditions in pursuance of subsection (4) [<sup>F155</sup>OFCOM] shall consult the Secretary of State as to how much of the relevant area is to be specified in the conditions as the area throughout which the required standards are to be attained.
- (6) In subsections (4) and (5) “the relevant area”—
  - (a) in relation to a Channel 3 or Channel 5 licence, means the area for which the licensed service is to be provided; and
  - (b) in relation to the licence to provide Channel 4, means England, Scotland and Northern Ireland.
- (7) The Welsh Authority shall do all that they can to ensure that the signals carrying S4C attain high standards in terms of technical quality and reliability throughout so much of Wales as is for the time being reasonably practicable.
- (8) Any order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F154** Words in s. 66(1)(2) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 29\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**F155** Words in s. 66 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 29\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**F156** S. 66(2A) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 29\(4\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

#### [<sup>F157</sup>66A Enforcement of licences held by BBC companies.

- (1) Where [<sup>F158</sup>OFCOM] —
  - (a) give a direction to a BBC company under section 40(1),
  - (b) serve a notice on a BBC company under any provision of section 41 or 42, or
  - (c) receive any written representations from a BBC company under section 40(2), 41(3) or 42(8),

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*Changes to legislation: Broadcasting Act 1990, Part I is up to date with all changes known to be in force on or before 30 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[<sup>F158</sup>OFCOM] shall send a copy of the direction, notice or representations to the Secretary of State.

(2) References in subsection (1) to any of the provisions of sections 40 to 42 are references to that provision as applied—

- (a) by section 42B(2), in relation to a licence to provide a restricted service,
- <sup>F159</sup>(b) .....
- <sup>F160</sup>(c) .....
- <sup>F160</sup>(d) .....
- (e) by section 55(4), in relation to an additional services licence.]

**Textual Amendments**

- F157** S. 66A inserted (24.7.1996) by 1996 c. 55, ss. 136, 149(1)(f), **Sch. 8 para. 3**; (with s. 43(1)(6))
- F158** Words in s. 66A substituted (29.12.2003) by **Communications Act 2003 (c. 21)**, s. 411(2), **Sch. 15 para. 30** (with **Sch. 18**); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F159** S. 66A(2)(b) omitted (11.7.1997) by S.I. 1997/1682, reg. 2, **Sch. para. 9(a)**
- F160** S. 66A(2)(c)(d) repealed (29.12.2003) by **Communications Act 2003 (c. 21)**, s. 411(2), **Sch. 19(1)** Note 1 (with **Sch. 18**); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**67 Computation of qualifying revenue.**

Part I of Schedule 7 (which contains provisions relating to the computation of qualifying revenue for the purposes of this Part and Part II) shall have effect.

<sup>F161</sup>**68 Certain receipts of Commission to be paid into Consolidated Fund.**

.....

**Textual Amendments**

- F161** Ss. 68-70 repealed (29.12.2003) by **Communications Act 2003 (c. 21)**, s. 411(2), **Sch. 19(1)** Note 1 (with **Sch. 18**); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

<sup>F161</sup>**69 Frequency planning and research and development.**

.....

**Textual Amendments**

- F161** Ss. 68-70 repealed (29.12.2003) by **Communications Act 2003 (c. 21)**, s. 411(2), **Sch. 19(1)** Note 1 (with **Sch. 18**); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

<sup>F161</sup>**70 Representation by Commission of Government and other interests in connection with broadcasting matters.**

.....

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### Textual Amendments

**F161** Ss. 68-70 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

## 71 Interpretation of Part I.

(1) In this Part (unless the context otherwise requires)—

“the 1981 Act” means the <sup>M2</sup>Broadcasting Act 1981;

“additional service” and “additional services licence” have the meaning given by section 48(1) and section 49(10) respectively;

“the appropriate percentage”, in relation to any year, has the meaning given by section 19(10);

“cash bid”, in relation to a licence, has the meaning given by section 15(7);

“Channel 3” means the system of television broadcasting services established <sup>F162</sup>... under section 14, and “a Channel 3 licence” means a licence to provide one of the services comprised within that system;

“Channel 4” means the television broadcasting service referred to in section 24(1), and “on Channel 4” means in that service;

“Channel 5” means the television broadcasting service referred to in section 28(1), and “a Channel 5 licence” means a licence to provide that service;

<sup>F162</sup>  
...

“the Corporation” means the Channel Four Television Corporation established by section 23;

<sup>F163</sup>  
...

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

<sup>F162</sup>  
...

“national Channel 3 service” has the meaning given by section 14(6), and “a national Channel 3 licence” means a licence to provide a national Channel 3 service;

<sup>F163</sup>  
...

“regional Channel 3 service” has the meaning given by section 14(6), and “a regional Channel 3 licence” means a licence to provide a regional Channel 3 service;

<sup>F164</sup>“restricted service” has the meaning given by section 42A;]

<sup>F165</sup>“S4C” <sup>F166</sup>and “S4C Digital” each] has the same meaning as in Part 3 of the Communications Act 2003;]

<sup>F162</sup>  
...

“spare capacity” shall be construed in accordance with section 48(2);

<sup>F167</sup>“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;]

(2) Where the person who is for the time being the holder of any licence (“the present licence holder”) is not the person to whom the licence was originally granted, any reference in this Part (however expressed) to the holder of the licence shall be



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construed, in relation to any time falling before the date when the present licence holder became the holder of it, as including a reference to a person who was previously the holder of the licence.

#### **Textual Amendments**

- F162** Words in s. 71(1) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F163** Definitions in s. 71(1) omitted (11.7.1997) by [S.I. 1997/1682](#), reg. 2, [Sch. para. 10\(a\)](#)
- F164** Definition in s. 71 inserted (1.4.1997) by [1996 c. 55](#), s. 148(1), [Sch. 10 Pt. II para. 17](#) (with s. 43(1) (6)); [S.I. 1997/1005](#), [art. 4](#)
- F165** Words in s. 71 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 31\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F166** Words in s. 71(1) inserted (12.8.2009) by [The Welsh Authority \(Digital Switchover\) Order 2009 \(S.I. 2009/1968\)](#), arts. 1, [4\(3\)](#)
- F167** Words in s. 71 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 31\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

#### **Marginal Citations**

- M2** [1981 c. 68](#).



**Status:**

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**Changes to legislation:**

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