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*Changes to legislation: Broadcasting Act 1990 is up to date with all changes known to be in force on or before 01 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)*

## SCHEDULES

### <sup>F1</sup>SCHEDULE 1

Section 1.

#### Textual Amendments

- F1** Sch. 1 repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#)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)

### SCHEDULE 2

Sections 5 and 88.

#### RESTRICTIONS ON THE HOLDING OF LICENCES

##### PART I

##### GENERAL

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

- C1** Sch. 2 Pt. I applied (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 14 para. 18](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

1 (1) In this Schedule—

[<sup>F2</sup>“the 1996 Act” means the Broadcasting Act 1996;]

“advertising agency” means an individual or a body corporate who carries on business as an advertising agent (whether alone or in partnership) or has control over any body corporate which carries on business as an advertising agent, and any reference to an advertising agency includes a reference to an individual who—

(a) is a director or officer of any body corporate which carries on such a business, or

(b) is employed by any person who carries on such a business;

“associate”—

(a) [<sup>F3</sup>in relation to a body corporate, shall be construed in accordance with paragraph (1A), and]

(b) in relation to an individual, shall be construed in accordance with subparagraph (2);

[<sup>F4</sup>“Broadcasting Act licence” means a licence under Part 1 or 3 of this Act or Part 1 or 2 of the Broadcasting Act 1996;]

“control”—

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- (a) in relation to a body corporate, shall be construed in accordance with sub-paragraph (3), and
- (b) in relation to any body other than a body corporate, means the power of a person to secure, <sup>F5</sup>by whatever means and whether directly or indirectly], that the affairs of the first-mentioned body are conducted in accordance with the wishes of that person;

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“equity share capital” has the same meaning as in <sup>F7</sup>the Companies Acts (see section 548 of the Companies Act 2006)];

“local authority”—

- (a) in relation to England <sup>F8</sup> . . . , means any of the following, that is to say, the council of a county, district or London borough, the Common Council of the City of London and the Council of the Isles of Scilly;
- (aa) <sup>F9</sup>in relation to Wales, means a county council or county borough council;]
- (b) in relation to Scotland, means a <sup>F10</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]; and
- (c) in relation to Northern Ireland, means a district council;

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“participant”, in relation to a body corporate, means a person who holds or is beneficially entitled to shares in that body or who possesses voting power in that body.

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...

<sup>F11</sup>(1A) For the purpose of determining the persons who are the associates of a body corporate for the purposes of this Schedule—

- (a) an individual shall be regarded as an associate of a body corporate if he is a director of that body corporate, and
- (b) a body corporate and another body corporate shall be regarded as associates of each other if one controls the other or if the same person controls both.]

(2) For the purpose of determining the persons who are an individual’s associates for the purposes of this Schedule, the following persons shall be regarded as associates of each other, namely—

- (a) any individual and that individual’s husband or wife <sup>F12</sup>or civil partner] and any relative, or husband or wife <sup>F12</sup>or civil partner] of a relative, of that individual or of that individual’s husband or wife <sup>F12</sup>or civil partner];
- (b) any individual and any body corporate of which that individual is a director;
- (c) any person in his capacity as trustee of a settlement and the settlor or grantor and any person associated with the settlor or grantor;
- (d) persons carrying on business in partnership and the husband or wife <sup>F13</sup>or civil partner] and relatives of any of them;
- (e) any two or more persons acting together to secure or exercise control of a body corporate or other association or to secure control of any enterprise or assets;

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and in this sub-paragraph “relative” means a brother, sister, uncle, aunt, nephew, niece, lineal ancestor or descendant (the stepchild or illegitimate child of any person, or anyone adopted by a person, whether legally or otherwise, as his child, being regarded as a relative or taken into account to trace a relationship in the same way as that person’s child); and references to a wife or husband shall include a former wife or husband and a reputed wife or husband [<sup>F14</sup>and references to a civil partner shall include a former civil partner][<sup>F15</sup>and a reputed civil partner].

- [<sup>F16</sup>(3) For the purposes of this Schedule a person controls a body corporate if—
- (a) he holds, or is beneficially entitled to, more than 50 per cent. of the equity share capital in the body, or possesses more than 50 per cent. of the voting power in it, or
  - (b) although he does not have such an interest in the body, it is reasonable, having regard to all the circumstances, to expect that he [<sup>F17</sup>would (if he chose to) be able in most cases or in significant respects], by whatever means and whether directly or indirectly, to achieve the result that [<sup>F18</sup>affairs] of the body are conducted in accordance with his wishes; or
  - (c) he holds, or is beneficially entitled to, 50 per cent. of the equity share capital in that body, or possesses 50 per cent. of the voting power in it, and an arrangement exists between him and any other participant in the body as to the manner in which any voting power in the body possessed by either of them is to be exercised, or as to the omission by either of them to exercise such voting power.
- (3A) For the purposes of sub-paragraph (3)(c)—
- (a) “arrangement” includes any agreement or arrangement, whether or not it is, or is intended to be, legally enforceable, and
  - (b) a person shall be treated—
    - (i) as holding, or being beneficially entitled to, any equity share capital which is held by a body corporate which he controls or to which such a body corporate is beneficially entitled, and
    - (ii) as possessing any voting power possessed by such a body corporate.]
- (4) .....
- (5) For the purposes of any provision of this Schedule which refers to a body controlled by two or more persons or bodies of any description taken together, the persons or bodies in question shall not be regarded as controlling the body by virtue of paragraph (b) of sub-paragraph (3) unless they are acting together in concert.
- [<sup>F19</sup>(6) In this Schedule any reference to a participant with more than a [<sup>F20</sup>5 per cent.] interest in a body corporate is a reference to a person who—
- (a) holds or is beneficially entitled to more than [<sup>F20</sup>5 per cent.] of the shares in that body, or
  - (b) possesses more than [<sup>F20</sup>5 per cent.] of the voting power in that body.
- (7) Sub-paragraph (6) shall have effect subject to the necessary modifications in relation to other references in this Schedule—
- (a) to an interest of more than a specified percentage in a body corporate, or
  - (b) to an interest of a specified percentage or more in a body corporate.]

[<sup>F21</sup>(8) .....

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### Textual Amendments

- F2** Definition inserted in Sch. 2 Pt. I para. 1(1) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(2)(a)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F3** Definition in Sch. 2 Pt. I para. 1(1) substituted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(2)(b)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F4** Definition inserted in Sch. 2 Pt. I para. 1(1) (29.12.2003) by **Communications Act 2003 (c. 21)**, s. 411(2), Sch. 15 para. 69(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)
- F5** Words in Sch. 2 Pt. I para. 1(1) substituted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(2)(c)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F6** Definition in Sch. 2 Pt. I para. 1(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)
- F7** Words in Sch. 2 Pt. I para. 1(1) substituted (1.10.2009) by S.I. 2009/1941, art. 1(2), **Sch. 1 para. 119(4)** (with art. 10)
- F8** Sch. 2 Pt. I: Words in definition “local authority” in para. 1(1)(a) repealed (1.4.1996) by 1994 c. 19, ss. 66(6)(8), **Sch. 16 para. 89, Sch. 18**. (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F9** Sch. 2 Pt. I para. 1(1)(aa) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 89** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F10** Sch. 2 Pt. I para. 1(1)(b): Words beginning “council constituted” to “(Scotland Act 1994)” substituted (S.) (1.4.1996) for words “regional, islands or district council” by 1994 c. 39, s. 180(1), **Sch. 13 para. 166** (with s. 128(8)); S.I. 1996/323, art. 4(c)
- F11** Sch. 2 Pt. I para. 1(1A) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(3)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F12** Words in Sch. 2 Pt. I para. 1(2)(a) inserted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, **Sch. 27, para. 139(a)**; S.I. 2005/3175, art. 2(2)
- F13** Words in Sch. 2 Pt. I para. 1(2)(d) inserted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, **Sch. 27, para. 139(a)**; S.I. 2005/3175, art. 2(2)
- F14** Words in Sch. 2 Pt. I para. 1(2) inserted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, **Sch. 27, para. 139(b)**; S.I. 2005/3175, art. 2(2)
- F15** Words in Sch. 2 Pt. I para. 1(2) inserted (5.12.2005) by S.I. 2005/3129, art. 1, **Sch. 4 para. 10**
- F16** Sch. 2 Pt. I para. 1(3) substituted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(4)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F17** Words in Sch. 2 Pt. I para. 1(3)(b) substituted (29.12.2003) by **Communications Act 2003 (c. 21)**, s. 411(2), s. 357(1)(a) (with Sch. 18); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)
- F18** Words in Sch. 2 Pt. I para. 1(3)(b) substituted (29.12.2003) by **Communications Act 2003 (c. 21)**, s. 411(2), s. 357(1)(b) (with Sch. 18); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)
- F19** Sch. 2 Pt. I para. 1(6)(7)(8) substituted (10.8.1996 for certain purposes otherwise 1.11.1996) for sub-paragraph (6) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 1(6)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F20** Words in Sch. 2 Pt. I para. 1(6) substituted (29.12.2003) by **Communications Act 2003 (c. 21)**, s. 411(2), Sch. 15 para. 69(3) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F21** Sch. 2 Pt. I para. 1(8) 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)

- 2 (1) <sup>F22</sup>Subject to sub-paragraph (1A)]Any reference in paragraph 1 above to a person—
- (a) holding or being entitled to shares, or any amount of the shares or equity share capital, in a body corporate, or
  - (b) possessing voting power, or any amount of the voting power, in a body corporate,

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is a reference to his doing so, or being so entitled, whether alone or jointly with one or more other persons and whether directly or through one or more nominees.

[<sup>F23</sup>(1A) For the purposes of this Schedule, a person's holding of shares, or possession of voting power, in a body corporate shall be disregarded if, or to the extent that—

- (a) he holds the shares concerned—
  - (i) as a nominee,
  - (ii) as a custodian (whether under a trust or by a contract), or
  - (iii) under an arrangement pursuant to which he has issued, or is to issue, depositary receipts, <sup>F24</sup>... in respect of the shares concerned, and
- (b) he is not entitled to exercise or control the exercise of voting rights in respect of the shares concerned.

[ In sub-paragraph (1A)(a)(iii), “depository receipt” means a certificate or other record <sup>F25</sup>(1AA) (whether or not in the form of a document)—

- (a) which is issued by or on behalf of a person who holds shares or who holds evidence of the right to receive shares, or has an interest in shares, in a particular body corporate; and
- (b) which evidences or acknowledges that another person is entitled to rights in relation to those shares or shares of the same kind, which shall include the right to receive such shares (or evidence of the right to receive such shares) from the person mentioned in paragraph (a).]

(1B) For the purposes of sub-paragraph (1A)(b)—

- (a) a person is not entitled to exercise or control the exercise of voting rights in respect of shares if he is bound (whether by contract or otherwise) not to exercise the voting rights, or not to exercise them otherwise than in accordance with the instructions of another, and
- (b) voting rights which a person is entitled to exercise or of which he is entitled to control the exercise only in certain circumstances shall be taken into account only when those circumstances have arisen and for as long as they continue to obtain.]

<sup>F26</sup>(2) .....

<sup>F27</sup>(3) .....

#### Textual Amendments

- F22** Words in Sch. 2 Pt. I para. 2(1) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 2(2)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F23** Sch. 2 Pt. I para. 2(1A)(1B) inserted (10.8.1996 for certain purposes otherwise 1.11.1996) by 1996 c. 55, s. 73, **Sch. 2 Pt. I para. 2(3)** (with s. 43(1)(6)); S.I. 1996/2120, arts. 3, 5, **Sch. 2**
- F24** Words in Sch. 2 Pt. I para. 2(1A)(a)(iii) repealed (6.4.2008) by S.I. 2008/948, art. 2(2), **Sch. 1 para. 176(2)** (with arts. 6, 11, 12)
- F25** Sch. 2 Pt. I para. 2(1AA) inserted (6.4.2008) by S.I. 2008/948, art. 2(2), **Sch. 1 para. 176(3)** (with arts. 6, 11, 12)
- F26** Sch. 2 Pt. I para. 2(2) repealed (1.11.1996) by 1996 c. 55, s. 148(2), **Sch. 11 Pt. I** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**
- F27** Sch. 2 Pt. I para. 2(3) repealed (1.11.1996) by 1996 c. 55, s. 148(2), **Sch. 11 Pt. I** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**

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- [<sup>F28</sup>3 For the purposes of this Schedule the following persons shall be treated as connected with a particular person—
- (a) a person who controls that person,
  - (b) an associate of that person or of a person falling within paragraph (a), and
  - (c) a body which is controlled by that person or by an associate of that person.]

#### Textual Amendments

- F28** Sch. 2 Pt. I para. 3 substituted (10.8.1996 for certain purposes otherwise 1.11.1996) by [1996 c. 55, s. 73, Sch. 2 Pt. I para. 3](#) (with [s. 43\(1\)\(6\)](#)); [S.I. 1996/2120, arts. 3, 5, Sch. 2](#)

[<sup>F29</sup>3A . . . . .

#### Textual Amendments

- F29** Sch. 2 para. 3A 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>F30</sup>3B . . . . .

#### Textual Amendments

- F30** Sch. 2 para. 3B 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>F31</sup>4 . . . . .

#### Textual Amendments

- F31** Sch. 2 Pt. I para. 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](#))

## PART II

### DISQUALIFICATION FOR HOLDING LICENCES

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

- C2** Sch. 2 Pt. II applied (with modifications) (20.7.2004) by [The Community Radio Order 2004 \(S.I. 2004/1944\), arts. 1\(2\), 6](#) (as amended (27.3.2015) by [S.I. 2015/1000, art. 2](#))

#### *General disqualification of non-EEC nationals and bodies having political connections*

- 1 (1) Subject to [<sup>F32</sup>sub-paragraph (1A)], the following persons are disqualified persons in relation to [<sup>F33</sup>a Broadcasting Act licence]—
- [<sup>F34</sup>(a) . . . . .
  - [<sup>F34</sup>(b) . . . . .

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- (c) a local authority;
- (d) a body whose objects are wholly or mainly of a political nature;
- (e) a body affiliated to a body falling within paragraph (d);
- (f) an individual who is an officer of a body falling within paragraph (d) or (e);
- (g) a body corporate which is an associate of a body corporate falling within paragraph (d) or (e);
- (h) a body corporate in which a body falling within any of paragraphs (c) to (e) and (g) is a participant with more than a 5 per cent. interest;
- [<sup>F35</sup>(hh) a body corporate which is controlled by a body corporate falling within paragraph (h);]
- (i) a body which is controlled by a person falling within any of paragraphs [<sup>F36</sup>(c)] to (g) or by two or more such persons taken together; and
- (j) a body corporate in which a body falling within paragraph (i), other than one which is controlled—
  - (i) by a person falling within paragraph <sup>F37</sup>... (f), or
  - (ii) by two or more such persons taken together,is a participant with more than a 5 per cent. interest.

[<sup>F38</sup>(1A) Where a service is provided exclusively for the purposes of the carrying out of the functions of a local authority under section 142 of the Local Government Act 1972 (provision by local authorities of information relating to their activities), a person is disqualified by virtue of sub-paragraph (1) in relation to a licence to provide that service only if he would be so disqualified disregarding paragraph (c) of that sub-paragraph.]

<sup>F39</sup>(2) .....

<sup>F39</sup>(3) .....

#### Textual Amendments

- F32** Words in Sch. 2 Pt. II para 1(1) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), s. 349\(1\)\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F33** Words in Sch. 2 Pt. II substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 69\(4\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F34** Sch. 2 Pt. II para. 1(1)(a)(b) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), s. 348\(1\), Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F35** Sch. 2 Pt. II para. 1(1)(hh) inserted (1.11.1996) by [1996 c. 55, s. 73, Sch. 2 Pt. I para. 6\(2\)](#) (with [s. 43\(1\)\(6\)](#)); [1996/2120, art. 5, Sch. 2](#)
- F36** Words in Sch. 2 Pt. II para 1(1)(i) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 69\(5\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F37** Words in Sch. 2 Pt. II para. 1(1)(j)(i) 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)
- F38** Sch. 2 Pt. II para. 1(1A) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), s. 349\(1\)\(b\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F39** Sch. 2 Pt. II para. 1(2)(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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*Disqualification of religious bodies*

- 2 (1) <sup>F40</sup>The following persons are disqualified persons in relation only to licences falling within sub-paragraph (1A)—
- (a) a body whose objects are wholly or mainly of a religious nature;
  - (b) a body which is controlled by a body falling within paragraph (a) or by two or more such bodies taken together;
  - (c) a body which controls a body falling within paragraph (a);
  - (d) a body corporate which is an associate of a body corporate falling within paragraph (a), (b) or (c);
  - (e) a body corporate in which a body falling within any of paragraphs (a) to (d) is a participant with more than a 5 per cent. interest;
  - (f) an individual who is an officer of a body falling within paragraph (a); and
  - (g) a body which is controlled by an individual falling within paragraph (f) or by two or more such individuals taken together.

<sup>F41</sup>(1A) A licence falls within this sub-paragraph if it is—

- (a) a Channel 3 licence;
- (b) a Channel 5 licence;
- (c) a national sound broadcasting licence;
- (d) a public teletext licence;
- (e) an additional television service licence;
- (f) a television multiplex licence; or
- (g) a radio multiplex licence.

(1B) In this paragraph—

“additional television service licence” means a licence under Part 1 of this Act to provide an additional television service within the meaning of Part 3 of the Communications Act 2003;

“Channel 3 licence” and “Channel 5 licence” each has the same meaning as in Part 1 of this Act;

“national sound broadcasting licence” means a licence to provide a sound broadcasting service (within the meaning of Part 3 of this Act) which is a national service (within the meaning of that Part);

“public teletext licence” means a licence to provide the public teletext service (within the meaning of Part 3 of the Communications Act 2003);

“radio multiplex licence” means a licence under Part 2 of the Broadcasting Act 1996 to provide a radio multiplex service within the meaning of that Part; and

“television multiplex licence” means a licence under Part 1 of the Broadcasting Act 1996 to provide a multiplex service within the meaning of that Part.]

**Textual Amendments**

**F40** Words in Sch. 2 Pt. 2 para. 2(1) substituted (18.9.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 348(2), 411(2)** (with [Sch. 18](#)); [S.I. 2003/1900](#), art. 2(2), **Sch. 2** (art. 5)

**F41** Sch. 2 Pt. 2 para. 2(1A)(1B) substituted for Sch. 2 Pt. 2 para. 2(2)(3) (18.9.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 348(2), 411(3)** (with [Sch. 18](#)); [S.I. 2003/1900](#), art. 2(2), **Sch. 2** (art. 5)



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*Disqualification of publicly-funded bodies for radio service licences*

- 3 (1) The following persons are disqualified persons in relation to any licence granted [F42 under Part 3 of this Act or Part 2 of the Broadcasting Act 1996] other than a licence to provide a restricted service—
- (a) a body [F43 (other than a local authority, the Welsh Authority or the BBC)] which has, in its last financial year, received more than half its income from public funds;
  - (b) a body which is controlled by a body falling within paragraph (a) or by two or more such bodies taken together; and
  - (c) a body corporate in which a body falling within paragraph (a) or (b) is a participant with more than a 5 per cent. interest.
- (2) For the purposes of sub-paragraph (1)(a) money is received from public funds if it is paid—
- (a) by a Minister of the Crown out of money provided by Parliament or out of the National Loans Fund;
  - (b) by a Northern Ireland department out of the Consolidated Fund of Northern Ireland or out of money appropriated by Measure of the Northern Ireland Assembly; or
  - (c) by a body which itself falls within sub-paragraph (1)(a), including a body which falls within that provision by virtue of this paragraph;
- but, in each case, there shall be disregarded any money paid as consideration for the acquisition of property or the supply of goods or services or as remuneration, expenses, pensions, allowances or similar benefits for or in respect of a person as the holder of an office.

**Textual Amendments**

- F42** Words in Sch. 2 Pt. II para. 3(1) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), Sch. 15 para. 69\(8\)\(a\), 411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F43** Words in Sch. 2 Pt. II para. 3(1)(a) substituted (24.7.1996 for certain purposes, otherwise 1.11.1996) by [1996 c. 55, ss. 73, 149\(1\)\(a\), Sch. 2 Pt. II para. 7](#) (with [s. 43\(1\)\(6\)](#)); [S.I. 1996/2120, art. 5, Sch. 2](#)

*General disqualification on grounds of undue influence*

- 4 (1) A person is a disqualified person in relation to [F33 a Broadcasting Act licence] if in the opinion of [F44 OFCOM]—
- (a) any relevant body is, by the giving of financial assistance or otherwise, exerting influence over the activities of that person, and
  - (b) that influence has led, is leading or is likely to lead to results which are adverse to the public interest.
- (2) In sub-paragraph (1) “relevant body”—
- (a) in relation to a licence granted [F45 under Part 1 of this Act or Part 1 of the Broadcasting Act 1996, means a person] falling within paragraph 1(1)(c) to (h) or (j) above or a body which is controlled—
    - (i) by a person falling within paragraph 1(1)(c) to (g) above, or
    - (ii) by two or more such persons taken together; and

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- (b) in relation to a licence granted [<sup>F46</sup>under Part 3 of this Act or Part 2 of the Broadcasting Act 1996, means a person] falling within paragraph 1(1)(c) to (h) or (j) or 3 above or a body which is controlled .
  - [<sup>F47</sup>(i) by a person falling within paragraph 1(1)(c) to (g) above;
  - (ii) by a person falling within paragraph 3 above; or
  - (iii) by two or more persons taken together each of whom falls within sub-paragraph (i) or (ii) (whether or not they all fall within the same sub-paragraph).]

**Textual Amendments**

**F33** Words in Sch. 2 Pt. II substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 15 para. 69(4)** (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

**F44** Words in Sch. 2 Pt. II para. 4(1) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), Sch. 15 para. 69(7), 411(2) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

**F45** Words in Sch. 2 Pt. II para. 4(2)(a) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), Sch. 15 para. 69(8)(a), 411(2) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

**F46** Words in Sch. 2 Pt. II para. 4(2)(b) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), Sch. 15 para. 69(8)(b), 411(2) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

**F47** Words in Sch. 2 Pt. II para. 4(2)(b) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 348(4), 411(2) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

*General disqualification of broadcasting bodies*

- 5 The following persons are disqualified persons in relation to [<sup>F33</sup>a Broadcasting Act licence] —
- (a) the BBC;
  - (b) the Welsh Authority;
  - <sup>F48</sup>(c) .....
  - <sup>F48</sup>(d) .....

**Textual Amendments**

**F33** Words in Sch. 2 Pt. II substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 15 para. 69(4)** (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

**F48** Sch. 2 Pt. II para. 5(c)(d) repealed (24.7.1996 for certain purposes, otherwise 1.11.1996) by 1996 c. 55, ss. 73, 149(1)(a), Sch. 2 Pt. I para. 8, **Sch. 11 Pt. I** (with s. 43(1)(6)); S.I. 1996/2120, art. 5, **Sch. 2**

*[<sup>F49</sup>Disqualification of certain companies for certain licences]*

**Textual Amendments**

**F49** Sch. 2 Pt. II para. 5A and cross-heading inserted (24.7.1996 for certain purposes, otherwise 1.10.1996) by 1996 c. 55, ss. 73, 149(1)(a), **Sch. 2 Pt. II para. 9** (with s. 43(1)(6)); S.I. 1996/2120, art. 4, **Sch. 1**

- [<sup>F50</sup>5A (1) A BBC company, a Channel 4 company or an S4C company is a disqualified person in relation to—

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(a) any licence <sup>F51</sup>... to provide regional or national Channel 3 services or Channel 5, <sup>F52</sup>...

<sup>F52</sup>(b) .....

(2) A BBC company is also a disqualified person in relation to any licence <sup>F53</sup>... to provide a national, local or restricted service within the meaning of Part III of this Act.

<sup>F54</sup>(3)] .....

**Textual Amendments**

- F50** Sch. 2 Pt. II para. 5A inserted (24.7.1996 for certain purposes, otherwise 1.10.1996) by 1996 c. 55, ss. 73, 149(1)(a), **Sch. 2 Pt. II para. 9** (with s. 43(1)(6)); S.I. 1996/2120, art. 4, **Sch. 1**
- F51** Words in Sch. 2 para. 5A(1)(a) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 69(9)(a), **Sch. 19(1)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F52** Sch. 2 para. 5A(1)(b) and the word immediately preceding it repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 69(9)(b), **Sch. 19(1)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F53** Words in Sch. 2 para. 5A(2) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 69(9)(c), **Sch. 19(1)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F54** Sch. 2 para. 5A(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)

*General disqualification of advertising agencies*

6 The following persons are disqualified persons in relation to [<sup>F33</sup>a Broadcasting Act licence]—

- (a) an advertising agency;
- (b) an associate of an advertising agency;
- (c) any body which is controlled by a person falling within sub-paragraph (a) or (b) or by two or more such persons taken together;
- (d) any body corporate in which a person falling within any of sub-paragraphs (a) to (c) is a participant with more than a 5 per cent. interest.

**Textual Amendments**

- F33** Words in Sch. 2 Pt. II substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 15 para. 69(4)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

<sup>F55</sup>**PART III.**

**RESTRICTIONS TO PREVENT ACCUMULATIONS OF INTERESTS IN LICENSED SERVICES**

.....

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### Textual Amendments

**F55** Sch. 2 Pts. III-V repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 350(1), 411(2), [Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

## F55 PART IV

### RESTRICTIONS ON CONTROLLING INTERESTS IN BOTH NEWSPAPERS AND LICENSED SERVICES

.....

## F55 PART V

### RESTRICTION ON HOLDING OF LICENCES BY OPERATORS OF PUBLIC TELECOMMUNICATION SYSTEMS

.....

## SCHEDULE 3

Section 23.

### THE CHANNEL FOUR TELEVISION CORPORATION: SUPPLEMENTARY PROVISIONS

### Modifications etc. (not altering text)

**C3** Sch. 3: 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)

### *Status and capacity*

- 1 (1) The Corporation shall be a body corporate.
- (2) The Corporation shall not be treated for the purposes of the enactments and rules of law relating to the privileges of the Crown as a body exercising functions on behalf of the Crown.
- [<sup>F56</sup>(3) The Corporation may do anything which appears to them to be incidental or conducive to the carrying out of their functions.
- (4) The powers of the Corporation under sub-paragraph (3) include power, to the extent that it appears to them incidental or conducive to the carrying out of their functions to do so—
- (a) to borrow money;
  - (b) to carry on activities (other than those comprised in their duty to carry out their primary functions) through Channel 4 companies; and
  - (c) to participate with others in the carrying on of any such activities.]

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#### Textual Amendments

**F56** Sch. 3 para. 1(3)(4) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 199\(4\)](#), [411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), [art. 3\(1\)](#), [Sch. 1](#) (with [art. 11](#))

#### *Appointment of members*

- 2 (1) A person shall be disqualified for being a member of the Corporation so long as he is—
- (a) a governor or employee of the BBC; <sup>F57</sup>or
  - (b) a member or employee of OFCOM.]
- (2) Before appointing a person to be a member of the Corporation, <sup>F58</sup>OFCOM] shall satisfy themselves that that person will have no such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member of the Corporation; and <sup>F58</sup>OFCOM] shall also satisfy themselves from time to time with respect to every member of the Corporation that he has no such interest.
- (3) Any person who is, or whom <sup>F58</sup>OFCOM] propose to appoint to be, a member of the Corporation shall, whenever requested by <sup>F58</sup>OFCOM] to do so, furnish them with such information as they consider necessary for the performance by them of their duties under sub-paragraph (2).

#### Textual Amendments

**F57** Sch. 3 para. 2(1)(b) substituted for Sch. 3 para. 2(1)(b)-(d) (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [s. 411\(2\)](#), [Sch. 15 para. 70\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), [art. 3\(1\)](#), [Sch. 1](#) (with [art. 11](#))

**F58** Words in Sch. 3 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [s. 411\(2\)](#), [Sch. 15 para. 70\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), [art. 3\(1\)](#), [Sch. 1](#) (with [art. 11](#))

#### *Tenure of office*

- 3 (1) Subject to the following provisions of this paragraph, each member of the Corporation shall hold and vacate office in accordance with the terms of his appointment.
- (2) A person shall not be appointed to be a member of the Corporation for more than five years at a time.
- <sup>F59</sup>(2A) OFCOM may at any time, by notice to a member of the Corporation, terminate the appointment of that member.
- (2B) Before terminating a person's appointment under sub-paragraph (2A), OFCOM must consult the Secretary of State.]
- (3) Any member of the Corporation may at any time resign his office by notice to <sup>F58</sup>OFCOM].
- (4) This paragraph does not apply in relation to ex-officio members of the Corporation.

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#### Textual Amendments

- F58** Words in Sch. 3 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 70\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F59** Sch. 3 para. 3(2A)(2B) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 200](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

#### *Remuneration and pensions of members*

- 4 (1) The Corporation may pay —
- (a) to each member other than an ex-officio member such remuneration and allowances, and
  - (b) to each ex-officio member such allowances,
- as [F58OFCOM] may determine.
- (2) The Corporation may pay or make provision for paying to or in respect of any member such sums by way of pensions, allowances or gratuities as [F58OFCOM] may determine.
- (3) Where a person ceases to be a member otherwise than on the expiry of his term of office and it appears to [F58OFCOM] that there are special circumstances which make it right for him to receive compensation, the Corporation may make a payment to him of such amount as [F58OFCOM] may determine.
- (4) Sub-paragraphs (2) and (3) do not apply in relation to ex-officio members of the Corporation.
- (5) The approval of the Treasury shall be required for any determination under this paragraph other than a determination under sub-paragraph (1) having effect in relation to an ex-officio member of the Corporation.

#### Textual Amendments

- F58** Words in Sch. 3 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 70\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

#### *Disqualification of members of Corporation for House of Commons and Northern Ireland Assembly*

- 5 In Part II of Schedule 1 to the <sup>M1</sup>House of Commons Disqualification Act 1975 (bodies of which all members are disqualified) there shall be inserted at the appropriate place—
- “The Channel Four Television Corporation” and a corresponding amendment shall be made in Part II of Schedule 1 to the
- <sup>M2</sup>
- Northern Ireland Assembly Disqualification Act 1975.

#### Marginal Citations

- M1** 1975 c. 24.

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M2 1975 c. 25.

### *Proceedings*

- 6 (1) Subject to paragraph 7, the quorum of the Corporation and the arrangements relating to their meetings shall be such as the Corporation may determine.
- (2) The arrangements may, with the approval of [F58OFCOM], provide for the discharge, under the general direction of the Corporation, of any of the Corporation's functions by a committee or by one or more of the members or employees of the Corporation.

#### **Textual Amendments**

**F58** Words in Sch. 3 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 70\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))

- 7 (1) A member who is in any way directly or indirectly interested in any matter that is brought up for consideration at a meeting of the Corporation shall disclose the nature of his interest to the meeting; and, where such a disclosure is made—
- (a) the disclosure shall be recorded in the minutes of the meeting, and
- (b) (subject to sub-paragraph (2)) the member shall not take any part in any deliberation or decision of the Corporation, or of any of their committees, with respect to that matter.
- (2) Sub-paragraph (1)(b) shall not apply in relation to any meeting of the Corporation at which all of the other members present resolve that the member's interest should be disregarded for the purposes of that provision.
- (3) For the purposes of sub-paragraph (1), a general notification given at a meeting of the Corporation by a member to the effect that he is a member of a specified company or firm and is to be regarded as interested in any matter involving that company or firm shall be regarded as a sufficient disclosure of his interest in relation to any such matter.
- (4) A member need not attend in person at a meeting of the Corporation in order to make a disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is taken into consideration and read at the meeting.
- (5) In this paragraph references to a meeting of the Corporation include references to a meeting of any of their committees.
- 8 The validity of any proceedings of the Corporation shall not be affected by any vacancy among the members or by any defect in the appointment of a member or by any failure to comply with the requirements of paragraph 7.

### *Employees of the Corporation*

- 9 (1) The Corporation shall appoint a chief executive of the Corporation, and may appoint such other employees as they may determine.
- (2) If the Corporation determine to do so in the case of any of their employees, the Corporation shall pay to or in respect of those employees such pensions, allowances



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or gratuities, or provide and maintain for them such pension schemes (whether contributory or not), as the Corporation may determine.

- (3) If any employee of the Corporation—
- (a) is a participant in any pension scheme applicable to his employment, and
  - (b) becomes a member of the Corporation other than an ex-officio member,
- he may, if [<sup>F58</sup>OFCOM] so determine, be treated for the purposes of the pension scheme as if his service as a member of the Corporation were service as an employee of the Corporation.

#### Textual Amendments

**F58** Words in Sch. 3 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 70\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))

#### *Authentication of Corporation's seal*

- 10 The application of the seal of the Corporation shall be authenticated by the signature of the chairman or of some other person authorised for the purpose.

#### *Presumption of authenticity of documents issued by Corporation*

- 11 Any document purporting to be an instrument issued by the Corporation and to be duly executed under the seal of the Corporation or to be signed on behalf of the Corporation shall be received in evidence and shall be deemed to be such an instrument unless the contrary is shown.

#### *Accounts and audit*

- 12 (1) The Corporation shall keep proper accounts and proper records in relation to the accounts, and shall prepare in respect of each financial year a statement of accounts in such form as the Secretary of State may direct with the approval of the Treasury.
- (2) The accounts of the Corporation shall be audited by auditors to be appointed by the Corporation with the approval of the Secretary of State.
- <sup>F60</sup>(3) A person shall not be qualified to be appointed as a auditor in pursuance of subparagraph (2) unless he is eligible for appointment as a [<sup>F61</sup>statutory auditor under Part 42 of the Companies Act 2006].
- (4) The Corporation shall at all reasonable times upon demand made by the Secretary of State or by any persons authorised by him in that behalf—
- (a) afford to him or them full liberty to examine the accounts of the Corporation; and
  - (b) furnish him or them with all forecasts, estimates, information and documents which he or they may require with respect to the financial transactions and commitments of the Corporation.

#### Textual Amendments

**F60** Sch. 3 para. 12(3) substituted (1.10.1991) by [S.I. 1991/1997, reg. 2, Sch. para.77\(3\)](#).



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**F61** Words in Sch. 3 para. 12(3) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), Sch. 1 para. 1(pp)(i) (with arts. 6, 11, 12)

#### *Annual reports*

- 13 (1) As soon as possible after the end of every financial year, the Corporation shall prepare a general report of their proceedings during that year, and transmit it to the Secretary of State who shall lay copies of it before each House of Parliament.
- (2) The report shall have attached to it the statement of accounts for the year and a copy of any report made by the auditors on that statement, and shall include such information (including information relating to the financial position of the Corporation) as the Secretary of State may from time to time direct.

### <sup>F62</sup>SCHEDULE 4

Section 39.

#### **Textual Amendments**

**F62** Sch. 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)

### <sup>F63</sup>SCHEDULE 5

Section 50.

#### **Textual Amendments**

**F63** Sch. 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)

### SCHEDULE 6

Section 56.

#### THE WELSH AUTHORITY: SUPPLEMENTARY PROVISIONS

#### *Status and capacity*

- 1 (1) The Welsh Authority (in this Schedule referred to as “the Authority”) shall not be treated for the purposes of the enactments and rules of law relating to the privileges of the Crown as a body exercising functions on behalf of the Crown.
- <sup>F64</sup>(2) The Authority may do anything which appears to them to be incidental or conducive to the carrying out of their functions.

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- (3) The powers of the Authority under sub-paragraph (2) include power, to the extent that it appears to them incidental or conducive to the carrying out of their functions to do so—
- (a) to carry on activities (other than those comprised in their duty to carry out their functions under section 204 of the Communications Act 2003) through S4C companies; and
  - (b) to participate with others in the carrying on of any such activities.]

#### Textual Amendments

**F64** Sch. 6 para. 1(2)(3) substituted (29.12.2003) by Communications Act 2003 (c. 21), ss. 206(6), 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

#### *Appointment of members*

- 2 <sup>F65</sup>(1) .....
- (2) The members of the Authority shall not at any time include—
- (a) more than one person who is either a governor or an employee of the BBC; or
  - (b) more than one person who is either a member or an employee of [<sup>F66</sup>OFCOM].
- (3) Before appointing a person to be a member of the Authority, the Secretary of State shall satisfy himself that that person will have no such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member of the Authority; and the Secretary of State shall also satisfy himself from time to time with respect to every member of the Authority that he has no such interest.
- (4) Any person who is, or whom the Secretary of State proposes to appoint to be, a member of the Authority shall, whenever requested by the Secretary of State to do so, furnish him with such information as the Secretary of State considers necessary for the performance by him of his duties under sub-paragraph (3).

#### Textual Amendments

**F65** Sch. 6 para. 2(1) repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 71(2)(a), Sch. 19(1) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

**F66** Words in Sch. 6 para. 2(2)(b) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 71(2)(b) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

#### *Tenure of office*

- 3 (1) Subject to the following provisions of this paragraph, each member of the Authority shall hold and vacate office in accordance with the terms of his appointment.
- (2) A person shall not be appointed to be a member of the Authority for more than five years at a time.
- (3) Any member of the Authority may at any time resign his office by notice in writing to the Secretary of State.

*Status: Point in time view as at 01/10/2009.*

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#### *Remuneration and pensions of members*

- 4 (1) The Authority may pay to each member such remuneration and allowances as the Secretary of State may determine.
- (2) The Authority may pay or make provision for paying to or in respect of any member such sums by way of pensions, allowances or gratuities as the Secretary of State may determine.
- (3) Where a person ceases to be a member otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, the Authority may make a payment to him of such amount as the Secretary of State may determine.
- (4) The approval of the Treasury shall be required for any determination under this paragraph.

#### *Disqualification of members of Authority for House of Commons*

- 5 In Part II of Schedule 1 to the <sup>M3</sup>House of Commons Disqualification Act 1975 (bodies of which all members are disqualified) there shall be inserted at the appropriate place—

“Sianel Pedwar Cymru”.

#### **Marginal Citations**

**M3** 1975 c. 24.

#### *Proceedings*

- 6 (1) Subject to paragraph 7, the quorum of the Authority and the arrangements relating to their meetings shall be such as the Authority may determine.
- (2) The arrangements may provide for the discharge, under the general direction of the Authority, of any of the Authority’s functions by a committee or by one or more of the members or employees of the Authority.
- 7 (1) A member who is in any way directly or indirectly interested in any matter that is brought up for consideration at a meeting of the Authority shall disclose the nature of his interest to the meeting; and, where such a disclosure is made—
- (a) the disclosure shall be recorded in the minutes of the meeting, and
- (b) (subject to sub-paragraph (2)) the member shall not take any part in any deliberation or decision of the Authority, or of any of their committees, with respect to that matter.
- (2) Sub-paragraph (1)(b) shall not apply in relation to any meeting of the Authority at which all of the other members present resolve that the member’s interest should be disregarded for the purposes of that provision.
- (3) For the purposes of sub-paragraph (1), a general notification given at a meeting of the Authority by a member to the effect that he is a member of a specified company or firm and is to be regarded as interested in any matter involving that company or firm shall be regarded as a sufficient disclosure of his interest in relation to any such matter.

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- (4) A member need not attend in person at a meeting of the Authority in order to make a disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is taken into consideration and read at the meeting.
- (5) In this paragraph references to a meeting of the Authority include references to a meeting of any of their committees.

8 The validity of any proceedings of the Authority shall not be affected by any vacancy among the members or by any defect in the appointment of a member or by any failure to comply with the requirements of paragraph 7.

#### *Employees of the Authority*

- 9 (1) The Authority shall appoint a secretary and may appoint such other employees as they may determine.
- (2) If the Authority determine to do so in the case of any of their employees, the Authority shall pay to or in respect of those employees such pensions, allowances or gratuities, or provide and maintain for them such pension schemes (whether contributory or not), as the Authority may determine.
- (3) If any employee of the Authority—
- (a) is a participant in any pension scheme applicable to his employment, and
  - (b) becomes a member of the Authority,
- he may, if the Secretary of State so determines, be treated for the purposes of the pension scheme as if his service as a member of the Authority were service as an employee of the Authority.

#### *Authentication of Authority's seal*

10 The application of the seal of the Authority shall be authenticated by the signature of the chairman or of some other person authorised for the purpose.

#### *Presumption of authenticity of documents issued by Authority*

11 Any document purporting to be an instrument issued by the Authority and to be duly executed under the seal of the Authority or to be signed on behalf of the Authority shall be received in evidence and shall be deemed to be such an instrument unless the contrary is shown.

#### *Accounts and audit*

- 12 (1) The Authority shall keep proper accounts and proper records in relation to the accounts, and shall prepare in respect of each financial year a statement of accounts in such form as the Secretary of State may direct with the approval of the Treasury.
- [<sup>F67</sup>(1A) The statement of accounts must deal separately with the public service fund referred to in section 61A of this Act and with [<sup>F68</sup>the assets of the Authority that are not comprised in that fund; and accordingly, the statement must deal with liabilities separately according to whether they fall to be met from that fund or from those assets. ]]

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- (2) The accounts of the Authority shall be audited by auditors to be appointed by the Authority with the approval of the Secretary of State.
- <sup>F69</sup>(3) A person shall not be qualified to be appointed as a auditor in pursuance of sub-paragraph (2) unless he is eligible for appointment as a [<sup>F70</sup>statutory auditor under Part 42 of the Companies Act 2006].
- (4) The Authority shall at all reasonable times upon demand made by the Secretary of State or by any persons authorised by him in that behalf—
- (a) afford to him or them full liberty to examine the accounts of the Authority; and
  - (b) furnish him or them with all forecasts, estimates, information and documents which he or they may require with respect to the financial transactions and commitments of the Authority.

#### Textual Amendments

- F67** Sch. 6 para. 12(1A) inserted (1.10.1996) by 1996 c. 55, s. 81(2); S.I. 1996/2120, art. 4, Sch. 1
- F68** Words in Sch. 6 para. 12(1A) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 71(3) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F69** Sch. 6 para. 12(3) substituted (1.10.1991) by S.I. 1991/1997, reg. 2, Sch. para. 77(4)
- F70** Words in Sch. 6 para. 12(3) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), Sch. 1 para. 1(pp)(ii) (with arts. 6, 11, 12)

#### Annual reports

- 13 (1) As soon as possible after the end of every financial year, the Authority shall prepare a general report of their proceedings during that year, and transmit it to the Secretary of State who shall lay copies of it before each House of Parliament.
- (2) The report shall have attached to it the statement of accounts for the year and a copy of any report made by the auditors on that statement, <sup>F71</sup>....
- <sup>F72</sup>(3) The report shall also—
- (a) set out every contravention notification given by OFCOM to the Authority during the year; and
  - (b) include such other information (including information relating to the Authority's financial position) as the Secretary of State may from time to time direct.
- (4) In sub-paragraph (3), “contravention notification” means a notification of a determination by OFCOM of a contravention by the Authority of any obligation imposed by or under this Act, the 1996 Act or Part 3 of the Communications Act 2003.]

#### Textual Amendments

- F71** Words in Sch. 6 para. 13(2) repealed (29.12.2003) by Communications Act 2003 (c. 21), ss. 342(a), 411(2), Sch. 19(1) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F72** Sch. 6 para. 13(3)(4) inserted (29.12.2003) by Communications Act 2003 (c. 21), ss. 342(b), 411(2) (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

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### *Advisory committees*

- 14 The Authority may appoint, or arrange for the assistance of, advisory committees to give advice to them on such matters relating to the Authority's functions as the Authority may determine.

## SCHEDULE 7

Sections 67, 77 and 121.

### QUALIFYING REVENUE: SUPPLEMENTARY PROVISIONS

#### PART I

#### QUALIFYING REVENUE FOR PURPOSES OF PART I OR II OF THIS ACT

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

- C4 Sch. 7 Pt. I 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)
- C5 Sch. 7 Pt. I applied (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 10 para. 15\(3\)](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)
- C6 Sch. 7 Pt. I 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)

### *Computation of qualifying revenue*

- 1 (1) It shall be the duty of [<sup>F73</sup>OFCOM] to draw up, and from time to time review, a statement setting out the principles to be followed in ascertaining the qualifying revenue in relation to a person—
- (a) for any accounting period of his, or
  - (b) for any year,
- for the purposes of any provision of Part I or Part II of this Act.
- (2) A statement under this paragraph may set out different principles for persons holding different kinds of licences.
- (3) Before drawing up or revising a statement under this paragraph [<sup>F73</sup>OFCOM] shall consult the Secretary of State and the Treasury.
- (4) [<sup>F73</sup>OFCOM] shall—
- (a) publish the statement drawn up under this paragraph and every revision of that statement; and
  - (b) transmit a copy of that statement, and every revision of it, to the Secretary of State;
- and the Secretary of State shall lay copies of the statement and of every such revision before each House of Parliament.

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#### Textual Amendments

**F73** Words in *Sch. 7 Pt. I* substituted (29.12.2003) by *Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 72(2)* (with *Sch. 18*); *S.I. 2003/3142, art. 3(1), Sch. 1* (with *art. 11*)

#### *Disputes*

- 2 (1) For the purposes of any provision of Part I or Part II of this Act—
- (a) the amount of the qualifying revenue in relation to any person for any accounting period of his, or (as the case may be) for any year, or
  - (b) the amount of any payment to be made to [F73OFCOM] by any person in respect of any such revenue, or of an instalment of any such payment,
- shall, in the event of a disagreement between [F73OFCOM] and that person, be the amount determined by [F73OFCOM].
- (2) No determination of [F73OFCOM] under this paragraph shall be called in question in any court of law, or be the subject of any arbitration; but nothing in this sub-paragraph shall prevent the bringing of proceedings for judicial review.

#### Textual Amendments

**F73** Words in *Sch. 7 Pt. I* substituted (29.12.2003) by *Communications Act 2003 (c. 21), s. 411(2), Sch. 15 para. 72(2)* (with *Sch. 18*); *S.I. 2003/3142, art. 3(1), Sch. 1* (with *art. 11*)

## PART II

### QUALIFYING REVENUE FOR PURPOSES OF PART III OF THIS ACT

#### *Computation of qualifying revenue*

- 1 (1) It shall be the duty of [F74OFCOM] to draw up, and from time to time review, a statement setting out the principles to be followed in ascertaining the qualifying revenue for any accounting period of a licence holder for the purposes of any provision of Part III of this Act.
- (2) A statement under this paragraph may set out different principles for persons holding different kinds of licences.
- (3) Before drawing up or revising a statement under this paragraph [F74OFCOM] shall consult the Secretary of State and the Treasury.
- (4) [F74OFCOM] shall—
- (a) publish the statement drawn up under this paragraph and every revision of that statement; and
  - (b) transmit a copy of that statement, and every revision of it, to the Secretary of State;
- and the Secretary of State shall lay copies of the statement and of every such revision before each House of Parliament.

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#### Textual Amendments

**F74** Words in [Sch. 7 Pt. II](#) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 72\(3\)](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

#### Disputes

- 2 (1) For the purposes of any provision of Part III of this Act—
- (a) the amount of the qualifying revenue for any accounting period of a person, or
  - (b) the amount of any payment to be made to [<sup>F74</sup>OFCOM] by any person in respect of any such revenue, or of an instalment of any such payment,
- shall, in the event of a disagreement between [<sup>F74</sup>OFCOM] and that person, be the amount determined by [<sup>F74</sup>OFCOM] .
- (2) No determination of [<sup>F74</sup>OFCOM] under this paragraph shall be called in question in any court of law, or be the subject of any arbitration; but nothing in this sub-paragraph shall prevent the bringing of proceedings for judicial review.

#### Textual Amendments

**F74** Words in [Sch. 7 Pt. II](#) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 72\(3\)](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), [Sch. 1](#) (with art. 11)

<sup>F75</sup>SCHEDULE 8

Section 83.

#### Textual Amendments

**F75** [Sch. 8](#) 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)

SCHEDULE 9

Section 127.

### SCHEME PROVIDING FOR DIVISION OF ASSETS OF IBA

#### Preliminary

- 1 In this Schedule—
- “relevant transferee” shall be construed in accordance with paragraph 2(1) below; and
  - “transfer scheme” means a scheme under this Schedule made either by the IBA under paragraph 2(1) below or by the Secretary of State under paragraph 2(4) below.



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*Making and modification of transfer scheme*

- 2 (1) The IBA shall make a scheme under this Schedule for the division of all their property, rights and liabilities between—
- (a) the Commission,
  - (b) the Radio Authority, and
  - (c) the nominated company;
- and references in this Schedule to the relevant transferees are references to the bodies specified in paragraphs (a) to (c) above.
- (2) Where such a scheme is made by the IBA, it shall not be capable of coming into force in accordance with section 127(1) of this Act unless it is approved by the Secretary of State.
- (3) Where such a scheme is submitted to the Secretary of State for his approval, he may modify the scheme before approving it.
- (4) If—
- (a) the IBA have not, before such time as the Secretary of State may notify to them as the latest time for the submission of such a scheme, submitted such a scheme for his approval, or
  - (b) the Secretary of State decides not to approve (either with or without modifications) a scheme that has been submitted to him by the IBA,
- the Secretary of State may himself make a scheme for the division of the IBA's property, rights and liabilities between the relevant transferees.
- (5) If, at any time after the Secretary of State has either—
- (a) approved (either with or without modifications) a scheme under this Schedule made by the IBA, or
  - (b) himself made such a scheme,
- but before the scheme has come into force in accordance with section 127(1) of this Act, the Secretary of State considers it appropriate to do so, he may determine that the scheme shall, on its so coming into force, come into force with such modifications as may be specified in his determination; and, in any such case, the scheme shall accordingly, on its coming into force, come into force with those modifications.
- (6) If at any time after a transfer scheme has come into force—
- (a) the Secretary of State considers it appropriate to make an order under this sub-paragraph, and
  - (b) every relevant transferee who would be affected by the order either—
    - (i) (in a case where any such transferee is the nominated company and that company has ceased to be wholly owned by the Crown) has consented to the making of the order, or
    - (ii) (in any other case) has been consulted by the Secretary of State,the Secretary of State may by order provide that the scheme shall for all purposes be deemed to have come into force with such modifications as may be specified in the order.
- (7) Any power to modify a transfer scheme which is conferred on the Secretary of State by this paragraph may be so exercised as to make any such provision as could have been made by the scheme, and an order under sub-paragraph (6) above may provide

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for any of its provisions to have effect as from the coming into force of the scheme to which it relates.

- (8) In determining whether and in what manner to exercise any power conferred on him by this paragraph the Secretary of State shall have regard to the need to ensure that the division of property, rights and liabilities between the relevant transferees which is effected under this Schedule allocates property, rights and liabilities to those transferees in such a manner as appears to him to be appropriate—
- (a) in the case of the Commission and the Radio Authority, in the light of the functions conferred on those bodies by this Act; and
  - (b) in the case of the nominated company, with a view to the carrying on by that company of a business consisting of—
    - (i) the provision of broadcasting transmission services and services related to such services, and
    - (ii) the carrying out of research and development work relating to broadcasting.
- (9) It shall be the duty of the IBA and each of the relevant transferees to provide the Secretary of State with all such information and other assistance as he may reasonably require for the purposes of, or in connection with, the exercise of any power conferred on him by this paragraph.
- (10) Nothing in this paragraph shall require a scheme under this Schedule to make provision—
- (a) with respect to any equipment or other asset which the IBA have agreed to dispose of in pursuance of section 132(1) or 133(6) of this Act, or
  - (b) with respect to any liabilities of the IBA which—
    - (i) have not yet become enforceable against the IBA, and
    - (ii) are not specifically and exclusively referable to any particular part or parts of the undertaking of the IBA which is or are transferred in accordance with any such scheme to one or more of the relevant transferees, or
  - (c) with respect to any such rights or liabilities as are mentioned in subparagraph (11).
- (11) Those rights and liabilities are rights and liabilities acquired by the IBA in connection with the sharing by the IBA and the BBC of the use of facilities (of whatever description) in connection with the transmission of television programmes or local sound broadcasts.

#### *Content of transfer scheme*

- 3 (1) A transfer scheme may—
- (a) define the property, rights and liabilities to be allocated to a particular relevant transferee—
    - (i) by specifying or describing the property, rights and liabilities in question,
    - (ii) by referring to all the property, rights and liabilities comprised in a specified part of the IBA's undertaking, or
    - (iii) partly in the one way and partly in the other;

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- (b) provide that any rights or liabilities specified or described in the scheme shall be enforceable either by or against either or any, or by or against both or all, of two or more relevant transferees;
  - (c) impose on any relevant transferee an obligation to enter into such written agreements with, or execute such instruments in favour of, such other relevant transferee as may be specified in the scheme;
  - (d) create for any of the relevant transferees an interest in or right over property transferred in accordance with the scheme to any other of those transferees;
  - (e) in connection with any provision made by virtue of paragraph (d), make incidental provision as to the interests, rights and liabilities of other persons with respect to the property in question.
- (2) Without prejudice to the generality of sub-paragraph (1)(a), a transfer scheme may, in connection with any transfer to be made in accordance with the scheme, exclude from the transfer any rights and liabilities falling within paragraph 2(11) above and described in the scheme.
- (3) A transfer scheme may also allocate to any of the relevant transferees such property, rights and liabilities to which the IBA may become entitled or subject after the making of the scheme and before the transfer date as may be described in the scheme.
- (4) The property, rights and liabilities of the IBA that are capable of being transferred in accordance with a transfer scheme include—
- (a) property, rights and liabilities that would not otherwise be capable of being transferred or assigned by the IBA;
  - (b) property situated anywhere in the United Kingdom or elsewhere; and
  - (c) rights and liabilities under the law of any part of the United Kingdom or of any country or territory outside the United Kingdom.
- (5) It is hereby declared for the avoidance of doubt that the rights and liabilities capable of being so transferred include rights and liabilities of the IBA under any agreement or arrangement for the payment of pensions, allowances or gratuities.
- (6) An obligation imposed by a provision included in a transfer scheme by virtue of sub-paragraph (1)(c) shall be enforceable by civil proceedings brought by the other relevant transferee in question for an injunction or interdict or for any other appropriate relief.

#### *Effect of transfer scheme*

- 4 (1) Where a transfer scheme comes into force on the transfer date, this sub-paragraph shall have effect on that date so as to transfer to each of the relevant transferees, in accordance with the scheme's provisions and without further assurance, such of the property, rights and liabilities of the IBA as are allocated to that transferee by the scheme.
- (2) A transaction of any description which is effected in pursuance of any provision included in a transfer scheme in accordance with this Schedule shall be binding on all persons, notwithstanding that it would, apart from this sub-paragraph, have required the consent or concurrence of any person other than the IBA or any relevant transferee.

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- (3) Where apart from this sub-paragraph any person would have power, in consequence of anything done or likely to be done by or under this Act, to terminate or modify an interest or right which is vested in the IBA at the passing of this Act, then—
- (a) for the purposes of the transfer of the interest or right in accordance with a transfer scheme, that power shall not be exercisable in relation to the interest or right at any time before its transfer in accordance with the scheme; and
  - (b) without prejudice to any other provision of this Schedule, that power shall be exercisable in relation to the interest or right after its transfer only in so far as the scheme provides for it to be transferred subject to the power.
- (4) Where, in consequence of any transfer made in accordance with a transfer scheme, all the property, rights and liabilities comprised in a particular part of the IBA's undertaking are transferred to a relevant transferee—
- (a) the <sup>M4</sup>Transfer of Undertakings (Protection of Employment) Regulations 1981 shall apply to the transfer, whether or not they would otherwise so apply, and
  - (b) that undertaking shall accordingly (whether or not it would otherwise be so regarded) be regarded for the purposes of those Regulations as an undertaking in the nature of a commercial venture.

#### Marginal Citations

M4 [S.I. 1981/1794](#).

#### *Third parties affected by transfer scheme*

- 5 (1) This paragraph applies where—
- (a) in consequence of any transfer made in accordance with a transfer scheme, any right or liability of a person (other than the IBA or any relevant transferee) which was enforceable against or by the IBA becomes enforceable against or by one or more relevant transferees; and
  - (b) apart from this Schedule that person's consent or concurrence would have been required for that right or liability to become so enforceable;
- and in this paragraph references to a third party are references to any such person.
- (2) Subject to sub-paragraph (3), the IBA shall take reasonable steps to identify any third party and to notify him of the effect of the transfer in question on any right or liability of his falling within sub-paragraph (1), and of the effect of sub-paragraph (4).
- (3) A transfer scheme may provide that the duties imposed on the IBA by sub-paragraph (2) in relation to a transfer shall be imposed instead on such one of the relevant transferees as may be specified in the scheme.
- (4) Where—
- (a) any right or liability of a third party has become enforceable against or by more than one relevant transferee, and
  - (b) the value of any property or interest of the third party is diminished thereby,
- such compensation as is just shall be paid to the third party by one or more of the relevant transferees.

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- (5) Any dispute as to whether, and if so how much, compensation is payable under sub-paragraph (4), or as to the person to or by whom it shall be paid, shall be referred to and determined by—
- (a) an arbitrator appointed by the Lord Chancellor; or
  - (b) where the proceedings are to be held in Scotland, an arbiter appointed by the Lord President of the Court of Session.

*Supplemental provisions of scheme*

- 6 (1) A transfer scheme may contain supplemental, consequential and transitional provisions for the purposes of, or in connection with, the division effected or any other provision made by the scheme.
- (2) Without prejudice to the generality of sub-paragraph (1) above, a transfer scheme may provide—
- (a) that for purposes connected with any transfer made in accordance with the scheme a relevant transferee to whom anything is transferred in accordance with the scheme is to be treated as the same person in law as the IBA;
  - (b) that, so far as may be necessary for the purposes of or in connection with any such transfer, agreements made, transactions effected and other things done by or in relation to the IBA are to be treated as made, effected or done by or in relation to the relevant transferee to whom the transfer is made;
  - (c) that, so far as may be necessary for the purposes of or in connection with any such transfer, references in any agreement (whether or not in writing) or in any deed, bond, instrument or other document to, or to any member or officer of, the IBA are to have effect with such modifications as are specified in the scheme;
  - (d) that proceedings commenced by or against the IBA are to be continued by or against such one of the relevant transferees as the scheme may provide in relation to any circumstances specified or described in it;
  - (e) that the effect of any transfer made in accordance with the scheme in relation to contracts of employment with the IBA is not to be to terminate any such contracts but is to be that periods of employment with the IBA are to count for all purposes as periods of employment with the relevant transferee to whom the transfer is made;
  - (f) that disputes as to the effect of the scheme between any of the relevant transferees are to be referred to such arbitration as may be specified in or determined under the scheme;
  - (g) that determinations on such arbitrations, and certificates given jointly by all or any two of the relevant transferees as to the effect of the scheme as between the transferees concerned, are to be conclusive for all purposes.

*Vesting of IBA's property after coming into force of scheme*

- 7 (1) A transfer scheme may provide for the imposition of duties—
- (a) on the IBA, and
  - (b) on all or any of the relevant transferees,
- to take all such steps as may be requisite to secure that the vesting in any of those transferees, by virtue of the scheme, of any foreign property, right or liability is effective under the relevant foreign law.

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- (2) The provisions of a transfer scheme may require the IBA to comply with any directions of any of the relevant transferees in performing any duty imposed on the IBA by virtue of a provision included in the scheme by virtue of sub-paragraph (1).
- (3) A transfer scheme may provide that, until the vesting of any foreign property, right or liability of the IBA in a relevant transferee is effective under the relevant foreign law, it shall be the duty of the IBA to hold that property or right for the benefit of, or to discharge that liability on behalf of, that transferee.
- (4) Nothing in any provision included in a transfer scheme by virtue of this paragraph shall be taken as prejudicing the effect under the law of any part of the United Kingdom of the vesting in a relevant transferee, by virtue of the scheme, of any foreign property, right or liability.
- (5) The IBA shall have all such powers as may be requisite for the performance of any duty imposed on them by any provision included in a transfer scheme by virtue of this paragraph; but such a scheme may require a relevant transferee to act on behalf of the IBA (so far as possible) for the purposes of, or in connection with, the performance of any such duty in relation to any property, right or liability vested in the transferee by virtue of the scheme.
- (6) A transfer scheme may provide that any foreign property, rights or liabilities that are acquired or incurred by the IBA after the scheme comes into force are immediately to become property, rights or liabilities of such one of the relevant transferees as is specified in the scheme; and such a scheme may make the same provision in relation to any such property, rights or liabilities as can be made, by virtue of the preceding provisions of this paragraph, in relation to foreign property, rights and liabilities vested in the IBA when the scheme comes into force.
- (7) References in this paragraph to any foreign property, right or liability are references to any property, right or liability as respects which any issue arising in any proceedings would have to be determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom.
- (8) Any expenses incurred by the IBA in consequence of any provision included in a transfer scheme by virtue of this paragraph shall be met by the relevant transferees in such proportions as may be determined by or under the scheme.

*Certificate of Secretary of State as to vesting of property etc.*

- 8 (1) Subject to sub-paragraph (2), a certificate issued by the Secretary of State to the effect that any property, right or liability of the IBA vested at a particular time by virtue of this Schedule in one or more of the relevant transferees shall be conclusive evidence of the matters stated in the certificate.
- (2) Nothing in any such certificate shall prejudice the operation of a certificate issued by virtue of a provision included in a transfer scheme by virtue of paragraph 6(2)(g) above.

*Power of Secretary of State to control division of IBA's pension fund*

- 9 (1) If the Secretary of State so determines, the trustees of the Independent Broadcasting Authority Staff Pensions Plan shall refer to him, before such date as he may specify,

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the division and distribution of the relevant assets which is to be made by them for the purpose of making a transfer payment to a pension scheme established by the nominated company for its employees; and, if he does so, any such division and distribution of those assets and liabilities shall not be made by the trustees except—

- (a) with his consent, or
- (b) in accordance with an order made by him under sub-paragraph (2).

(2) Where any such division and distribution is referred to the Secretary of State under sub-paragraph (1), he may by order direct that the relevant assets shall be divided and distributed by the trustees in such manner, and at such time, as is specified in the order; and any provision of—

- (a) the Plan referred to in sub-paragraph (1), or
- (b) any enactment relating to occupational pension schemes, including any enactment relating to transfer values,

shall not have effect to the extent that it is inconsistent with the division and distribution of those assets in accordance with any such order.

(3) When making an order under sub-paragraph (2) the Secretary of State shall have regard to the interests of all classes of persons who are for the time being beneficiaries or potential beneficiaries under the Plan referred to in sub-paragraph (1).

(4) In this paragraph—

“the relevant assets” means the assets held by or on behalf of the trustees; and

“the trustees” means the trustees of the Plan referred to in sub-paragraph (1).

(5) An order under sub-paragraph (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### *Discharge by IBA of contingent etc. liabilities*

10 (1) This paragraph applies to any liabilities to which the IBA are subject on or after the transfer date, being liabilities which—

- (a) had not become enforceable against the IBA before that date, and
- (b) are not specifically and exclusively referable to any particular part or parts of the undertaking of the IBA which has or have been transferred in accordance with a transfer scheme to one or more of the relevant transferees.

(2) Any sums required by the IBA for the purpose of discharging any liabilities to which this paragraph applies shall be paid to them by the Secretary of State out of money provided by Parliament.

(3) Any payments made to the IBA under sub-paragraph (2) may be so made subject to such conditions as the Secretary of State may determine with the approval of the Treasury.

#### *Final accounts and annual report of IBA*

11 (1) The IBA shall, as soon as possible after the transfer date, prepare such a statement of accounts as is mentioned in subsection (1) of section 42 of the Act 1981 (accounts and audit) in respect of the period between—

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- (a) the end of the financial year for which the last statement of accounts was prepared by them under that section, and
  - (b) the transfer date,
- whether that period is a financial year or not; and that section shall continue to apply on and after that date in relation to the auditing of accounts kept in accordance with that subsection in respect of that period.
- (2) The IBA shall, as soon as possible after the transfer date, prepare and transmit to the Secretary of State, in accordance with section 43 of that Act (annual reports), such a report as is mentioned in subsection (1) of that section in respect of the period between—
- (a) the end of the financial year for which the last such report was prepared by them under that section, and
  - (b) the transfer date,
- whether that period is a financial year or not.
- (3) Subsection (2) of that section shall apply to any such report as if the references to the statement of accounts for the year in question included references to the statement of accounts prepared in accordance with sub-paragraph (1) above.
- (4) The Secretary of State shall lay copies of any such report before each House of Parliament.
- (5) Any expenses incurred by the IBA under this paragraph shall be met by such one or more of the relevant transferees, and (if more than one) in such proportions, as may be determined by or under a transfer scheme.

## SCHEDULE 10

Section 128.

### SUPPLEMENTARY PROVISIONS RELATING TO DISSOLUTION OF CABLE AUTHORITY

#### *Provisions as to vesting of property etc. of Cable Authority*

- 1 (1) Sub-paragraph (2) below shall have effect for the purposes of, or in connection with, the vesting in the Commission by virtue of section 128(1) of this Act of property, rights or liabilities of the Cable Authority.
- (2) Any agreement made, transaction effected or other thing done by or in relation to the Cable Authority which is in force or effective immediately before the transfer date shall have effect as from that date as if made, effected or done by or in relation to the Commission, in all respects as if the Commission were the same person, in law, as the Cable Authority; and accordingly references to the Cable Authority—
- (a) in any agreement (whether or not in writing) and in any deed, bond or instrument,
  - (b) in any process or other document issued, prepared or employed for the purpose of any proceeding before any court or other tribunal or authority, and
  - (c) in any other document whatever (other than an enactment),
- shall be taken as from the transfer date as referring to the Commission.
- 2 (1) Where immediately before the transfer date there is in force an agreement which—



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- (a) confers or imposes on the Cable Authority any rights or liabilities which vest in the Commission by virtue of section 128(1), and
- (b) refers (in whatever terms and whether expressly or by implication) to a member or officer of the Cable Authority,

the agreement shall have effect, in relation to anything falling to be done on or after the transfer date, as if for that reference there were substituted a reference to such person as the Commission may appoint or, in default of appointment, to the member or employee of the Commission who corresponds as nearly as possible to the member or officer of the Authority in question.

- (2) References in this paragraph to an agreement include references to a deed, bond or other instrument.

*Transfer of employees*

- 3 (1) It is hereby declared for the avoidance of doubt that—
  - (a) the effect of section 128(1) in relation to any contract of employment with the Cable Authority in force immediately before the transfer date is merely to modify that contract (as from that date) by substituting the Commission as the employer (and not to terminate the contract or vary it in any other way); and
  - (b) that provision is effective to vest the rights and liabilities of the Cable Authority under any agreement or arrangement for the payment of pensions, allowances or gratuities in the Commission along with all the other rights and liabilities of the Authority.
- (2) Accordingly, for the purposes of any such agreement or arrangement as it has effect as from the transfer date, any period of employment with the Cable Authority shall count as employment with the Commission.
- (3) The Transfer of Undertakings <sup>M5</sup>(Protection of Employment) Regulations 1981 shall apply to the transfer to the Commission, by virtue of section 128(1), of the undertaking of the Cable Authority, whether or not they would otherwise so apply; and that undertaking shall accordingly (whether or not it would otherwise be so regarded) be regarded for the purposes of those Regulations as an undertaking in the nature of a commercial venture.

**Marginal Citations**  
 M5 S.I. 1981/1794.

*Final accounts and annual report of Cable Authority*

F76 4 . . . . .

**Textual Amendments**  
 F76 Sch. 10 para. 4 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 5 Group 19

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## SCHEDULE 11

Section 129.

### TRANSITIONAL PROVISIONS RELATING TO IBA’S BROADCASTING SERVICES

#### PART I

##### GENERAL

In this Schedule—

“the <sup>M6</sup>1981 Act” means the Broadcasting Act 1981;

“the Authority” means the Radio Authority;

“Channel 4” means the additional broadcasting service referred to in section 10(1) of the 1981 Act, but excluding so much of that service as consisted, immediately before the transfer date, in the broadcasting of programmes for reception wholly or mainly in Wales, and “on Channel 4” means in the said service;

“the interim period” means the period referred to in paragraph 1(1) in Part II of this Schedule;

“local licence” and “local service” have the same meaning as in Part III of this Act;

“S4C” means the television broadcasting service referred to in section 57(1) of this Act, and “on S4C” means in that service.

#### Marginal Citations

**M6** 1981 c. 68.

#### Marginal Citations

**M6** 1981 c. 68.

#### PART II

##### TELEVISION BROADCASTING SERVICES TO BE PROVIDED BY COMMISSION

*IBA’s television broadcasting services to be provided by Commission during interim period*

- 1 (1) During the period beginning with the transfer date and ending with 31st December 1992 (referred to in this Schedule as “the interim period”) the following television broadcasting services, namely—
- (a) ITV,
  - (b) Channel 4,
  - (c) any teletext service provided by the IBA down to the transfer date, and
  - (d) any DBS services so provided,
- shall be provided by the Commission in accordance with this Part of this Schedule.
- (2) The services provided by the Commission as mentioned in sub-paragraph (1) shall be of high quality both as to the transmission and as to the matter transmitted and (subject to paragraph 3(1) below) shall be provided by the Commission for so much of the United Kingdom as may from time to time be reasonably practicable.

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- (3) During the interim period the following provisions of the 1981 Act, namely—
- (a) section 2(2),
  - (b) sections 3 to 9,
  - (c) sections 14(3) and 15,
  - (d) sections 28 and 29, and
  - (e) Schedule 2,
- shall (subject to the provisions of this Part of this Schedule) have effect in connection with the provision of those services by the Commission as they had effect, immediately before the transfer date, in connection with the provision of those services by the IBA.
- (4) The provisions specified in sub-paragraph (3) above shall have effect in accordance with that sub-paragraph with the following general modifications, namely—
- (a) any reference to the IBA shall (subject to paragraph (b) and sub-paragraph (8) below) be construed as a reference to the Commission; and
  - (b) any reference to any of the broadcasting stations used by the IBA shall be construed as a reference to any of the broadcasting stations used in the provision of any of the services provided by the Commission as mentioned in sub-paragraph (1) above.
- (5) Section 3(2)(b) of the 1981 Act shall have effect in accordance with sub-paragraph (3) above with the substitution of the following sub-paragraph for sub-paragraph (ii)—
- “(ii) by reason of the termination of any contract with a programme contractor;” and.
- (6) Section 8 of the 1981 Act shall have effect in accordance with sub-paragraph (3) above with the omission of subsections (6) to (9) of that section; but (except in the case of any programme to which the Commission determine that the following prohibition is not to apply) none of the broadcasting services provided by the Commission as mentioned in sub-paragraph (1) above shall include a programme which is sponsored by any person whose business consists, wholly or mainly—
- (a) in the manufacture or supply of a product, or
  - (b) in the provision of a service,
- the advertising of which in any such broadcasting service is prohibited by virtue of any provision of that Act (as applied by this paragraph) or of the code under section 9 of that Act (as so applied).
- (7) Section 9 of the 1981 Act shall have effect in accordance with sub-paragraph (3) above as if—
- (a) in subsection (1)(a), after “standards and practice in advertising” there were inserted “ and in the sponsoring of programmes ”;
  - (b) in subsection (1)(b), there were inserted at the end “ and as regards the sponsoring of programmes so broadcast ”; and
  - (c) after “methods of advertising” (wherever occurring) there were inserted “ or sponsorship ”;
- and the Commission may give effect to paragraph (a) above by making modifications to the code in force under section 9 immediately before the transfer date.
- (8) Section 29(5) of the 1981 Act shall have effect in accordance with sub-paragraph (3) above as if the reference to requiring the IBA by notice in writing to do, or not to do,

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anything mentioned in that provision were a reference to requiring the Commission by notice in writing to direct any programme contractor specified in the notice—

- (a) to do, or not to do, that thing, or
- (b) (if the context so requires) to secure that that thing is or is not done.

- (9) Without prejudice to the generality of sub-paragraph (5) of paragraph 2 below, the Commission may make such variations of a contract to which sub-paragraph (1) of that paragraph applies as appear to them to be appropriate for facilitating or ensuring compliance with any direction or notice given to or served on them under section 28 or 29 of the 1981 Act (as applied by this paragraph).

*General provisions about programme contracts and programme contractors*

- 2 (1) Sections 2(3) and 14(2) of the 1981 Act shall have effect in relation to the Commission and the programmes and teletext transmissions broadcast by them in the services provided by them as mentioned in paragraph 1(1) above as they had effect immediately before the transfer date in relation to the IBA and the programmes and teletext transmissions broadcast by them in the services mentioned in paragraph 1(1); and where a contract between the IBA and a programme contractor or a teletext contractor is effective immediately before that date—

- (a) the contract shall continue to have effect on and after that date (subject to and in accordance with this Part of this Schedule) as a contract between the Commission and that contractor and any other party to it, and
- (b) any reference in the contract to the IBA shall accordingly be construed, in relation to any time falling on or after that date, as a reference to the Commission.

- (2) During the interim period the following provisions of the 1981 Act, namely—

- (a) sections 19(1) to (2B) and 20(2) to (9),
- (b) sections 21 to 25,
- (c) sections 32 to 35, and
- (d) Schedule 4,

shall have effect in relation to any contract to which sub-paragraph (1) applies, or (as the case may be) in relation to the programme contractor or teletext contractor under any such contract, subject to the modifications specified in sub-paragraph (3) and subject also to paragraphs 4 and 5 below.

- (3) The modifications of the provisions specified in sub-paragraph (2) are as follows—

- (a) any reference in those provisions to the IBA shall (subject to paragraphs (b) and (c) below) be construed as a reference to the Commission;
- (b) sections 21 and 23 shall have effect as if any reference to the IBA's obligation to transmit the programmes supplied by a programme contractor were a reference to the right and the duty of the programme contractor under his contract to provide programmes for broadcasting in one of the services provided by the Commission as mentioned in paragraph 1(1) above;
- (c) section 22 shall have effect as if any reference to the programmes, or television programmes, supplied to the IBA were a reference to the programmes, or television programmes, supplied for broadcasting in one of those services; and
- (d) section 32(1)(a) shall have effect as if—
  - (i) for “the branch” there were substituted “the part”, and

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(ii) for “section 36(2) in relation to that branch” there were substituted “ paragraph 12(1) of Schedule 1 to the Broadcasting Act 1990 in relation to that part ”.

- (4) The Commission shall do all that they can to secure that during the interim period no person who is, or is an associate of, a TV programme contractor—
- (a) holds any local licence, or
  - (b) controls any body which holds any such licence, or
  - (c) is a participant with more than a 20 per cent. interest in a body corporate which holds any such licence,
- in a case where the area or locality for which the licensed service is to be provided is to a significant extent the same as the area for which television programmes are to be provided under the TV programme contractor's contract; and this sub-paragraph shall be construed in accordance with Part I of Schedule 2 to this Act.
- (5) The Commission may make such variations of a contract to which sub-paragraph (1) applies as appear to them to be appropriate in consequence of any of the provisions of this Part of this Schedule.

*Provisions relating to Channel 4*

- 3 (1) Channel 4 shall be provided by the Commission during the interim period for so much of England, Scotland and Northern Ireland as may from time to time be reasonably practicable.
- (2) The programmes (other than advertisements) broadcast by the Commission on Channel 4 shall (without prejudice to section 12(2) of the 1981 Act, as applied by this paragraph) be provided by the Commission.
- (3) In consequence of sub-paragraph (2), sections 3(2) and 6 of the 1981 Act (as applied by paragraph 1 above) do not apply in the case of Channel 4.
- (4) Subject to the modifications specified in sub-paragraph (5), sections 11 to 13 of the 1981 Act shall have effect in connection with the provision of Channel 4 by the Commission during the interim period as they had effect immediately before the transfer date in connection with the provision of that service by the IBA.
- (5) The modifications of the provisions specified in sub-paragraph (4) are as follows—
- (a) any reference in those provisions to the IBA shall (subject to paragraph (c) below) be construed as a reference to the Commission;
  - (b) section 12(1) shall have effect as if for the reference to paragraph 4(1) of Schedule 1 to the 1981 Act there were substituted a reference to paragraph 1(3) of Schedule 1 to this Act;
  - (c) section 12(2) shall have effect as if for the reference to a subsidiary of the IBA formed by them for the purpose there were substituted a reference to a subsidiary of the Commission (being the body corporate formed by the IBA in pursuance of that provision); and
  - (d) in section 13, subsection (4) shall (in consequence of paragraph 1(6) above) have effect with the omission of paragraph (c).

*Provisions relating to teletext services*

- 4 (1) For the purposes of—

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- (a) this Part of this Schedule, and
- (b) the provisions of the 1981 Act which have effect in accordance with this Part of this Schedule,

teletext transmissions shall not be treated as programmes; but this is subject to sub-paragraph (2) and to any of those provisions of the 1981 Act which expressly requires such transmissions to be so treated for the purposes of any particular provision.

- (2) In paragraphs 1(8) and 2(3)(b) above and 10 below and in the provisions specified in Part I of Schedule 3 to the 1981 Act (as they have effect in accordance with this Part of this Schedule)—
  - (a) references to programmes or to television programmes shall be read as including references to teletext transmissions; and
  - (b) references to programme contractors shall be read as including references to teletext contractors.
- (3) In section 3(2) of the 1981 Act, in its application to teletext transmissions or teletext contractors by virtue of sub-paragraph (2), the reference to section 2(3) of that Act shall be read as a reference to section 14(2) of that Act (as it has effect by virtue of paragraph 2(1) above).
- (4) The following provisions of the 1981 Act, namely—
  - (a) section 20(2)(b) and (3), and
  - (b) section 22,
 shall not have effect by virtue of paragraph 2(2) above in relation to teletext contractors or their contracts.

*Provisions relating to DBS services*

- 5 (1) The following provisions of the 1981 Act, namely—
  - (a) in section 2(2), paragraph (c) and in paragraph (b) the words “and a proper balance and wide range in their subject matter”,
  - (b) in section 4(1), paragraph (d) and so much of paragraph (b) as relates to the giving of a sufficient amount of time in the programmes to news and news features,
  - (c) section 20(2)(b) and (3),
  - (d) section 22, and
  - (e) section 24,
 shall not have effect by virtue of paragraph 1(3) or 2(2) above in connection with the provision of DBS services by the Commission or (as the case may be) in relation to DBS contractors or their contracts.
- (2) Every contract between the Commission and a DBS programme contractor shall contain all such provisions as the Commission think necessary or expedient to ensure that the financial and other arrangements for the provision of the satellite transponder are made by the contractor.
- (3) For the purpose of enabling a DBS programme or teletext contractor to make charges for the reception of programmes provided by him or transmissions containing material so provided, the Commission may, notwithstanding anything in the 1981 Act as it has effect in accordance with this Part of this Schedule, broadcast the programmes or transmissions in such a form (whether scrambled, encoded or

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otherwise) as will prevent persons from receiving them unless they obtain from the contractor the means of doing so.

- (4) Where under the power conferred by sub-paragraph (3) the Commission broadcast programmes or transmissions in such a form as is mentioned in that sub-paragraph, nothing in the 1981 Act (as it so has effect) shall be taken as requiring the Commission to permit advertisements to be included in the programmes or transmissions.
- (5) Where any service falling within section 46(1) of this Act is provided during the interim period on any of the spare capacity within the frequencies on which any DBS services are provided by the Commission in accordance with this Part of this Schedule, that service is licensable under section 47 of this Act as a licensable programme service, and not otherwise.

#### *General provisions relating to S4C*

- 6 (1) Subject to the provisions of this paragraph and paragraph 7 below, S4C shall be provided during the interim period by the Welsh Authority in accordance with Chapter VI of Part I of this Act.
- (2) During that period—
  - (a) any reference in section 57(3) or 58(2) or (4) of this Act to Channel 4 shall be construed as a reference to the Channel 4 service provided by the Commission in accordance with paragraph 1 above; and
  - (b) the reference in section 58(2) to the Channel Four Television Corporation shall be construed as a reference to the Commission.
- (3) So much of section 4(1)(d) of the 1981 Act (as applied by paragraph 1 above) as relates to cases where another language as well as English is in common use among persons served by the station or stations in question, shall, in the case of programmes broadcast by the Commission on ITV for reception wholly or mainly in Wales, apply only to languages other than Welsh.

#### *Broadcasting of advertisements on S4C*

- 7 (1) During the interim period the programmes broadcast by the Welsh Authority on S4C for reception in the area of any TV programme contractor may, so long as the provisions of the 1981 Act (as applied by this Part of this Schedule) are complied with in relation thereto, include advertisements provided for insertion therein by that contractor in consideration of payments to him.
- (2) Any such TV programme contractor shall have the right to provide advertisements for inclusion in the programmes broadcast on S4C for reception in his area so long as—
  - (a) he makes the required payments to the Commission, and
  - (b) the provisions of the 1981 Act (as applied by this Part of this Schedule) are complied with in relation to such advertisements.
- (3) In sub-paragraph (2) “the required payments” means such payments as are required to be paid by the programme contractor by virtue of any provision of his contract included in pursuance of section 13(2) of the 1981 Act.

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- (4) For any period in which programmes are to be broadcast on S4C for reception in the area of a TV programme contractor it shall be the duty of the Welsh Authority to make suitable arrangements—
- (a) for the contractor to receive advance information about the programmes other than advertisements which are to be so broadcast in that period and about the periods which will be available for the broadcasting of advertisements; and
  - (b) for the inclusion, in the programmes so broadcast in that period, of advertisements provided for the purpose by the contractor in the exercise of his right to do so under sub-paragraph (2).
- (5) No period allocated by the Welsh Authority to the broadcasting of advertisements on S4C shall be located—
- (a) in any break in any programme supplied to them by the BBC; or
  - (b) without the consent of the BBC, at the beginning or end of any such programme.
- (6) Orders for the inclusion by a TV programme contractor of advertisements among those provided by him for insertion in the programmes broadcast on S4C may be received either through advertising or other agents or direct from the advertiser.
- (7) During the interim period—
- (a) section 8(5) of the 1981 Act shall apply in relation to the programmes broadcast by the Welsh Authority on S4C as that provision applies, in accordance with this Part of this Schedule, in relation to the programmes broadcast by the Commission on ITV;
  - (b) the Commission shall do all that they can to secure that the provisions of—
    - (i) Schedule 2 to the 1981 Act (as it applies in accordance with this Part of this Schedule), and
    - (ii) the code under section 9 of that Act,
 are complied with in relation to the advertisements broadcast by the Welsh Authority on S4C and in relation to the sponsorship of programmes so broadcast;
  - (c) section 9(2) and (3) of that Act shall apply accordingly in relation to advertisements and other programmes so broadcast; and
  - (d) (except in the case of any programme to which the Welsh Authority determine that this paragraph is not to apply) S4C shall not contain any programme which is sponsored by any person whose business consists, wholly or mainly—
    - (i) in the manufacture or supply of a product, or
    - (ii) in the provision of a service,
 the advertising of which on ITV is prohibited by virtue of any provision of that Act or of the code under section 9 of that Act.
- (8) So long as any directions given under section 9(4) of the 1981 Act (whether by the IBA or by the Commission) remain in force, the Welsh Authority shall, in broadcasting advertisements on S4C, give effect to the provisions of the directions as if they were provisions regulating the times when advertisements are to be allowed to be broadcast on S4C.



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- (9) Section 60(1) to (4) and (6) of this Act shall not have effect in relation to the Welsh Authority during the interim period.

*Financing of S4C during interim period*

- 8 (1) For each financial year, or part of a financial year, falling within the interim period the Commission shall (unless any payment has already been made in respect of it under section 39(1) of the 1981 Act) pay to the Welsh Authority—
- (a) such sum or sums as may be agreed between them to be appropriate for enabling the Welsh Authority to meet their reasonable outgoings, or
  - (b) in default of such agreement, such sum or sums as the Secretary of State may determine to be appropriate for that purpose.
- (2) For the purposes of section 32(1)(a) of the 1981 Act (as applied by paragraph 2 above) all sums paid by the Commission to the Welsh Authority in pursuance of sub-paragraph (1) above shall be treated as expenditure properly incurred in respect of the part of the Commission's undertaking which consists of the provision of television broadcasting services.
- (3) In deciding from time to time whether to make any, and if so what, use of his power under subsection (8) of section 32 of the 1981 Act (as so applied) to amend by order subsections (4) and (5) of that section the Secretary of State may have regard to any increase in the aggregate amount of the payments to be made under the head described in subsection (1)(a) of that section which is attributable to the provisions of sub-paragraph (1).
- (4) The provisions applied to the Welsh Authority by section 52(2) of the 1981 Act shall continue to apply to them on and after the transfer date in relation to any financial year ending before that date; and paragraphs 12 and 13 of Schedule 6 to this Act shall accordingly apply in relation to any subsequent financial year.

*Delivery of programmes by means of local delivery services*

- 9 Part II of this Act shall have effect as if section 72(2) of this Act included a reference to any television broadcasting service provided by the Commission in accordance with this Part of this Schedule.

*Provisions relating to Broadcasting Complaints Commission*

- 10 (1) Part V of this Act shall have effect as if—
- (a) section 143(2) of this Act included a reference to any television programme broadcast by the Commission during the interim period;
  - (b) (subject to sub-paragraph (2)) the Commission were—
    - (i) in relation to the provision by them of television broadcasting services in accordance with this Part of this Schedule, and
    - (ii) in relation to the broadcasting of advertisements on S4C during the interim period,a broadcasting body within the meaning of that Part of this Act; and
  - (c) the Welsh Authority accordingly were not a broadcasting body within the meaning of that Part of this Act in relation to any such broadcasting of advertisements on S4C.

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- (2) Sub-paragraph (1)(b) shall not have effect for the purposes of section 145(5) of this Act; and the Commission shall make such variations of any contract to which paragraph 2(1) above applies as appear to them to be appropriate—
- (a) for requiring the programme contractor under that contract—
    - (i) in the case of every programme provided by him which is broadcast by the Commission during the interim period, to retain a recording of that programme for the period of 90 days beginning with the broadcast,
    - (ii) if requested to do so by the Commission for the purpose of enabling them to comply with any requirement imposed on them in pursuance of section 145(4), 155(3) or 167(1) of this Act, to produce any such recording to them, and
    - (iii) if requested to do so by the Commission for the purpose of enabling them to comply with any requirement imposed on them in pursuance of section 145(4) or 155(3) of this Act, to produce to them any transcript of any such programme which he is able to produce to them; and
  - (b) for ensuring compliance by the programme contractor with any request to which section 145(7) of this Act applies which may be made to him by the BCC.
- (3) For the financial year which includes the commencement of section 149 of this Act, and each subsequent financial year falling wholly or partly within the interim period, the Secretary of State shall notify to the Commission the sum which he considers to be the appropriate contribution by that body, in respect of the programme contractors under contracts to which paragraph 2(1) above applies, towards the expenses of the BCC; and the Commission shall pay to the Secretary of State any sum notified to them under this sub-paragraph.
- (4) Paragraph 2(1)(g)(i) of Schedule 13 to this Act shall have effect during the interim period as if the reference to the BBC or the Welsh Authority included a reference to the Commission.
- (5) In this paragraph “the BCC” means the Broadcasting Complaints Commission.

*Provisions relating to Broadcasting Standards Council*

- 11 Part VI of this Act shall have effect during the interim period as if—
- (a) section 152(2) of this Act included a reference to any television programme broadcast by the Commission during that period;
  - (b) the Commission were—
    - (i) in relation to the provision by them of television broadcasting services in accordance with this Part of this Schedule, and
    - (ii) in relation to the broadcasting of advertisements on S4C during the interim period,
 a broadcasting body within the meaning of that Part of this Act; and
  - (c) the Welsh Authority accordingly were not a broadcasting body within the meaning of that Part of this Act in relation to any such broadcasting of advertisements on S4C.

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### *Supplementary provisions*

- 12 (1) Any code, notice, direction, approval or other thing drawn up, given or done by or in relation to the IBA—
- (a) in pursuance of a provision of the 1981 Act which has effect during the interim period in accordance with this Part of this Schedule, and
  - (b) in connection with any of the IBA’s television broadcasting services,
- shall, if in force or effective immediately before the transfer date, have effect as from that date for the relevant purposes as if drawn up, given or done by or in relation to the Commission.
- (2) Anything which immediately before that date was in the process of being done by or in relation to the IBA may, if it was being so done as mentioned in paragraphs (a) and (b) of sub-paragraph (1), be continued on or after that date by or in relation to the Commission.
- (3) Sections 61 and 62 of the 1981 Act shall have effect during the interim period for the relevant purposes as if any reference to the IBA were a reference to the Commission.
- (4) In this paragraph “the relevant purposes” means the purposes of the 1981 Act as it has effect during the interim period in accordance with this Part of this Schedule.

## **PART III**

### **REPLACEMENT OF DBS CONTRACTS BY LICENCES UNDER PART I**

#### *Replacement of DBS programme contract by domestic satellite licence*

- 1 (1) Where any contract which, by virtue of paragraph 2(1) in Part II of this Schedule, has effect as a contract between the Commission and a DBS programme contractor is effective immediately before the relevant date—
- (a) the contract shall cease to have effect on that date; but
  - (b) the contractor shall be granted by the Commission as from that date a licence under Part I of this Act to provide a domestic satellite service which, in accordance with section 44(2) of this Act, authorises the provision of a multichannel service on the frequencies on which any DBS services consisting of programmes provided by him under the contract were being provided by the Commission down to that date.
- (2) In sub-paragraph (1) “multichannel service” means a service which to any extent consists in the simultaneous transmission of different programmes on different frequencies.
- (3) Any licence granted in pursuance of sub-paragraph (1) shall be so granted notwithstanding anything in sections 15 to 17 of this Act (as applied by section 44 of this Act); and nothing in section 19 of this Act (as so applied) shall apply to any such licence until such time (if any) as it is renewed in accordance with sub-paragraph (4).
- (4) Section 20 of this Act (as so applied) shall apply to any such licence as if—
- (a) in subsection (1), the first reference to a period of fifteen years were a reference to the period beginning with the relevant date and ending with the date on which the contract referred to in sub-paragraph (1) would have expired apart from that sub-paragraph;

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- (b) in subsection (6)(b), the words from “a different” to “as” were omitted; and
  - (c) in subsection (9)(a), the reference to any conditions included in the licence in pursuance of section 19 were a reference to any conditions so included in accordance with sub-paragraph (5) below.
- (5) Where any such licence is to be renewed in accordance with sub-paragraph (4), the Commission shall (notwithstanding section 3(4) of this Act) by notice served on the licence holder vary the licence, as from the date of its renewal, by including in it such conditions as appear to them to be necessary or expedient in consequence of sub-paragraph (3).
- (6) Section 3(3) shall, in its application in relation to any such licence, have effect—
- (a) with the omission of paragraph (a), and
  - (b) as if the reference to Part I of this Act included a reference to this Part of this Schedule.
- (7) Section 41 shall have effect in relation to any such licence with the omission of subsection (2); and the maximum amount which the holder of any such licence may be required to pay by way of a financial penalty imposed in pursuance of subsection (1)(a) of that section shall instead be the sum for the time being specified in section 45(6).
- (8) Except as provided in the preceding provisions of this paragraph, Part I of this Act applies to a licence granted in pursuance of this paragraph as it applies to any other licence to provide a domestic satellite service.
- (9) In this Part of this Schedule—
- (a) “the relevant date” means the day immediately following the end of the interim period; and
  - (b) “additional services licence” and “domestic satellite licence” have the same meaning as in Part I of this Act.

*Power to require licence holder to make additional payments under 1981 Act*

- 2 (1) The Secretary of State may by order provide for such of the provisions of sections 32 to 35 of, and Schedule 4 to, the 1981 Act as are specified in the order to have effect (subject to such modifications as are so specified)—
- (a) in relation to the holder of any licence granted in pursuance of paragraph 1 above, or
  - (b) in relation to any such licence,
- with a view to making provision for and in connection with the making by the holder of any such licence to the Commission of payments determined in accordance with section 32 of that Act in respect of profits or advertising revenue (or both) within the meaning of that section.
- (2) Any such order shall be so framed as to secure that, subject to such modifications as the Secretary of State considers appropriate and to sub-paragraph (4), the provisions of the 1981 Act applied by the order as mentioned in sub-paragraph (1)(a) and (b) so apply in a similar way to that in which they applied immediately before the relevant date in relation to a DBS programme contractor or (as the case may be) in relation to the contract of any such contractor.
- (3) Without prejudice to the generality of sub-paragraph (2), any such order shall provide for any excess of a DBS programme contractor's relevant expenditure over his

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relevant income to be carried forward and treated as relevant expenditure for the purpose of computing his profits as the holder of a licence granted in pursuance of paragraph 1 above.

Expressions used in this sub-paragraph which are also used in Schedule 4 to the 1981 Act have the same meaning as in that Schedule.

- (4) The power of the Secretary of State to make an order under subsection (8) of section 32 of the 1981 Act shall include power to make an order amending any of the provisions of subsections (4) and (5) of that section in so far as they have effect, by virtue of sub-paragraph (1), in relation to the holder of a licence granted in pursuance of paragraph 1 above.
- (5) Where an order under sub-paragraph (1) comes into force at any time after the relevant date, the Commission shall (notwithstanding section 3(4) of this Act) by notice served on the licence holder vary any licence granted in pursuance of paragraph 1 above by including in it such conditions as appear to them to be necessary or expedient in consequence of the order.
- (6) Nothing in any such order shall impose on the holder of any such licence any liability to make any payment in respect of any time when any conditions included in the licence in accordance with paragraph 1(5) above are in force.
- (7) An order shall not be made by the Secretary of State under sub-paragraph (1) unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

*Replacement of DBS teletext contract by additional services licence*

- 3 (1) Where any contract which, by virtue of paragraph 2(1) in Part II of this Schedule, has effect as a contract between the Commission and a DBS teletext contractor is effective immediately before the relevant date—
  - (a) the contract shall cease to have effect on that date; but
  - (b) the contractor shall be granted by the Commission as from that date an additional services licence under Part I of this Act which allocates for use under the licence all of the spare capacity within the frequencies on which any DBS services consisting of programmes provided by him as a DBS programme contractor were provided by the Commission down to that date.
- (2) Any such licence shall be so granted notwithstanding anything in sections 50 and 51 of this Act; and nothing in section 52 of this Act shall apply to any such licence until such time (if any) as it is renewed in accordance with sub-paragraph (3).
- (3) Section 53 of this Act shall apply to any such licence as if—
  - (a) in subsection (1)(a), the reference to a period of ten years were a reference to the period beginning with the relevant date and ending with the date on which any contract to which paragraph 1(1) above applies and to which the DBS teletext contractor was a party immediately before the relevant date would have expired apart from that provision;
  - (b) subsection (3) were omitted;
  - (c) in subsection (5), paragraph (a) were omitted;
  - (d) in subsection (7)(b), the words from “a different” to “as” were omitted; and

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- (e) in subsection (10), the reference to any conditions included in the licence in pursuance of section 52 were a reference to any conditions so included in accordance with sub-paragraph (4) below.
- (4) Where any such licence is to be renewed in accordance with sub-paragraph (3), the Commission shall (notwithstanding section 3(4) of this Act) by notice served on the licence holder vary the licence, as from the date of its renewal, by including in it such conditions as appear to them to be necessary or expedient in consequence of sub-paragraph (2).
- (5) Section 3(3) shall, in its application in relation to any such licence, have effect—
- (a) with the omission of paragraph (a), and
  - (b) as if the reference to Part I of this Act included a reference to this Part of this Schedule.
- (6) Section 55 shall have effect in relation to any such licence with the omission of subsection (2); and the maximum amount which the holder of any such licence may be required to pay by way of a financial penalty imposed in pursuance of subsection (1) of that section shall instead be the sum for the time being specified in section 45(6).
- (7) In sub-paragraph (1)(b) above the reference to spare capacity within the frequencies referred to in that provision includes a reference to spare capacity within those frequencies which (not being spare capacity within the signals carrying a television broadcasting service) is not spare capacity within the meaning of Part I of this Act; and references in that Part of this Act (however expressed) to the spare capacity authorised to be used under an additional services licence shall, in relation to any such licence as is mentioned in sub-paragraph (1)(b), accordingly be construed as including a reference to spare capacity within those frequencies which is not spare capacity within the meaning of that Part of this Act.
- (8) Except as provided in the preceding provisions of this paragraph, Part I of this Act applies to a licence granted in pursuance of this paragraph as it applies to any other additional services licence.

#### PART IV

##### SOUND BROADCASTING SERVICES TO BE PROVIDED BY RADIO AUTHORITY

*Certain local sound broadcasting services of IBA to  
be provided by Radio Authority as from transfer date*

- 1 (1) So long as any contracts for the provision of local sound broadcasts continue in force on and after the transfer date by virtue of paragraph 2(1) below, the Authority shall provide, in accordance with this Part of this Schedule, local sound broadcasting services consisting in the broadcasting of programmes provided by the programme contractors under those contracts.
- (2) The services provided by the Authority as mentioned in sub-paragraph (1) shall be of high quality both as to the transmission and as to the matter transmitted, and shall be provided for the localities in the United Kingdom for which the programmes in question are to be provided by the programme contractors under their contracts.
- (3) As from the transfer date the following provisions of the 1981 Act, namely—

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- (a) section 2(2),
- (b) sections 3 to 9,
- (c) sections 28 and 29, and
- (d) Schedule 2,

shall have effect in connection with the provision of those services by the Authority as they had effect, immediately before the transfer date, in connection with the provision of local sound broadcasting services by the IBA.

- (4) The provisions specified in sub-paragraph (3) above shall have effect in accordance with that sub-paragraph with the following general modifications, namely—
- (a) any reference to the IBA shall (subject to paragraph (b) and sub-paragraph (8) below) be construed as a reference to the Authority; and
  - (b) any reference to any of the broadcasting stations used by the IBA shall be construed as a reference to any of the broadcasting stations used in the provision of any of the services provided by the Authority as mentioned in sub-paragraph (1) above.

- (5) Section 3(2)(b) of the 1981 Act shall have effect in accordance with sub-paragraph (3) above with the substitution of the following sub-paragraph for sub-paragraph (ii)—

“(ii) by reason of the termination of any contract with a programme contractor; and”.

- (6) Section 8 of the 1981 Act shall have effect in accordance with sub-paragraph (3) above with the omission of subsections (6) to (9) of that section; but (except in the case of any programme to which the Authority determine that the following prohibition is not to apply) none of the broadcasting services provided by the Authority as mentioned in sub-paragraph (1) above shall include a programme which is sponsored by any person whose business consists, wholly or mainly—

- (a) in the manufacture or supply of a product, or
- (b) in the provision of a service,

the advertising of which in any such broadcasting service is prohibited by virtue of any provision of that Act (as applied by this paragraph) or of the code under section 9 of that Act (as so applied).

- (7) Section 9 of the 1981 Act shall have effect in accordance with sub-paragraph (3) above as if—

- (a) in subsection (1)(a), after “standards and practice in advertising” there were inserted “ and in the sponsoring of programmes ”;
- (b) in subsection (1)(b), there were inserted at the end “ and as regards the sponsoring of programmes so broadcast ”; and
- (c) after “methods of advertising” (wherever occurring) there were inserted “ or sponsorship ”;

and the Authority may give effect to paragraph (a) above by making modifications to the code in force under section 9 immediately before the transfer date.

- (8) Section 29(5) of the 1981 Act shall have effect in accordance with sub-paragraph (3) above as if the reference to requiring the IBA by notice in writing to do, or not to do, anything mentioned in that provision were a reference to requiring the Authority by notice in writing to direct any programme contractor specified in the notice—

- (a) to do, or not to do, that thing, or

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(b) (if the context so requires) to secure that that thing is or is not done.

(9) Without prejudice to the generality of sub-paragraph (6) of paragraph 2 below, the Authority may make such variations of a contract to which sub-paragraph (1) of that paragraph applies as appear to them to be appropriate for facilitating or ensuring compliance with any direction or notice given to or served on them under section 28 or 29 of the 1981 Act (as applied by this paragraph).

*Preservation of certain local sound broadcasting contracts*

2 (1) Where—

- (a) the IBA has, at any time before the transfer date, entered into a contract with a programme contractor for the provision by the contractor of local sound broadcasts in any locality, and
- (b) the contract is effective immediately before that date,

then, unless the contract is one to which paragraph 2 in Part V of this Schedule applies (and subject to paragraph 1 in that Part)—

- (i) the contract shall continue to have effect on and after that date (subject to and in accordance with this Part of this Schedule) as a contract between the Authority and that contractor and any other party to it, and
- (ii) any reference in the contract to the IBA shall accordingly be construed, in relation to any time falling on or after that date, as a reference to the Authority.

(2) Section 2(3) of the 1981 Act shall have effect in relation to the programmes broadcast by the Authority in accordance with paragraph 1(1) above as if—

- (a) any reference in that subsection to the IBA were a reference to the Authority; and
- (b) the reference in that subsection to any such contracts as are there mentioned were a reference to contracts which continue in force by virtue of sub-paragraph (1) above.

(3) As from the transfer date the following provisions of the 1981 Act, namely—

- (a) sections 19(1) to (2B) and 20(2) to (9),
- (b) sections 21 to 25,
- (c) sections 32 to 35, and
- (d) Schedule 4,

shall have effect in relation to any contract which continues in force by virtue of sub-paragraph (1), or (as the case may be) in relation to the programme contractor under any such contract, subject to the modifications specified in sub-paragraph (4).

(4) The modifications of the provisions specified in sub-paragraph (3) are as follows—

- (a) any reference in those provisions to the IBA shall (subject to paragraphs (b) and (c) below) be construed as a reference to the Authority;
- (b) sections 21 and 23 shall have effect as if any reference to the IBA's obligation to transmit the programmes supplied by a programme contractor were a reference to the right and the duty of the programme contractor under his contract to provide programmes for broadcasting in one of the services provided by the Authority as mentioned in paragraph 1(1) above;



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- (c) section 22 shall have effect as if any reference to the programmes supplied to the IBA were a reference to the programmes supplied for broadcasting in one of those services; and
  - (d) section 32(2)(a) shall have effect as if—
    - (i) for “the branch” there were substituted “ the part ”, and
    - (ii) for “section 36(2) in relation to that branch” there were substituted “ paragraph 12(1) of Schedule 8 to the Broadcasting Act 1990 in relation to that part ”.
- (5) The Authority shall do all that they can to secure that, so long as any contract continues in force by virtue of sub-paragraph (1), neither the programme contractor under the contract nor any associate of his—
- (a) holds any local licence, or
  - (b) controls any body which holds any such licence, or
  - (c) is a participant with more than a 20 per cent. interest in a body corporate which holds any such licence,
- in a case where the area or locality for which the licensed service is to be provided is to a significant extent the same as the locality for which local sound broadcasts are to be provided under the programme contractor’s contract; and this sub-paragraph shall be construed in accordance with Part I of Schedule 2 to this Act.
- (6) The Authority may make such variations of a contract which continues in force by virtue of sub-paragraph (1) as appear to them to be appropriate in consequence of any of the provisions of this Part of this Schedule.

*Delivery of programmes by means of local delivery services*

- 3 Part II of this Act shall have effect as if section 72(2) of this Act included a reference to any local sound broadcasting service provided by the Authority in accordance with this Part of this Schedule.

*Provisions relating to Broadcasting Complaints Commission*

- 4 (1) Part V of this Act shall have effect as if—
- (a) section 143(2) of this Act included a reference to any sound programme broadcast by the Authority in accordance with this Part of this Schedule; and
  - (b) (subject to sub-paragraph (2)) the Authority were, in relation to the provision by them of local sound broadcasting services in accordance with this Part of this Schedule, a broadcasting body within the meaning of that Part of this Act.
- (2) Sub-paragraph (1)(b) shall not have effect for the purposes of section 145(5) of this Act; and the Authority shall make such variations of any contract which continues in force by virtue of paragraph 2(1) above as appear to them to be appropriate—
- (a) for requiring the programme contractor under that contract—
    - (i) in the case of every programme provided by him which is broadcast by the Authority in accordance with this Part of this Schedule, to retain a recording of that programme for the period of 42 days beginning with the broadcast,
    - (ii) if requested to do so by the Authority for the purpose of enabling them to comply with any requirement imposed on them in pursuance

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- of section 145(4), 155(3) or 167(1) of this Act, to produce any such recording to them, and
- (iii) if requested to do so by the Authority for the purpose of enabling them to comply with any requirement imposed on them in pursuance of section 145(4) or 155(3) of this Act, to produce to them any transcript of any such programme which he is able to produce to them; and
- (b) for ensuring compliance by the programme contractor with any request to which section 145(7) of this Act applies which may be made to him by the BCC.
- (3) For the financial year which includes the commencement of section 149 of this Act, and each subsequent financial year falling wholly or partly within the period during which the Authority provide local sound broadcasting services in accordance with this Part of this Schedule, the Secretary of State shall notify to the Authority the sum which he considers to be the appropriate contribution by that body, in respect of the programme contractors under contracts which continue in force by virtue of paragraph 2(1) above, towards the expenses of the BCC; and the Authority shall pay to the Secretary of State any sum notified to them under this sub-paragraph.
- (4) Paragraph 2(1)(g)(i) of Schedule 13 to this Act shall have effect during the period referred to in sub-paragraph (3) above as if the reference to the BBC or the Welsh Authority included a reference to the Authority.
- (5) In this paragraph “the BCC” means the Broadcasting Complaints Commission.

*Provisions relating to Broadcasting Standards Council*

- 5 Part VI of this Act shall have effect as if—
- (a) section 152(2) of this Act included a reference to any sound programme broadcast by the Authority in accordance with this Part of this Schedule; and
- (b) the Authority were, in relation to the provision by them of local sound broadcasting services in accordance with this Part of this Schedule, a broadcasting body within the meaning of that Part of this Act.

*Supplementary provisions*

- 6 (1) Any code, notice, direction, approval or other thing drawn up, given or done by or in relation to the IBA—
- (a) in pursuance of a provision of the 1981 Act which has effect as from the transfer date in accordance with this Part of this Schedule, and
- (b) in connection with any of the IBA's local sound broadcasting services which are to be provided by the Authority as from that date in accordance with paragraph 1(1) above,
- shall, if in force or effective immediately before that date, have effect as from that date for the relevant purposes as if drawn up, given or done by or in relation to the Authority.
- (2) Anything which immediately before that date was in the process of being done by or in relation to the IBA may, if it was being so done as mentioned in paragraphs (a) and (b) of sub-paragraph (1), be continued on or after that date by or in relation to the Authority.

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- (3) As from that date sections 61 and 62 of the 1981 Act shall have effect for the relevant purposes as if any reference to the IBA were a reference to the Authority.
- (4) In this paragraph “the relevant purposes” means the purposes of the 1981 Act as it has effect as from the transfer date in accordance with this Part of this Schedule.

## PART V

### REPLACEMENT OF PROGRAMME CONTRACTS BY LOCAL LICENCES

#### *Replacement of contracts to which paragraph 2(1) in Part IV applies by local licences*

- 1 (1) The Authority may, if the programme contractor under a relevant contract so requests—
  - (a) determine the contract as from any time falling on or after the transfer date; and
  - (b) subject to paragraph 3(2) below, grant to the programme contractor as from that time a licence to provide a local service for the locality in which local sound broadcasts were to be provided by him under the contract.
- (2) In sub-paragraph (1) “relevant contract” means a contract which (apart from that sub-paragraph) would continue in force by virtue of paragraph 2(1) in Part IV of this Schedule.
- (3) A licence granted in pursuance of sub-paragraph (1) shall (subject to the provisions of Part III of this Act) continue in force for such period as the Authority may determine, except that the licence shall not expire—
  - (a) before the date on which the contract referred to in that sub-paragraph would have expired if it had not been determined under that sub-paragraph, or
  - (b) later than 31st December 1996 or the date which falls three years after the date referred to in paragraph (a), whichever is the earlier.

#### *Replacement by local licences of certain contracts for the provision of local sound broadcasts in localities in which such broadcasts were already provided*

- 2 (1) Any contract which—
  - (a) the IBA has, at any time on or after 1st September 1989, entered into with a programme contractor for the provision by the contractor of local sound broadcasts in a locality comprised in the locality in which such broadcasts were for the time being to be provided by another programme contractor under a contract entered into before that time, and
  - (b) is effective immediately before the transfer date,shall cease to have effect on that date; but, if the first-mentioned programme contractor so requests at any time before that date, the Authority may, subject to paragraph 3(2) below, grant to him as from that date a licence to provide a local service for that locality.
- (2) A licence granted in pursuance of sub-paragraph (1) shall (subject to the provisions of Part III of this Act) continue in force until 31st December 1994.

*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: Broadcasting Act 1990 is up to date with all changes known to be in force on or before 01 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)*

*Common provisions applying to licences granted  
in pursuance of paragraph 1(1) or 2(1) above*

- 3 (1) A request for the grant of a licence which is made to the Authority by any person in pursuance of paragraph 1(1) or 2(1) above must be in writing and accompanied by—
- (a) his proposals for providing a service that would cater for the tastes and interests of persons living in the locality for which it would be provided or for any particular tastes and interests of such persons; and
  - (b) such information as the Authority may reasonably require as to his present financial position and his projected financial position during the period for which the licence would be in force.
- (2) The Authority shall not grant a licence to any person in pursuance of paragraph 1(1) or 2(1) above unless they are satisfied that the service proposed to be provided by that person would cater for the tastes and interests of persons living in the locality for which it would be provided or for any particular tastes and interests of such persons.
- (3) Section 104 of this Act shall not apply in relation to the grant of any such licence.
- (4) Section 106(1) of this Act shall apply to any such licence as if for “when making his application” there were substituted “ in pursuance of paragraph 3(1) in Part V of Schedule 11 ”.
- (5) In section 86(4) of this Act the reference to Part III of this Act shall include a reference to this Part of this Schedule.
- (6) Except as provided in the preceding provisions of this paragraph, Part III of this Act applies to a licence granted in pursuance of paragraph 1(1) or 2(1) above as it applies to any other local licence granted under that Part.

*Saving for liabilities under terminated contracts*

- 4 (1) Where the contract of a programme contractor is terminated by the Authority under this Part of this Schedule, the termination of that contract shall not affect any liability of his which has accrued under or by virtue of the contract before its termination.
- (2) Where any such contract is so terminated but the programme contractor is granted a local licence as from the date of its termination, any agreement—
- (a) made before that date between the contractor and any other person, and
  - (b) framed (whether expressly or by implication) by reference to the contract or to the contractor’s status as a programme contractor,
- shall (unless it expressly provides otherwise) have effect as from that date with such modifications as are necessary to take account of the replacement of the contract by the licence or of the contractor’s new status as the holder of the licence (as the case may require).
- (3) References in sub-paragraph (2) to an agreement include references—
- (a) to an oral agreement, and
  - (b) to a deed, bond or other instrument.

*Status: Point in time view as at 01/10/2009.*

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F77 SCHEDULE 12

Section 134.

**Textual Amendments**

F77 Sch. 12 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)

F78 SCHEDULE 13

**Textual Amendments**

F78 Sch. 13 repealed (1.4.1997) by 1996 c. 55, s. 148(2), Sch. 11 Pt. I (with s. 43(1)(6)); S.I. 1997/1005, art. 4

F80 SCHEDULE 14

**Textual Amendments**

F80 Sch. 14 repealed (1.4.1997) by 1996 c. 55, s. 148(2), Sch. 11 Pt. I (with s. 43(1)(6)); S.I. 1997/1005, art. 4

SCHEDULE 15

Section 162.

APPLICATION OF 1959 ACT TO TELEVISION AND SOUND PROGRAMMES

*Interpretation*

- 1 In this Schedule—
- “the 1959 Act” means the<sup>M11</sup> Obscene Publications Act 1959;
  - “relevant programme” means a programme included in a programme service;
- and other expressions used in this Schedule which are also used in the 1959 Act have the same meaning as in that Act.

**Marginal Citations**

M11 1959 c. 66.

*Status: Point in time view as at 01/10/2009.*

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*Liability of person providing live programme material*

- 2 Where—
- (a) any matter is included by any person in a relevant programme in circumstances falling within section 1(5) of the 1959 Act, and
  - (b) that matter has been provided, for inclusion in that programme, by some other person,
- the 1959 Act shall have effect as if that matter had been included in that programme by that other person (as well as by the person referred to in sub-paragraph (a)).

*Obscene articles kept for inclusion in programmes*

- 3 It is hereby declared that where a person has an obscene article in his ownership, possession or control with a view to the matter recorded on it being included in a relevant programme, the article shall be taken for the purposes of the 1959 Act to be an obscene article had or kept by that person for publication for gain.

*Requirement for consent of Director of Public Prosecutions*

- 4 (1) Proceedings for an offence under section 2 of the 1959 Act for publishing an obscene article shall not be instituted except by or with the consent of the Director of Public Prosecutions in any case where—
- (a) the relevant publication, or
  - (b) the only other publication which followed from the relevant publication,
- took place in the course of the inclusion of a programme in a programme service; and in this sub-paragraph “the relevant publication” means the publication in respect of which the defendant would be charged if the proceedings were brought.
- (2) Proceedings for an offence under section 2 of the 1959 Act for having an obscene article for publication for gain shall not be instituted except by or with the consent of the Director of Public Prosecutions in any case where—
- (a) the relevant publication, or
  - (b) the only other publication which could reasonably have been expected to follow from the relevant publication,
- was to take place in the course of the inclusion of a programme in a programme service; and in this sub-paragraph “the relevant publication” means the publication which, if the proceedings were brought, the defendant would be alleged to have had in contemplation.
- (3) Without prejudice to the duty of a court to make an order for the forfeiture of an article under section 1(4) of the <sup>M12</sup>Obscene Publications Act 1964 (orders on conviction), in a case where by virtue of sub-paragraph (2) above proceedings under section 2 of the 1959 Act for having an article for publication for gain could not be instituted except by or with the consent of the Director of Public Prosecutions, no order for the forfeiture of the article shall be made under section 3 of the 1959 Act (power of search and seizure) unless the warrant under which the article was seized was issued on an information laid by or on behalf of the Director of Public Prosecutions.

**Marginal Citations**

M12 1964 c. 74.

*Status: Point in time view as at 01/10/2009.*

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*Defences*

- 5 (1) A person shall not be convicted of an offence under section 2 of the 1959 Act in respect of the inclusion of any matter in a relevant programme if he proves that he did not know and had no reason to suspect that the programme would include matter rendering him liable to be convicted of such an offence.
- (2) Where the publication in issue in any proceedings under that Act consists of the inclusion of any matter in a relevant programme, section 4(1) of that Act (general defence of public good) shall not apply; but—
  - (a) a person shall not be convicted of an offence under section 2 of that Act, and
  - (b) an order for forfeiture shall not be made under section 3 of that Act,
 if it is proved that the inclusion of the matter in question in a relevant programme is justified as being for the public good on the ground that it is in the interests of—
  - (i) drama, opera, ballet or any other art,
  - (ii) science, literature or learning, or
  - (iii) any other objects of general concern.
- (3) Section 4(2) of that Act (admissibility of opinions of experts) shall apply for the purposes of sub-paragraph (2) above as it applies for the purposes of section 4(1) and (1A) of that Act.

*Exclusion of proceedings under common law*

- 6 Without prejudice to section 2(4) of the 1959 Act, a person shall not be proceeded against for an offence at common law—
  - (a) in respect of a relevant programme or anything said or done in the course of such a programme, where it is of the essence of the common law offence that the programme or (as the case may be) what was said or done was obscene, indecent, offensive, disgusting or injurious to morality; or
  - (b) in respect of an agreement to cause a programme to be included in a programme service or to cause anything to be said or done in the course of a programme which is to be so included, where the common law offence consists of conspiring to corrupt public morals or to do any act contrary to public morals or decency.

**Textual Amendments**

F81 Sch. 16 repealed (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\)](#), s. 126(2), [Sch. 9 Pt. 1](#) (with [Sch. 8 Pt. 1](#))

*Status: Point in time view as at 01/10/2009.*

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## SCHEDULE 17

Section 176.

### INFORMATION ABOUT PROGRAMMES: COPYRIGHT

#### PART I

##### COPYRIGHT LICENSING

- 1 (1) This paragraph applies where the person providing a programme service has assigned to another the copyright in works containing information to which this Schedule applies.
- (2) The person providing the programme service, not the assignee, is to be treated as the owner of the copyright for the purposes of licensing any act restricted by the copyright done on or after the day on which this paragraph comes into force.
- (3) Where the assignment by the person providing the programme service occurred before 29th September 1989 then, in relation to any act restricted by the copyright so assigned—
- (a) sub-paragraph (2) does not have effect, and
  - (b) references below in this Schedule to the person providing the programme service are to the assignee.

#### PART II

##### USE OF INFORMATION AS OF RIGHT

###### *Circumstances in which right available*

- 2 (1) Paragraph 4 applies to any act restricted by the copyright in works containing information to which this Schedule applies done by the publisher if—
- (a) a licence to do the act could be granted by the person providing the programme service but no such licence is held by the publisher,
  - (b) the person providing the programme service refuses to grant to the publisher a licence to do the act, being a licence of such duration, and of which the terms as to payment for doing the act are such, as would be acceptable to the publisher, and
  - (c) the publisher has complied with paragraph 3.
- (2) The reference in sub-paragraph (1) to refusing to grant a licence includes failing to do so within a reasonable time of being asked.
- (3) References below in this Schedule to the terms of payment are to the terms as to payment for doing any act restricted by the copyright in works containing information to which this Schedule applies.

###### *Notice of intention to exercise right*

- 3 (1) A publisher intending to avail himself of the right conferred by paragraph 4 must—
- (a) give notice of his intention to the person providing the programme service, asking that person to propose terms of payment, and



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- (b) after receiving the proposal or the expiry of a reasonable time, give reasonable notice to the person providing the programme service of the date on which he proposes to begin exercising the right and the terms of payment in accordance with which he intends to do so.
- (2) Before exercising the right the publisher must—
- (a) give reasonable notice to the Copyright Tribunal of his intention to exercise the right and of the date on which he proposes to begin to do so, and
  - (b) apply to the Tribunal under paragraph 5 to settle the terms of payment.

*Conditions for exercise of right*

- 4 (1) Where the publisher, on or after the date specified in a notice under paragraph 3(1) (b), does any act in circumstances in which this paragraph applies, he shall, if he makes the payments required by this paragraph, be in the same position as regards infringement of copyright as if he had at all material times been the holder of a licence to do so granted by the person providing the programme service.
- (2) Payments are to be made at not less than quarterly intervals in arrears.
- (3) The amount of any payment is that determined in accordance with any order of the Copyright Tribunal under paragraph 5 or, if no such order has been made—
- (a) in accordance with any proposal for terms of payment made by the person providing the programme service pursuant to a request under paragraph 3(1) (a), or
  - (b) where no proposal has been so made or the amount determined in accordance with the proposal so made appears to the publisher to be unreasonably high, in accordance with the terms of payment notified under paragraph 3(1)(b).

*Applications to settle payments*

- 5 (1) On an application to settle the terms of payment, the Copyright Tribunal shall consider the matter and make such order as it may determine to be reasonable in the circumstances.
- (2) An order under sub-paragraph (1) has effect from the date the applicant begins to exercise the right conferred by paragraph 4 and any necessary repayments, or further payments, shall be made in respect of amounts that have fallen due.

*Application for review of order*

- 6 (1) A person exercising the right conferred by paragraph 4, or the person providing the programme service, may apply to the Tribunal to review any order under paragraph 5.
- (2) An application under sub-paragraph (1) shall not be made, except with the special leave of the Tribunal—
- (a) within twelve months from the date of the order, or of the decision on a previous application under this paragraph, or
  - (b) if the order was made so as to be in force for fifteen months or less, or as a result of a decision on a previous application is due to expire within fifteen months of that decision, until the last three months before the expiry date.

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- (3) On the application the Tribunal shall consider the matter and make such order confirming or varying the original order as it may determine to be reasonable in the circumstances.
- (4) An order under this paragraph has effect from the date on which it is made or such later date as may be specified by the Tribunal.

**PART III**

SUPPLEMENTARY

- 7 (1) This Schedule and the <sup>M13</sup>Copyright, Designs and Patents Act 1988 shall have effect as if the Schedule were included in Chapter III of Part I of that Act, and that Act shall have effect as if proceedings under this Schedule were listed in section 149 of that Act (jurisdiction of the Copyright Tribunal).
- (2) References in this Schedule to anything done by the publisher include anything done on his behalf.
- (3) References in this Schedule to works include future works, and references to the copyright in works include future copyright.

**Marginal Citations**  
 M13 1988 c. 48.

SCHEDULE 18

Section 180.

TRANSFER OF FUNCTIONS CONNECTED WITH TELEVISION LICENCES

**PART I**

<sup>M14</sup>AMENDMENTS OF WIRELESS TELEGRAPHY ACT 1949

**Marginal Citations**  
 M14 1949 c. 54.

1 <sup>F82</sup> .....

**Textual Amendments**  
 F82 Sch. 18 Pt. I para. 1 repealed (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\)](#), s. 126, Sch. 9 Pt. I (with Sch. 8 Pt. I)

2 <sup>F83</sup>(1) .....

<sup>F84</sup>(2) .....

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<sup>F85</sup>(3) .....

**Textual Amendments**

- F83** Sch. 18 Pt. I para. 2(1) repealed (1.4.2004) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), Sch. 19(1) Note 1 (with Sch. 18); [S.I. 2003/3142](#), art. 4(2), Sch. 2 (with art. 11)
- F84** Sch. 18 Pt. I para. 2(2) repealed (18.6.1998) by [1998 c. 6, ss. 7, 10\(2\)](#), [Sch. 2](#)
- F85** Sch. 18 Pt. I para. 2(3) repealed (1.4.2004) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), Sch. 19(1) Note 1 (with Sch. 18); [S.I. 2003/3142](#), art. 4(2), Sch. 2 (with art. 11)

<sup>3</sup><sup>F86</sup> .....

**Textual Amendments**

- F86** Sch. 18 Pt. I para. 3 repealed (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\)](#), s. 126, [Sch. 9 Pt. I](#) (with [Sch. 8 Pt. I](#))

<sup>F87</sup><sup>4</sup> .....

**Textual Amendments**

- F87** Sch. 18 Pt. I para. 4 repealed (1.4.2004) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), Sch. 19(1) Note 1 (with Sch. 18); [S.I. 2003/3142](#), art. 4(2), Sch. 2 (with art. 11)

**PART II**

<sup>M15</sup>AMENDMENTS OF PART I OF WIRELESS TELEGRAPHY ACT 1967

**Marginal Citations**

**M15** [1967 c. 72](#).

- 1 In the following provisions, namely—
- <sup>F88</sup>(a) .....
  - (b) subsections (1), (3) and (6) of section 2 (notification and recording of transactions),
  - (c) subsection (1) of section 3 (power to call for additional information),
  - (<sup>d</sup><sup>F89</sup> .....
  - (e) subsections (3) to (5) of section 5 (offences and enforcement),
- for “the Postmaster General” wherever those words occur (which are, by virtue of section 3(1) of the <sup>M16</sup>Post Office Act 1969 and the <sup>M17</sup>Ministry of Posts and Telecommunications (Dissolution) Order 1974, to be construed as, or in certain instances as including, a reference to the Secretary of State) substitute “the BBC”.

**Textual Amendments**

- F88** Sch. 18 Pt. II para. 1(a) repealed (16.8.1996) by [S.I. 1996/1864](#), [art. 4\(6\)](#)

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**F89** Sch. 18 Pt. II para. 1(d) repealed (1.4.2004) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), Sch. 19(1) Note 1 (with Sch. 18); [S.I. 2003/3142](#), art. 4(2), Sch. 2 (with art. 11)

#### Marginal Citations

**M16** 1969 c. 48.

**M17** [S.I. 1974/691](#).

**F90**<sup>2</sup> .....

#### Textual Amendments

**F90** Sch. 18 Pt. II para. 2 repealed (16.8.1996) by [S.I. 1996/1864](#), [art. 4\(6\)](#)

3 In section 2(3)—  
(a) for “him” substitute “ them ”; and  
(b) for “he” substitute “ they ”.

4 In section 3(1), for “him” (where first occurring) substitute “ them ”.

**F91**<sup>5</sup> .....

#### Textual Amendments

**F91** Sch. 18 Pt. II para. 5 repealed (1.4.2004) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with Sch. 18); [S.I. 2003/3142](#), art. 4(2), [Sch. 2](#) (with art. 11)

6 In section 5—  
(a) in subsection (3), for “his” substitute “ their ”; and  
(b) in subsection (5), after “came to” insert “ their or ”.

7 In section 6(1)—  
(a) insert the following definition after the definition of “appointed day”—  
““the BBC” means the British Broadcasting Corporation;”;  
and  
(b) at the end of the definition of “prescribed” add “ after consultation with the BBC ”.

## SCHEDULE 19

Section 183.

### THE GAELIC TELEVISION [<sup>F92</sup>SERVICE] : SUPPLEMENTARY PROVISIONS

#### Textual Amendments

**F92** Word in Sch. 19 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 73\(3\)](#) (with Sch. 18); [S.I. 2003/3142](#), art. 3(1), Sch. 1 (with art. 11)

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

**C7** Sch. 19: transfer of functions (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 1 para. 7](#) (with Sch. 18); [S.I. 2003/3142](#), art. 3(1), Sch. 1 (with art. 11)

*Status: Point in time view as at 01/10/2009.*

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### *Status and capacity*

- 1 (1) The [F92Service] shall be a body corporate.
- (2) The [F92Service] shall not be treated for the purposes of the enactments and rules of law relating to the privileges of the Crown as a body exercising functions on behalf of the Crown.
- (3) It shall be within the capacity of the [F92Service] as a statutory corporation to do such things and enter into such transactions as are incidental or conducive to the discharge of their functions under section 183 of this Act.

### *Tenure of office and remuneration*

- 2 (1) Subject to [F93sub-paragraphs (1A) and (2)], each member of the [F92Service] shall hold and vacate office in accordance with the terms of his appointment.
  - [F94(1A) A person is not to be appointed as a member of the Service for a term of more than four years (but a person so appointed shall be eligible for re-appointment at the end of his term of office).]
  - (2) Any member of the [F92Service] may at any time resign his office by notice to [F95OFCOM].
  - (3) [F95OFCOM] may pay to each member such remuneration and allowances as they may determine.

#### **Textual Amendments**

- F93** Words in Sch. 19 para. 2(1) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), ss. 210\(2\)\(a\), 411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F94** Sch. 19 para. 2(1A) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\), ss. 210\(2\)\(b\), 411\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))
- F95** Words in Sch. 19 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 73\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with [art. 11](#))

### *Disqualification of members of [F92Service] for House of Commons*

F96<sub>3</sub>

#### **Textual Amendments**

- F96** Sch. 19 para. 3 repealed (1.4.1997) by [1996 c. 55, s. 148\(2\), Sch. 11 Pt. I](#) (with [s. 43\(1\)\(6\)](#)); [S.I. 1997/1005, art. 4](#)

### *Proceedings*

- 4 (1) Subject to paragraph 5, the quorum of the [F92Service] and the arrangements relating to their meetings shall be such as the [F92Service] may determine.

*Status: Point in time view as at 01/10/2009.*

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- (2) The arrangements may, with the approval of [F95OFCOM] , provide for the discharge, under the general direction of the [F92Service] , of any of the [F92Service] 's functions by a committee or by one or more of the members or employees of the [F92Service] .

#### Textual Amendments

**F95** Words in Sch. 19 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 73\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

- 5 (1) A member who is in any way directly or indirectly interested in any matter that is brought up for consideration at a meeting of the [F92Service] shall disclose the nature of his interest to the meeting; and, where such a disclosure is made—
- (a) the disclosure shall be recorded in the minutes of the meeting, and
  - (b) (subject to sub-paragraph (2)) the member shall not take any part in any deliberation or decision of the [F92Service] , or of any of their committees, with respect to that matter.
- (2) Sub-paragraph (1)(b) shall not apply in relation to any meeting of the [F92Service] at which all of the other members present resolve that the member's interest should be disregarded for the purposes of that provision.
- (3) For the purposes of sub-paragraph (1), a general notification given at a meeting of the [F92Service] by a member to the effect that he is a member of a specified company or firm and is to be regarded as interested in any matter involving that company or firm shall be regarded as a sufficient disclosure of his interest in relation to any such matter.
- (4) A member need not attend in person at a meeting of the [F92Service] in order to make a disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is taken into consideration and read at the meeting.
- (5) In this paragraph references to a meeting of the [F92Service] include references to a meeting of any of their committees.
- 6 The validity of any proceedings of the [F92Service] shall not be affected by any vacancy among the members or by any defect in the appointment of a member or by any failure to comply with the requirements of paragraph 5.

#### *Employees of the [F92Service]*

- 7 (1) The [F92Service] may appoint such employees as they may determine with the consent of [F95OFCOM] as to numbers and terms of employment.
- (2) If the [F92Service] determine to do so in the case of any of their employees, the [F92Service] shall pay to or in respect of those employees such pensions, allowances or gratuities, or provide and maintain for them such pension schemes (whether contributory or not), as the [F92Service] may determine.
- (3) The <sup>M18</sup>Employers' Liability (Compulsory Insurance) Act 1969 shall not require insurance to be effected by the [F92Service].

*Status: Point in time view as at 01/10/2009.*

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[<sup>F97</sup>(4) A person who is an employee of the Service is not to be eligible to be appointed as a member of the Service.]

#### Textual Amendments

- F95** Words in Sch. 19 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 73\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F97** Sch. 19 para. 7(4) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 210\(3\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

#### Marginal Citations

- M18** 1969 c. 57.

#### *Financial provision*

- 8 There shall be defrayed out of the [<sup>F98</sup>Gaelic Broadcasting Fund]—
- (a) any expenses incurred by [<sup>F95</sup>OFCOM] —
- (i) by virtue of paragraph 2,
- (ii) in paying the salaries of any employees of [<sup>F95</sup>OFCOM] whose services have been furnished to the [<sup>F92</sup>Service] by [<sup>F95</sup>OFCOM], or
- (iii) in connection with providing the [<sup>F92</sup>Service] with office accommodation or other facilities;
- (b) any expenses incurred by the [<sup>F92</sup>Service] by virtue of paragraph 7; and
- (c) with the approval of [<sup>F95</sup>OFCOM]<sup>F99</sup> ..., any other expenses incurred by the [<sup>F92</sup>Service].

#### Textual Amendments

- F95** Words in Sch. 19 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 73\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)
- F98** Words in Sch. 19 para. 8 substituted (1.4.1997) by [1996 c. 55](#), s. 148(1), [Sch. 10 Pt. II para. 26\(a\)\(i\)](#); [S.I. 1997/1005](#), [art. 4](#)
- F99** Words in Sch. 19 para. 8(c) repealed (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 15 para. 73\(4\)](#), [Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

- [<sup>F100</sup>8A(1) The Service must pay all their receipts to OFCOM.
- (2) OFCOM must hold amounts received by them under this paragraph to the credit of the Gaelic Broadcasting Fund (and, accordingly, those amounts are not to be regarded as forming part of OFCOM's revenues).]

#### Textual Amendments

- F100** Sch. 19 para. 8A inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), [ss. 210\(4\)](#), 411(2) (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

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### *Authentication of [F92Service] 's seal*

- 9 The application of the seal of the [F92Service] shall be authenticated by the signature of the chairman or of some other person authorised for the purpose.

### *Presumption of authenticity of documents issued by the [F92Service]*

- 10 Any document purporting to be an instrument issued by the [F92Service] and to be duly executed under the seal of the [F92Service] or to be signed on behalf of the [F92Service] shall be received in evidence and shall be deemed to be such an instrument unless the contrary is shown.

### *Accounts and audit*

- 11 (1) The [F92Service] shall keep proper accounts and proper records in relation to the accounts, and shall prepare in respect of each financial year a statement of accounts in such form as [F95OFCOM] may direct.
- (2) The accounts of the [F92Service] shall be audited by auditors to be appointed by the [F92Service] with the approval of [F95OFCOM] .
- <sup>F101</sup>(3) A person shall not be qualified to be appointed in pursuance of sub-paragraph (2) unless he is eligible for appointment as a [<sup>F102</sup>statutory auditor under Part 42 of the Companies Act 2006].
- (4) The [F92Service] shall at all reasonable times upon demand made by [F95OFCOM]<sup>F103</sup>... or by any persons authorised by [<sup>F104</sup>[F95OFCOM]<sup>F103</sup>... ] in that behalf—
- (a) afford to them full liberty to examine the accounts of the [F92Service]; and
  - (b) furnish them with all forecasts, estimates, information and documents which they may require with respect to the financial transactions and commitments of the [F92Service].

#### **Textual Amendments**

- F95** Words in Sch. 19 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 73\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F101** Sch. 19 para. 11(3) substituted (1.10.1991) by [S.I. 1991/1997, reg. 2, Sch. para. 77\(7\)](#)
- F102** Words in [Sch. 19 para. 11\(3\)](#) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\), art. 2\(2\), Sch. 1 para. 1\(pp\)\(iii\)](#) (with arts. 6, 11, 12)
- F103** Words in Sch. 19 para. 11(4) repealed (29.12.2003) [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 15 para. 73\(5\), Sch. 19\(1\)](#) (with [Sch. 18](#)); [S.I. 2003/3142, art. 3\(1\), Sch. 1](#) (with art. 11)
- F104** Words in Sch. 19 para. 11(4) substituted (1.4.1997) by [1996 c. 55, s. 148\(1\), Sch. 10 Pt. II para. 26\(b\)\(ii\); S.I. 1997/1005, art. 4](#)

### *Annual reports*

- 12 (1) As soon as possible after the end of each financial year, the [F92Service] shall prepare a general report of their proceedings during that year and transmit it to [F95OFCOM].



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- [<sup>F105</sup>(1A) The report must include a statement of how the Service are proposing to carry out their functions during the next financial year.]
- (2) The report shall have attached to it the statement of accounts for the year and a copy of any report made by the auditors on that statement.
- (3) [<sup>F95</sup>OFCOM] shall send a copy of each annual report received by them in accordance with this paragraph to the Secretary of State who shall lay copies of it before each House of Parliament.
- [<sup>F106</sup>(4) Where an annual report is sent by [<sup>F95</sup>OFCOM] under sub-paragraph (3) to the Scottish Ministers (by virtue of provision made under section 63 of the Scotland Act 1998), the Scottish Ministers shall lay a copy of the report before the Scottish Parliament.]

#### Textual Amendments

**F95** Words in Sch. 19 substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 15 para. 73(2)** (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**F105** Sch. 19 para. 12(1A) inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), **ss. 210(5), 411(2)** (with [Sch. 18](#)); [S.I. 2003/3142](#), art. 3(1), [Sch. 1](#) (with art. 11)

**F106** Sch. 19 para. 12(4) added (1.7.1999) by [S.I. 1999/1750](#), arts. 1, 6(1), **Sch. 5 para. 10(4)**; [S.I. 1998/3178](#)

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

**C8** Sch. 19 para. 12(3): functions exercisable (1.7.1999) concurrently by the Scottish Ministers and Ministers of the Crown by [S.I. 1999/1750](#), arts. 1, 3, **Sch. 2**; [S.I. 1998/3178](#)

Sch. 19 para. 12(3) certain functions made exercisable by Scottish Ministers (1.7.1999) by [S.I. 1999/1756](#), arts. 1, 2, **Sch. para. 12(1)**; [S.I. 1998/3178](#)

## SCHEDULE 20

Section 203(1).

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *Parliamentary Papers Act 1840 (c. 9)*

- 1 Section 3 (protection in respect of proceedings for printing extracts from or abstracts of parliamentary papers) shall have effect as if the reference to printing included a reference to including in a programme service.

#### *Law of Libel Amendment Act 1888 (c. 64)*

- [<sup>F1072</sup> Section 3 (contemporary reports of proceedings before courts exercising judicial authority) shall apply in relation to reports or matters included in a programme service, and in relation to any inclusion in such a service of any such report or matter, as it applies in relation to reports and matters published in a newspaper and to publication in a newspaper.]

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#### Textual Amendments

**F107** Sch. 20 para. 2 repealed (31.3.2001 for S. otherwise *prosp.*) by 1996 c. 31, ss. 16, 19(3), Sch. 2 (with s. 20(2)); S.S.I. 2001/98, art. 3

#### *Children and Young Persons Act 1933 (c. 12)*

- [<sup>F108</sup>3 (1) In section 28 (powers of entry)—
- (a) in subsection (2)(a), omit “a cable programme studio” and for “broadcast in a cable programme” substitute “ programme service ”; and
  - (b) for subsection (4) substitute—
    - “(4) In this section—
      - “broadcasting studio” means a studio used in connection with the provision of a programme service;
      - “programme service” has the same meaning as in the Broadcasting Act 1990.”
- (2) Sections 39<sup>F109</sup> . . . (restriction on newspaper reports of court proceedings involving children and young persons) shall, with the necessary modifications, apply in relation to reports or matters included in a programme service, and in relation to including any such reports or matters in such a service, as they apply in relation to reports or matters published in newspapers and to publishing any matter in a newspaper.]

#### Textual Amendments

**F108** Sch. 20 para. 3 repealed (31.3.2001 for S. otherwise *prosp.*) by 1996 c. 31, ss. 16, 19(3), Sch. 2 (with s. 20(2)); S.S.I. 2001/98, art. 3

**F109** Words in Sch. 20 para. 3(2) repealed (3.2.1995) by 1994 c. 33, s. 168(3), Sch. 11; S.I. 1995/127, art. 2(1), Sch. 1 Appendix C

#### *Children and Young Persons (Scotland) Act 1937 (c. 37)*

- 4 (1) In section 36 (power to enter studios)—
- (a) in subsection (2)(a), omit “a cable programme studio” and for “broadcast in a cable programme” substitute “ programme service ”; and
  - (b) for subsection (4) substitute—
    - “(4) In this section—
      - “broadcasting studio” means a studio used in connection with the provision of a programme service;
      - “programme service” has the same meaning as in the Broadcasting Act 1990”.
- (2) Section 46 (restriction on newspaper reports of court proceedings involving children and young persons) shall, with the necessary modifications, apply in relation to reports or matters included in a programme service, and in relation to including any such reports or matters in such a service, as it applies in relation to reports or matters published in newspapers and to publishing any matter in a newspaper.

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*Public Bodies (Admission to Meetings) Act 1960 (c. 67)*

- 5 In section 1(7) (admission of public to meetings of local authorities and other bodies), for the words from “or for” to “licensed” substitute “ or for programme services (within the meaning of the Broadcasting Act 1990) other than sound or television broadcasting services ”.

*Children and Young Persons Act 1963 (c. 37)*

- 6 In section 37(2) (restriction on persons under 16 taking part in certain performances), for paragraph (d) substitute—  
“(d) any performance not falling within paragraph (c) above but included in a programme service (within the meaning of the Broadcasting Act 1990);”.

*Licensing Act 1964 (c. 26)*

F1107 .....

**Textual Amendments**

F110 Sch. 20 para. 7 repealed (24.11.2005) by Licensing Act 2003 (c. 17), s. 201(2), Sch. 7 (with ss. 2(3), 15(2), 195); S.I. 2005/3056, art. 2(2) (with art. 4)

*Private Places of Entertainment (Licensing) Act 1967 (c. 19)*

F1118 .....

**Textual Amendments**

F111 Sch. 20 para. 8 repealed (24.11.2005) by Licensing Act 2003 (c. 17), s. 201(2), Sch. 7 (with ss. 2(3), 15(2), 195); S.I. 2005/3056, art. 2(2) (with art. 4)

*Wireless Telegraphy Act 1967 (c. 72)*

F1129 .....

**Textual Amendments**

F112 Sch. 20 para. 9 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)

*London Cab Act 1968 (c. 7)*

F11310 .....

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**Textual Amendments**

**F113** Sch. 20 para. 10 repealed (1.6.2003) by [Private Hire Vehicles \(London\) Act 1998 \(c. 34\)](#), s. 40(2), [Sch. 2](#) (with s. 29); S.I. 2003/580, arts. 1(2), 2(2)(b)

*Trade Descriptions Act 1968 (c. 29)*

- 11 In section 39(2) (interpretation), for “or in a programme included in a cable programme service” substitute “ or in any programme included in any programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service ”.

*Social Work (Scotland) Act 1968 (c. 49)*

- 12 In section 58(1) (prohibition of publication of proceedings in a children’s hearing), for the words “broadcast or a programme included in cable programme service”—
- (a) in the first place where they occur, substitute “ programme included in a programme service (within the meaning of the Broadcasting Act 1990) ”;
  - and
  - (b) in the second place where they occur, substitute “ programme included in such a programme service ”.

*Theatres Act 1968 (c. 54)*

- 13 In section 7(2)(b) (exceptions for performance given in certain circumstances), for sub-paragraph (iii) substitute—
- “(iii) the performance to be included in a programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service;”.

*Gaming Act 1968 (c. 65)*

**F114** 14 .....

**Textual Amendments**

**F114** Sch. 20 para. 14 repealed (6.5.1992) by [Bingo Act 1992 \(c. 10\)](#), ss. 1(9), 2(2)

*Children and Young Persons Act (Northern Ireland) 1968 (c. 34 (N.I.))*

- 15 **F115**(1) .....
- F115**(2) .....
- F116**(3) .....
- F116**(4) .....

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**Textual Amendments**

- F115** Sch. 20 para. 15(1)(2) repealed (4.11.1996) by S.I. 1995/755 (N.I. 2), art. 185(2), **Sch. 10** (with Sch. 8 para. 23(4)); S.R. 1996/297, **art. 2(2)**
- F116** Sch. 20 para. 15(3)(4) repealed (31.1.1999) by S.I. 1998/1504 (N.I. 9), art. 65(2), **Sch. 6**; S.R. 1999/25, **art. 2**

*Local Government Act 1972 (c. 70)*

- 16 In section 100K (interpretation and application of Part VA of the Act), in paragraph (b) of the definition of “newspaper”, for sub-paragraph (ii) substitute—  
“(ii) for inclusion in programmes to be included in any programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service;”.

*Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.))*

- 17 In section 148(1) (interpretation), in the definition of “newspaper”, for the words from “or for” onwards substitute “or for programmes to be included in a programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service;”.

*Employment Agencies Act 1973 (c. 35)*

- 18 In section 13(4) (interpretation), for paragraphs (c) and (d) substitute “or  
(c) to providing a programme service (within the meaning of the Broadcasting Act 1990).”

*Northern Ireland Constitution Act 1973 (c. 36)*

**F117**<sup>19</sup> .....

**Textual Amendments**

- F117** Sch. 20 para. 19 repealed (2.12.1999) by 1998 c. 47, s. 100(2), **Sch. 15** (with s. 95); S.I. 1999/3209, art. 2, **Sch.**

*Fair Trading Act 1973 (c. 41)*

**F118**<sup>20</sup> .....

**Textual Amendments**

- F118** Sch. 20 para. 20 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

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*Criminal Procedure (Scotland) Act 1975 (c. 21)*

- 21 In subsection (2) of sections 169 and 374 (restrictions on report of proceedings involving person under 16), for the words from “broadcasts” to “service” substitute “ programmes included in a programme service (within the meaning of the Broadcasting Act 1990) ”.

*Industry Act 1975 (c. 68)*

- 22 <sup>F119</sup> .....

**Textual Amendments**

**F119** Sch. 20 para. 22 repealed (06.01.1992) by [British Technology Group Act 1991 \(c. 66, SIF 64\)](#), s. 17(2), [Sch. 2, Pt.I; S.I. 1991/2721, art.2](#).

*Scottish Development Agency Act 1975 (c. 69)*

- 23 In section 17 (the Scottish Development Agency and the media), for “Cable and Broadcasting Act 1984” substitute “ Broadcasting Act 1990 ”.

*Welsh Development Agency Act 1975 (c. 70)*

- 24 In section 19 (the Welsh Development Agency and the media)—
- (a) in subsection (1), for paragraphs (b) and (c) substitute—
    - “(b) shall become the holder of a relevant licence.”;
  - (b) in subsection (3), for paragraphs (ii) and (iii) substitute—
    - “(ii) activities connected with the provision of a service under a relevant licence.”;
  - (c) in subsection (9)—
    - (i) for “a programme contractor, they shall consult the Independent Broadcasting Authority” substitute “ the holder of a relevant licence, they shall consult the appropriate authority ”; and
    - <sup>F120</sup>(ii) .....
  - (d) omit subsection (9A);
  - (e) in subsection (10), for “programme contractor” substitute “ holder of a relevant licence ”; and
  - (f) for subsection (11) substitute—
    - “(11) In this section—
    - “appropriate authority” means—
      - (a) in relation to a licence granted under Part I of the Broadcasting Act 1990, the Independent Television Commission; and
      - (b) in relation to a licence granted under Part III of that Act, the Radio Authority;
    - “relevant licence” means a licence granted by the Independent Television Commission or the Radio Authority under Part I or (as the case may be) Part III of that Act.”

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### Textual Amendments

**F120** Sch. 20 para. 24(c)(ii) 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)

### *Restrictive Trade Practices Act 1976 (c. 34)*

- 25 In section 41(1)(a) (exceptions to restriction on disclosure of information), after “the Electricity Act 1989” insert “ or the Broadcasting Act 1990 ”.

### *Sexual Offences (Amendment) Act 1976 (c. 82)*

- 26 (1) In section 4 (anonymity of complainants in rape etc. cases)—
- (a) in subsection (1), for “broadcast or included in a cable programme”, in each place where those words occur, substitute “included in a relevant programme for reception” and for “broadcasting or inclusion in a cable programme” substitute “inclusion in a relevant programme”;
  - (b) in subsection (5), for “broadcast or included in a cable programme” substitute “or included in a relevant programme” and for paragraphs (c) and (d) substitute “and
    - (c) in the case of matter included in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper,”;
  - (c) in subsection (5A), for “or broadcast of any matter or the inclusion of any matter in a cable programme,” substitute “of any matter or the inclusion of any matter in a relevant programme,” and for “, broadcast or cable programme” substitute “or programme”;
  - (d) in subsection (6), omit the definitions of “a broadcast” and “cable programme” and after the definition of “complainant” insert—

““relevant programme” means a programme included in a programme service (within the meaning of the Broadcasting Act 1990);” and
  - (e) in subsection (7), for “broadcast or inclusion in a cable programme” substitute “or upon matter included in a relevant programme”.
- (2) In section 5(5) (supplementary provisions), for “broadcast or cable programme in question was of” substitute “or programme in question was of, or (as the case may be) included,”.
- (3) In section 7(6) (extent to Northern Ireland), for “broadcast or inclusion in a cable programme” substitute “in, or such an inclusion of matter in a relevant programme for reception in,”.

### *Sexual Offences (Northern Ireland) Order 1978 (S.I. 1978/460 (N.I.5))*

- 27 (1) In Article 6 (anonymity of complainants in rape offence cases)—
- <sup>F121</sup>(a) .....

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- (b) in paragraph (5), for “broadcast or included in a cable programme” substitute “or included in a relevant programme” and for sub-paragraphs (c) and (d) substitute “and
  - (c) in the case of matter included in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper,”;
- (c) in paragraph (6), omit the definitions of “a broadcast” and “cable programme” and after the definition of “complainant” insert—
 

““relevant programme” means a programme included in a programme service (within the meaning of the Broadcasting Act 1990);” and
- (d) in paragraph (7), for “broadcasting or inclusion in a cable programme” substitute “or inclusion in a relevant programme” and for “broadcast or inclusion in a cable programme” substitute “or upon matter included in a relevant programme”.

(2) In Article 7(3) (supplementary provisions), for “broadcast or cable programme in question was of” substitute “or programme in question was of, or (as the case may be) included,”.

F121(3) .....

**Textual Amendments**  
**F121** Sch. 20 para. 27(1)(a)(3) repealed (9.1.1995) by S.I. 1994/2795 (NI 15), art. 26(3), Sch. 3; S.R. 1994/446, art. 2

*Competition Act 1980 (c. 21)*

F122<sup>28</sup> .....

**Textual Amendments**  
**F122** Sch. 20 para. 28 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 26; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

*Magistrates’ Courts Act 1980 (c. 43)*

- 29 (1) In section 8 (restrictions on reports of committal proceedings)—
- (a) in subsection (1), for “broadcast or include in a cable programme” substitute “include in a relevant programme for reception”;
  - (b) in subsections (2B), (4), (5) and (8), for “broadcast or included in a cable programme”, in each place where those words occur, substitute “or included in a relevant programme”;
  - (c) in subsection (3), for “broadcast or include in a cable programme”, in each place where those words occur, substitute “or include in a relevant programme”;



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- (d) in subsection (5), for paragraphs (c) and (d) substitute—
- “(c) in the case of the inclusion of a report in a relevant programme, any body corporate which provides the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper.”;
- (e) in subsection (10), omit the definitions of “broadcast” and “cable programme” and after the definition of “publish” insert—

““relevant programme” means a programme included in a programme service (within the meaning of the Broadcasting Act 1990).”

- (2) In section 71 (reports of domestic proceedings), for subsection (1) substitute—

“(1) In the case of domestic proceedings in a magistrates’ court (other than proceedings under the Adoption Act 1976) it shall not be lawful for a person to whom this subsection applies—

- (a) to print or publish, or cause or procure to be printed or published, in a newspaper or periodical, or
- (b) to include, or cause or procure to be included, in a programme included in a programme service (within the meaning of the Broadcasting Act 1990) for reception in Great Britain,

any particulars of the proceedings other than such particulars as are mentioned in subsection (1A) below.

- (1A) The particulars referred to in subsection (1) above are—

- (a) the names, addresses and occupations of the parties and witnesses;
- (b) the grounds of the application, and a concise statement of the charges, defences and counter-charges in support of which evidence has been given;
- (c) submissions on any point of law arising in the course of the proceedings and the decision of the court on the submissions;
- (d) the decision of the court, and any observations made by the court in giving it.

- (1B) Subsection (1) above applies—

- (a) in relation to paragraph (a) of that subsection, to the proprietor, editor or publisher of the newspaper or periodical, and
- (b) in relation to paragraph (b) of that subsection, to any body corporate which provides the service in which the programme is included and to any person having functions in relation to the programme corresponding to those of an editor of a newspaper.”;

and in subsection (2), for “subsection (1)” substitute “ subsection (1A) ”.

*Indecent Displays (Control) Act 1981 (c. 42)*

- 30 In section 1(4) (provisions relating to indecent displays disappplied in relation to broadcasting etc.), for paragraph (a) substitute—

“(a) included by any person in a television broadcasting service or other television programme service (within the meaning of Part I of the Broadcasting Act 1990);”.

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*Contempt of Court Act 1981 (c. 49)*

- 31 (1) In section 2 (limitation of scope of strict liability)—
- (a) in subsection (1), for “broadcast cable programme” substitute “programme included in a programme service”; and
  - (b) after subsection (4) insert—
 

“(5) In this section “programme service” has the same meaning as in the Broadcasting Act 1990.”
- (2) In section 19 (interpretation), omit the definition of “cable programme”.

*Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981 (S.I. 1981/839 (N.I.20))*

- 32 In Article 11(4) (interpretation), for sub-paragraphs (c) and (d) substitute “or
- (c) to providing a programme service (within the meaning of the Broadcasting Act 1990).”

*Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I.26))*

- 33 (1) In Article 44 (reports of preliminary proceedings)—
- (a) in paragraphs (1) and (2), for “or published”, in each place where those words occur, substitute “, published or included in a relevant programme”; and
  - (b) after paragraph (5) insert—
 

“(6) In this Article “relevant programme” means a programme included in a programme service (within the meaning of the Broadcasting Act 1990) for reception in Northern Ireland.”
- (2) In Article 90 (reports of domestic proceedings), for paragraph (1) substitute—
- “(1) A person to whom this paragraph applies shall not—
- (a) print or publish, or cause or procure to be printed or published, in a newspaper or periodical, or
  - (b) include, or cause or procure to be included, in a programme included in a programme service (within the meaning of the Broadcasting Act 1990) for reception in Northern Ireland,
- any particulars of any domestic proceedings other than such particulars as are mentioned in paragraph (1A) below.
- (1A) The particulars referred to in paragraph (1) above are—
- (a) the names, addresses and occupations of the parties and witnesses;
  - (b) the grounds of the application, and a concise statement of the charges, defences and counter-charges in support of which evidence has been given;
  - (c) submissions on any point of law arising in the course of the proceedings, and decisions of the court on the submissions; and
  - (d) the decisions of the court, and any observations made by the court in giving its decision.
- (1B) Paragraph (1) above applies—

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- (a) in relation to sub-paragraph (a) of that paragraph, to the proprietor, editor or publisher of the newspaper or periodical, and
- (b) in relation to sub-paragraph (b) of that paragraph, to any body corporate which provides the service in which the programme is included and to any person having functions in relation to the programme corresponding to those of an editor of a newspaper.”

*Insurance Companies Act 1982 (c. 50)*

- 34 In section 72(6) (meaning of “advertisement” for the purposes of insurance advertisements), for “or by inclusion in a cable programme service” substitute “ or by inclusion in any programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service ”.

*Representation of the People Act 1983 (c. 2)*

- 35 (1) Part II shall be amended as follows.
- (2) In section 75(1)(i) (election expenses in relation to publications or broadcasts), for the words from “the Independent” onwards substitute “ or by Sianel Pedwar Cymru or in a programme included in any service licensed under Part I or III of the Broadcasting Act 1990; ”.
- (3) In section 92 (broadcasting from outside United Kingdom), for subsection (1) substitute—
- “(1) No person shall, with intent to influence persons to give or refrain from giving their votes at a parliamentary or local government election, include, or aid, abet, counsel or procure the inclusion of, any matter relating to the election in any programme service (within the meaning of the Broadcasting Act 1990) provided from a place outside the United Kingdom otherwise than in pursuance of arrangements made with—
- (a) the British Broadcasting Corporation;
  - (b) Sianel Pedwar Cymru; or
  - (c) the holder of any licence granted by the Independent Television Commission or the Radio Authority,
- for the reception and re-transmission of that matter by that body or the holder of that licence.”
- (4) In section 93 (broadcasting during elections)—
- (a) in subsection (1)(a), for “broadcast from a television or other wireless transmitting station in the United Kingdom” substitute—
    - “(a) broadcast by the British Broadcasting Corporation or Sianel Pedwar Cymru; or
    - (b) included in any service licensed under Part I or III of the Broadcasting Act 1990”;
- and
- (b) omit subsection (3).
- (5) Without prejudice to the generality of section 20(2) of the <sup>M19</sup>Interpretation Act 1978, any reference in this paragraph to a provision of the Representation of the <sup>M20</sup>People Act 1983 includes a reference to that provision as applied by any regulations made

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under paragraph 2 of Schedule 1 to the <sup>M21</sup>European Parliamentary Elections Act 1978.

#### Marginal Citations

- M19** 1978 c. 30.  
**M20** 1983 c. 2.  
**M21** 1978 c. 10.

#### *National Audit Act 1983 (c. 44)*

36 In Part II of Schedule 4 (nationalised industries and other public authorities liable to examination by Comptroller and Auditor General), for the entries relating to the Independent Broadcasting Authority and the Welsh Fourth Channel Authority substitute—

“Sianel Pedwar Cymru.”

#### *Value Added Tax Act 1983 (c. 55)*

<sup>F123</sup>37 .....

#### Textual Amendments

**F123** Sch. 20 para. 37 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), **Sch. 15**

#### *Telecommunications Act 1984 (c. 12)*

<sup>F124</sup>38 .....

#### Textual Amendments

**F124** Sch. 20 para. 38 repealed (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 19(1)** Note 1 (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

#### *Video Recordings Act 1984 (c. 39)*

39 In section 3(8) (exempted supplies), for paragraphs (a) and (b) substitute “ a programme service (within the meaning of the Broadcasting Act 1990) ”.

#### *Cinemas Act 1985 (c. 13)*

40 In section 21(1) (interpretation), in the definition of “film exhibition”, for paragraphs (a) and (b) substitute “ programmes included in a programme service (within the meaning of the Broadcasting Act 1990); ”.

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*Bankruptcy (Scotland) Act 1985 (c. 66)*

- 41 In subsection (5) of section 70 (supplies by utilities), for the words from “services”, where it second occurs, onwards substitute “ local delivery services within the meaning of Part II of the Broadcasting Act 1990 ”.

*Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (S.I. 1985/1204 (N.I.11))*

- 42 In Article 130(8) (definition of “advertisement” for the purposes of restrictions on advertisements relating to gaming), after “television,” insert “ or by inclusion in any programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service, ”.

*Insolvency Act 1986 (c. 45)*

- 43 In sections 233(5)(d) and 372(5)(c) (supplies of gas, water, electricity and telecommunication services), for the words “services consisting” onwards, in each place where they occur, substitute “ local delivery services within the meaning of Part II of the Broadcasting Act 1990. ”

*Building Societies Act 1986 (c. 53)*

- 44 In section 50(10) (powers to control advertising), in the definition of “advertisement”, for the words from “whether” to “and references” substitute “whether—
- (a) documentary,
  - (b) by way of sound broadcasting or television or by inclusion in any programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service, or
  - (c) by any pictorial means not falling within paragraph (a) or (b) above;
- and references ”.

*Financial Services Act 1986 (c. 60)*

- 45 (1) In section 207 (interpretation)—
- (a) in subsection (2), after “television” insert “ or by inclusion in any programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service ”; and
  - (b) omit subsection (4).
- (2) In paragraph 25A in Part III of Schedule 1 (advice given in sound, television or cable programmes excluded from activities constituting investment business)—
- (a) in sub-paragraph (1), for the words from “or teletext” onwards substitute “ included, or made for inclusion, in a programme service. ”; and
  - (b) for sub-paragraph (2) substitute—
- “(2) In this paragraph—
- (a) “programme”, in relation to a programme service, includes an advertisement and any other item included in that service; and

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

*Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I.3))*

46 In Article 2(2) (interpretation), in the definition of “newspaper”, for the words from “cable programme” onwards substitute “programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service;”.

*Criminal Justice Act 1987 (c. 38)*

F125 47 .....

**Textual Amendments**  
F125 Sch. 20 para. 47 repealed (4.7.1996 with effect in accordance with ss. 44, 72, Sch. 3 of the amending Act) by 1996 c. 25, s. 80, Sch. 5 para. 12 (with s. 78(1))

*Consumer Protection Act 1987 (c. 43)*

F126 48 .....

**Textual Amendments**  
F126 Sch. 20 para. 48 repealed (26.5.2008) by The Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), reg. 1, Sch. 4 Pt. 1 (with reg. 28(2)(3))

*Consumer Protection (Northern Ireland) Order 1987 (S.I.1987/2049 (N.I.20))*

F127 49 .....

**Textual Amendments**  
F127 Sch. 20 para. 49 repealed (26.5.2008) by The Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), reg. 1, Sch. 4 Pt. 1 (with reg. 28(2)(3))

*Copyright, Designs and Patents Act 1988 (c. 48)*

F128 50 .....

**Textual Amendments**  
F128 Sch. 20 para. 50 repealed (1.10.1996) by 1996 c. 55, s. 148, Sch. 11 Pt. I (with s. 43(1)(6)); S.I. 1996/2120, art. 4, Sch. 1

*Control of Misleading Advertisements Regulations 1988 (S.I. 1988/915)*

51 (1) In regulation 2(1) (interpretation)—

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- (a) omit the definitions of “broadcast advertisement”, “Cable Authority”, “IBA” and “licensable service”;
  - (b) before the definition of “court” insert—
    - ““the Commission” means the Independent Television Commission”;
  - (c) for the definition of “licensed service” insert—
    - ““licensed service” means—
      - (a) in relation to a complaint made to the Commission, a service in respect of which the Commission have granted a licence under Part I or II of the Broadcasting Act 1990; and
      - (b) in relation to a complaint made to the Radio Authority, a service in respect of which the Radio Authority have granted a licence under Part III of that Act;
    - and “licensed local delivery service” means a service in respect of which the Commission have granted a licence under Part II of that Act;”;
  - (d) after the definition of “publication” insert—
    - ““relevant body” means the Commission or the Radio Authority;
    - “on S4C” has the same meaning as in Part I of the Broadcasting Act 1990;
    - “the Welsh Authority” has the same meaning as in that Act;”.
- (2) In regulation 4(2) (exceptions to complaints to be considered by Director General of Fair Trading), for “the IBA or the Cable Authority” substitute “ the Commission, the Radio Authority or the Welsh Authority ”.
- (3) For regulations 8 to 11 substitute—

#### **“COMPLAINTS TO THE COMMISSION AND THE RADIO AUTHORITY**

- 8
- (1) Subject to paragraph (2) below, it shall be the duty of a relevant body to consider any complaint made to it that any advertisement included or proposed to be included in a licensed service is misleading, unless the complaint appears to the body to be frivolous or vexatious.
  - (2) The Commission shall not consider any complaint about an advertisement included or proposed to be included in a licensed local delivery service by the reception and immediate re-transmission of broadcasts made by the British Broadcasting Corporation.
  - (3) A relevant body shall give reasons for its decisions.
  - (4) In exercising the powers conferred on it by these Regulations a relevant body shall have regard to all the interests involved and in particular the public interest.

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#### **CONTROL BY THE COMMISSION AND THE RADIO AUTHORITY OF MISLEADING ADVERTISEMENTS**

- 9 (1) If, having considered a complaint about an advertisement pursuant to regulation 8(1) above, it considers that the advertisement is misleading, a relevant body may, if it thinks it appropriate to do so, exercise in relation to the advertisement the power conferred on it—
- (a) where the relevant body is the Commission, by section 9(6) of the Broadcasting Act 1990 (power of Commission to give directions about advertisements), or
  - (b) where the relevant body is the Radio Authority, by section 93(6) of that Act (power of Radio Authority to give directions about advertisements).
- (2) A relevant body may require any person appearing to it to be responsible for an advertisement which the body believes may be misleading to furnish it with evidence as to the accuracy of any factual claim made in the advertisement. In deciding whether or not to make such a requirement the body shall have regard to the legitimate interests of any person who would be the subject of or affected by the requirement.
- (3) If such evidence is not furnished to it following a requirement made by it under paragraph (2) above or if it considers such evidence inadequate, a relevant body may consider the factual claim inaccurate.

#### **COMPLAINTS TO THE WELSH AUTHORITY**

- 10 (1) Subject to paragraph (2) below, it shall be the duty of the Welsh Authority to consider any complaint made to them that any advertisement broadcast or proposed to be broadcast on S4C is misleading, unless the complaint appears to the Authority to be frivolous or vexatious.
- (2) The Welsh Authority shall not consider any complaint about an advertisement broadcast or proposed to be broadcast on S4C by the reception and immediate re-transmission of broadcasts made by the British Broadcasting Corporation.
- (3) The Welsh Authority shall give reasons for their decisions.
- (4) In exercising the powers conferred on them by these Regulations the Welsh Authority shall have regard to all the interests involved and in particular the public interest.

#### **CONTROL BY THE WELSH AUTHORITY OF MISLEADING ADVERTISEMENTS**

- 11 (1) If, having considered a complaint about an advertisement pursuant to regulation 10(1) above, they consider that the advertisement is misleading, the Welsh Authority may, if they think it appropriate to do so, refuse to broadcast the advertisement.



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- (2) The Welsh Authority may require any person appearing to them to be responsible for an advertisement which the Authority believe may be misleading to furnish them with evidence as to the accuracy of any factual claim made in the advertisement. In deciding whether or not to make such a requirement the Authority shall have regard to the legitimate interests of any person who would be the subject of or affected by the requirement.
- (3) If such evidence is not furnished to them following a requirement made by them under paragraph (2) above or if they consider such evidence inadequate, the Welsh Authority may consider the factual claim inaccurate.”

*Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (S.I.1988/1846 (N.I.16))*

52 In Article 10 (restrictions on reporting applications for dismissal and preparatory hearings)—

- (a) in paragraph (1), for “broadcast or include in a cable programme” substitute “include in a relevant programme for reception”;
- (b) in paragraphs (5), (9) and (13), for “, broadcast or included in a cable programme” substitute “or included in a relevant programme”;
- (c) in paragraphs (6) and (8), for “, broadcast or include in a cable programme” substitute “or include in a relevant programme”;
- (d) in paragraph (12), for “broadcast or included in a cable programme” substitute “included in a relevant programme” and for “, broadcast or inclusion in a cable programme” substitute “or inclusion in a relevant programme”;
- (e) in paragraph (13), for sub-paragraphs (c) and (d) substitute—
  - “(c) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper;” and
- (f) in paragraph (16), omit the definitions of “broadcast” and “cable programme” and after the definition of “publish” insert—

““relevant programme” means a programme included in a programme service (within the meaning of the Broadcasting Act 1990).”

*Children Act 1989 (c. 41)*

53 In section 97(5) (privacy for children involved in certain proceedings), for paragraph (a) of the definition of “publish” substitute—

- “(a) include in a programme service (within the meaning of the Broadcasting Act 1990);”.

*Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I.19))*

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### Textual Amendments

**F129** Sch. 20 para. 54 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)

## SCHEDULE 21

Section 203(3).

### REPEALS

Chapter	Short title	Extent of repeal
1933 c. 12.	Children and Young Persons Act 1933.	In section 28(2)(a), the words “a cable programme studio”.
1937 c. 37.	Children and Young Persons (Scotland) Act 1937.	In section 36(2)(a), the words “a cable programme studio”.
1949 c. 54.	Wireless Telegraphy Act 1949.	Section 14(1B)(a).  In section 15, in subsection (1) the words “and named in the warrant”, and in subsection (2) the words “and named in the authorisation”.
1952 c. 66.	Defamation Act 1952.	Section 1.
1955 c. 7.	Wireless Telegraphy (Blind Persons) Act 1955.	The whole Act.
1955 c. 11 (N.I.).	Defamation Act (Northern Ireland) 1955.	Section 1.
1959 c. 66.	Obscene Publications Act 1959.	In section 1, the proviso to subsection (3).
1967 c. 72.	Wireless Telegraphy Act 1967.	Section 3(2).  Section 5(2).
1968 c. 34 (N.I.).	Children and Young Persons Act (Northern Ireland) 1968.	In section 45(2)(a), the words “a cable programme studio”.
1973 c. 41.	Fair Trading Act 1973.	In Schedule 7, in Part I, paragraphs 8 and 9.
1975 c. 24.	House of Commons Disqualification Act 1975.	In Schedule 1, in Part II, the entries relating to the Cable Authority, the Independent Broadcasting Authority and the Welsh Fourth Channel Authority.

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1975 c. 25.	Northern Ireland Assembly Disqualification Act 1975.	In Schedule 1, in Part II, the entries relating to the Cable Authority and the Independent Broad- casting Authority.
1975 c. 68.	Industry Act 1975.	Section 9(9A).
1975 c. 70.	Welsh Development Agency Act 1975.	Section 19(9A).
1976 c. 82.	Sexual Offences (Amendment) Act 1976.	In section 4(6), the definitions of “a broadcast” and “cable programme”.
S.I. 1978/460 (N.I.5).	Sexual Offences (Northern Ireland) Order 1978.	In Article 6(6), the definitions of “a broadcast” and “cable programme”.
1980 c. 43.	Magistrates Courts Act 1980.	In section 8(10), the definitions of “broadcast” and “cable programme”.
1980 c. 65.	Local Government, Planning and Land Act 1980.	In Schedule 16, paragraph 16.
1981 c. 49.	Contempt of Court Act 1981.	In section 19, the definition of “cable programme”.
1981 c. 68.	Broadcasting Act 1981.	The whole Act.
1982 c. 39.	Finance Act 1982.	Section 144(3).
1982 c. 45.	Civic Government (Scotland) Act 1982.	In section 51, subsection (6) (a) and, in subsection (8), in the definition of “material” the words from “and” onwards, and the word “showing,”.
1983 c. 2.	Representation of the People Act 1983.	Section 93(3).
1984 c. 12.	Telecommunications Act 1984.	Section 6(1).  Section 49(2).  In section 79(2), the words “or them”.  In Schedule 4, paragraph 81.  In Schedule 5, paragraphs 8(1) and (3) and 30.
1984 c. 46.	Cable and Broadcasting Act 1984.	The whole Act.

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1985 c. 9.	Companies Consolidation (Consequential Provisions) Act 1985.	In Schedule 2, the entries relating to the Broadcasting Act 1981.
1986 c. 41.	Finance Act 1986.	Section 111. Schedule 22.
1986 c. 60.	Financial Services Act 1986.	Section 207(4).
1986 c. 64.	Public Order Act 1986.	In section 22, in subsection (2) the words “broad- casting or cable”, in subsections (4)(b) and (5)(b) the words “broad- cast or”, wherever occur- ring, and subsections (7) and (8). Section 23(4). In section 29, the definitions of “broadcast” and “cable programme service”. In Schedule 2, paragraphs 5 and 6.
1987 c. 10.	Broadcasting Act 1987.	The whole Act.
1987 c. 38.	Criminal Justice Act 1987.	In section 11(15), the definitions of “broadcast” and “cable programme”.
1987 c. 43.	Consumer Protection Act 1987.	In section 24(6), the definition of “cable programme service”.
S.I.1987/463 (N.I.7).	Public Order (Northern Ireland) Order 1987.	In Article 12, in paragraph (2)(a) the words “broad- casting or cable”, in paragraphs (4)(b) and (5) (b) the words “broadcast or”, wherever occurring, and paragraphs (7) and (8). Article 13(4). In Article 17, the defini- tions of “broadcast” and “cable programme service”.
S.I.1987/2049 (N.I.20).	Consumer Protection (Northern Ireland) Order 1987.	In Article 17(6), the definition of “cable programme service”.
1988 c. 40.	Education Reform Act 1988.	In Schedule 12, paragraph 49.
1988 c. 48.	Copyright, Designs and Patents Act 1988.	In section 73, subsection (2) (a) and the word “or” immediately following it, and subsection (3)(a) and

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		the word “or” immediately following it.
		Section 134(4).
		Section 299(2).
		In Schedule 2, paragraph 19(2)(a) and the word “or” immediately following it.
		In Schedule 7, paragraphs 29 and 30.
S.I.1988/915.	Control of Misleading Advertisements Regulations 1988.	In regulation 2(1), the definitions of “broadcast advertisement”, “Cable Authority”, “IBA” and “licensable service”.
S.I.1988/1846 (N.I.16).	Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988.	In Article 10(16), the definitions of “broadcast” and “cable programme”.
1989 c. 26.	Finance Act 1989.	Section 181. Schedule 16.

SCHEDULE 22

Section 203(4).

TRANSITIONAL PROVISIONS AND SAVINGS

*Preservation of appointments of existing members of the Welsh Authority, the BCC and the BSC*

F130<sub>1</sub> .....

**Textual Amendments**

**F130** Sch. 22 paras. 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)

*Power to make provision with respect to complaints to the BCC or BSC*

F130<sub>2</sub> .....

**Textual Amendments**

**F130** Sch. 22 paras. 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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*Power to make provision with respect to complaints under  
the Control of Misleading Advertisements Regulations 1988*

F130<sup>3</sup> .....

**Textual Amendments**  
F130 Sch. 22 paras. 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)

*Saving of amendments made by Cable and Broadcasting Act 1984*

4 The amendments made by paragraphs 12, <sup>F131</sup> . . . , 32 <sup>F132</sup> ... of Schedule 5 to the <sup>M22</sup>Cable and Broadcasting Act 1984 shall not be affected by the repeals made by this Act but shall continue to have effect, subject to any amendments made by Schedule 20 to this Act.

**Textual Amendments**  
F131 Word in Sch. 22 para. 4 repealed (4.11.1996) by S.I. 1995/755 (N.I. 15), art. 185(2), Sch. 10 (with Sch. 8 para. 23(4)); S.R. 1996/297, art. 2(2)  
F132 Words in Sch. 22 para. 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)

**Marginal Citations**  
M22 1984 c. 46.

*Transitional modification of amendments made by this Act*

F133<sup>5</sup> .....

**Textual Amendments**  
F133 Sch. 22 para. 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)

6 Section 92(1) of the Representation of the People Act 1983 (as amended by this Act), shall have effect as if—  
(a) the reference to the holder of a licence granted by the Independent Television Commission or the Radio Authority included a reference to the holder of a relevant licence within the meaning of Part III of Schedule 12 to this Act; and  
(b) there were added at the end “or in pursuance of arrangements made with—  
(i) the Independent Television Commission or the Radio Authority, or  
(ii) any programme contractor whose contract continues in force by virtue of Part II or IV of Schedule 11 to the Broadcasting Act 1990,

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for the matter to be received by that body or contractor and re-transmitted by that body in the provision of any broadcasting service in accordance with the said Schedule 11. ”

- 7 Regulation 8(1) and (2) of the Control of Misleading Advertisements Regulations 1988 (as amended by this Act) shall apply to any service provided under a relevant licence within the meaning of Part III of Schedule 12 to this Act as they apply to a service licensed under Part II of this Act.

**Status:**

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**Changes to legislation:**

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