



# Broadcasting Act 1981

## 1981 CHAPTER 68

### PART I

#### THE INDEPENDENT BROADCASTING AUTHORITY

##### *The Authority*

#### **1 The Independent Broadcasting Authority.**

- (1) The authority called the Independent Broadcasting Authority shall continue in existence as a body corporate.
- (2) The Authority shall consist of—
  - (a) a Chairman and a Deputy Chairman, and
  - (b) such number of other members, not being less than five, as the Secretary of State may from time to time determine.
- (3) Unless and until the Secretary of State otherwise determines by notice in writing to the Authority, a copy of which shall be laid before each House of Parliament, the number of those other members shall be ten.
- (4) Schedule 1 shall have effect with respect to the Authority.

#### **2 Function and duties of Authority.**

- (1) The function of the Authority shall be to provide, in accordance with this Act and until [F131st December 2005], television and local sound broadcasting services, additional in each case to those of the BBC and of high quality (both as to the transmission and as to the matter transmitted), for so much of the United Kingdom, the Isle of Man and the Channel Islands as may from time to time be reasonably practicable.
- (2) It shall be the duty of the Authority—
  - (a) to provide the television and local sound broadcasting services as a public service for disseminating information, education and entertainment;

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- (b) to ensure that the programmes broadcast by the Authority in each area maintain a high general standard in all respects (and in particular in respect of their content and quality), and a proper balance and wide range in their subject matter, having regard both to the programmes as a whole and also to the days of the week on which, and the times of the day at which, the programmes are broadcast; and
  - (c) to secure a wide showing or (as the case may be) hearing for programmes of merit.
- (3) Without prejudice to the powers conferred on the Authority by this Act, the programmes broadcast by the Authority shall, so far as may be consistent with the observance of the requirements of this Act, be provided not by the Authority but by persons (referred to in this Act as “programme contractors”) who, under contracts with the Authority, have, in consideration of payments to the Authority and subject to the provisions of this Act, the right and the duty to provide programmes or parts of programmes to be broadcast by the Authority, which may include advertisements.
- (4) The following provisions, namely subsections (2)(b) and (3) of this section and sections 3, 4, 6, 8 and 9, have effect subject to the provisions of sections 10 to 13 (special provisions relating to the Fourth Channel); and further modifications of the provisions of this Act are contained—
- (a) in section 14(5) and Schedule 3 as respects teletext services; and
  - (b) in section 50 and Schedule 6 as respects the Fourth Channel in Wales.
- (5) For the purpose of extending or further extending the duration of the function of the Authority under subsection (1) the Secretary of State may by order substitute for the date specified in that subsection, as for the time being in force, [<sup>F2</sup>any later date].
- (6) Any order under subsection (5) shall be made by statutory instrument; but no such order shall be made unless a draft of it has been laid before Parliament and approved by a resolution of each House.

#### Textual Amendments

- F1** Words substituted by virtue of [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\), s. 45\(1\)](#) and [S.I. 1987/673, art. 2](#)
- F2** Words substituted by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\), s. 45\(2\)](#)

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

- C1** [S. 2\(2\)](#) modified by [Broadcasting Act 1990 \(c. 42, SIF 96\), s. 129, Sch. 11 Pt. II paras. 1\(3\)\(a\)\(4\), 5\(1\)\(a\), Pt. IV para. 1\(3\)\(a\)\(4\)](#)
- C2** [Ss. 2\(2\)\(a\)\(b\), 3\(1\)\(a\)\(b\)\(3\)\(4\)\(7\), 4, 5, 8, 9, 14\(1\), 15, 16\(1\), 42, 61, 62](#) extended (*prosp.*) by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\), ss. 44\(1\), 51\(1\), 59\(4\), Sch. 4](#)
- C3** [S. 2\(2\)\(b\)\(c\)](#) excluded by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\), s. 37\(2\)\(a\)](#)
- C4** [S. 2\(3\)](#) extended by [Broadcasting Act 1990 \(c. 42, SIF 96\), s. 129, Sch. 11 Pt. II paras. 2\(1\), 4](#)
- C5** [S. 2\(3\)](#) modified by [Broadcasting Act 1990 \(c. 42, SIF 96\), s. 129, Sch. 11 Pt. IV para. 2\(2\)](#)

### 3 Powers of Authority.

- (1) The Authority shall (subject to the provisions of this Act) have power to do all such things as are in their opinion necessary for or conducive to the proper discharge of their

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function under section 2(1) and, in particular, they shall for the purpose of discharging that function have power—

- (a) to establish, install and use stations for wireless telegraphy;
- (b) to arrange for the provision and equipment of, or (if need be) themselves to provide and equip, studios and other premises for television and sound broadcasting purposes;
- [<sup>F3</sup>(c) by arrangements made for the purpose with persons providing cable programme services, to provide for the inclusion in the services of programmes broadcast by the Authority.]

(2) Notwithstanding section 2(3) the Authority may—

- (a) arrange for the provision of parts of programmes otherwise than by programme contractors for the purpose of securing the inclusion in the programmes broadcast by the Authority of items of particular classes which in their opinion are necessary for securing a proper balance in the subject-matter of the programmes and cannot, or cannot as suitably, be provided by programme contractors;
- (b) apart from the provision of such items, arrange for the provision (by programme contractors or otherwise) of, or (if need be) themselves provide, programmes or parts of programmes so far as may be necessary—
  - (i) by reason of any temporary lack of suitable persons able and willing to become or continue as programme contractors on suitable terms and to perform their obligations as such, or
  - (ii) by reason of any interval between the expiration or termination of one contract with a programme contractor and the commencement of another contract with that or another programme contractor; and
- (c) with the consent of the Secretary of State, arrange for the provision, otherwise than by programme contractors, of educational broadcasting services of an experimental nature to be broadcast in addition to education programmes provided for the purpose of the public service referred to in section 2(2)(a) by programme contractors;

and the Authority may, for the purpose of so providing programmes or parts of programmes or putting themselves into a position to do so if necessity arises, make such arrangements for obtaining the necessary material, enter into such contracts, employ such persons, acquire such property and do such things as may appear to them to be necessary or expedient.

- (3) Without prejudice to the generality of subsections (1) and (2), the powers of the Authority shall extend to the carrying on of such businesses and the doing of such things as arise out of the other activities of the Authority or are necessary or expedient for the purpose of turning to account any property or rights of the Authority.
- (4) Notwithstanding anything in this section the Authority shall not carry on business as sellers of, or (except with the approval of the Secretary of State) themselves engage in the manufacture or sale of, apparatus for wireless telegraphy or any other telegraphic equipment.
- (5) Notwithstanding anything in this section, the Authority shall not have power—
  - (a) to provide broadcasting services other than television services and local sound broadcasting services; or

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- (b) (except as provided by this section) to acquire any exclusive or other rights in respect of the broadcasting of any matters in sound only otherwise than as part of a local sound broadcast.
- (6) Nothing in subsection (5) shall be construed as precluding the inclusion in any television programme broadcast by the Authority of matter transmitted in sound only—
- (a) by way of relays of any of the BBC’s party political broadcasts which is so transmitted;
- (b) in compliance with a notice given to the Authority under section 29(1); or
- (c) by way of news items, announcements or other items incidental or ancillary to the television services provided by the Authority,
- or as precluding the acquisition by the Authority of rights in respect of any matters to be so transmitted.
- (7) Nothing in this section shall be construed as authorising the Authority to do, otherwise than under and in accordance with a licence under section 1 of the <sup>M1</sup>Wireless Telegraphy Act 1949 or [<sup>F4</sup>section 7 of the Telecommunications Act 1984], anything for the doing of which such a licence is requisite under those Acts respectively; and those Acts shall have effect in relation to the Authority accordingly.

#### Textual Amendments

- F3** S. 3(1)(c) substituted by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), **Sch. 5 para. 40(1)**
- F4** Words substituted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109, **Sch. 4 para. 81(b)**, Sch. 5 para. 45

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

- C6** S. 3 modified by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 129, Sch. 11 Pt. II paras. 1(3)(b)(4)(5), 3(3), 5 Pt. IV para. 1(3)(b)(4)(5)
- C7** Ss. 2(2)(a)(b), 3(1)(a)(b)(3)(4)(7), 4, 5, 8, 9, 14(1), 15, 16(1), 42, 61, 62 extended (*prosp.*) by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), ss. 44(1), 51(1), 59(4), **Sch. 4**
- C8** S. 3(2) modified by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 129, **Sch. 11 Pt. II para. 4(3)**
- C9** S. 3(3) extended by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), s. **48(3)(7)**

#### Marginal Citations

- M1** 1949 c. 54.

### *General provisions as to programmes*

#### **4 General provisions as to programmes.**

- (1) It shall be the duty of the Authority to satisfy themselves that, so far as possible, the programmes broadcast by the Authority comply with the following requirements, that is to say—
- (a) that nothing is included in the programmes which offends against good taste or decency or is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling;
- (b) that a sufficient amount of time in the programmes is given to news and news features and that all news given in the programmes (in whatever form) is presented with due accuracy and impartiality;

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- (c) that proper proportions of the recorded and other matter included in the programmes are of British origin and of British performance;
- (d) that the programmes broadcast from any station or stations contain a suitable proportion of matter calculated to appeal specially to the tastes and outlook of persons served by the station or stations and, where another language as well as English is in common use among those so served, a suitable proportion of matter in that language;
- (e) in the case of local sound broadcasting services, that the programmes broadcast from different stations for reception in different localities do not consist of identical or similar material to an extent inconsistent with the character of the services as local sound broadcasting services; and
- (f) that due impartiality is preserved on the part of the persons providing the programmes as respects matters of political or industrial controversy or relating to current public policy.

In applying paragraph (f), a series of programmes may be considered as a whole.

- (2) Without prejudice to the generality of subsection (1), it shall be the duty of the Authority to secure the exclusion from the programmes broadcast by them of all expressions of opinion by the Authority or their subsidiary mentioned in section 12(2), or by any programme contractor, on matters other than broadcasting which are of political or industrial controversy or relate to current public policy.
- (3) It shall be the duty of the Authority to satisfy themselves that the programmes broadcast by the Authority do not include, whether in an advertisement or otherwise, any technical device which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to, or otherwise influencing the minds of, members of an audience without their being aware, or fully aware, of what has been done.
- (4) Nothing shall be included in any programme broadcast by the Authority, whether in an advertisement or not, which offers any prize of significant value (whether competed for or not) or any gift of significant value, being a prize or gift which is available only to persons receiving that programme, or in relation to which any advantage is given to such persons.
- (5) Except with the previous approval of the Authority, there shall not be included in any programme broadcast by the Authority—
  - (a) any religious service or any propaganda relating to matters of a religious nature;
  - (b) any item, whether an advertisement or not, which gives or is designed to give publicity to the needs or objects of any association or organisation conducted for charitable or benevolent purposes.
- (6) Nothing in subsection (2) or (5) shall apply to a programme broadcast by the Authority so far as the programme consists of proceedings in either House of Parliament or proceedings of a local authority, a committee of a local authority or a joint committee of two or more local authorities.

In this subsection “local authority” means any of the following bodies, namely, a local authority within the meaning of the <sup>M2</sup>Local Government Act 1972, a local authority within the meaning of the <sup>M3</sup>Local Government (Scotland) Act 1973, a district council in Northern Ireland, [<sup>F5</sup>and the Common Council of the City of London].

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[<sup>F6</sup>(7) For the purpose of maintaining supervision and control over the programmes (including advertisements) broadcast by them the Authority may make and use recordings of those programmes or any part of them.]

#### Textual Amendments

- F5** Words substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237, **Sch. 12 Pt. II para. 49**
- F6** S. 4(7) substituted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 303(1), **Sch. 7 para. 29(2)**

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

- C10** Ss. 2(2)(a)(b), 3(1)(a)(b)(3)(4)(7), 4, 5, 8, 9, 14(1), 15, 16(1), 42, 61, 62 extended (*prosp.*) by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), ss. 44(1), 51(1), 59(4), **Sch. 4**
- C11** S. 4 modified by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 129, Sch. 11 Pt. II paras. 1(3)(b)(4)(6)(7), 5(1)(b), **6(3)**, Pt. IV para. 1(3)(b)(4)
- C12** S. 4(1)(b)(d) excluded by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), s. **37(2)(b)**

#### Marginal Citations

- M2** 1972 c. 70.  
**M3** 1973 c. 65.

### *Programmes other than advertisements*

## 5 Code for programmes other than advertisements.

- (1) The Authority shall draw up, and from time to time review, a code giving guidance—
- (a) as to the rules to be observed in regard to the showing of violence, and in regard to the inclusion in local sound broadcasts of sounds suggestive of violence, particularly when large numbers of children and young persons may be expected to be watching or listening to the programmes, and
  - (b) as to such other matters concerning standards and practice for programmes (other than advertisements) broadcast by the Authority as the Authority may consider suitable for inclusion in the code;
- and, in considering what other matters ought to be included in the code in pursuance of paragraph (b), the Authority shall have special regard to programmes broadcast when large numbers of children and young persons may be expected to be watching or listening.
- (2) The Authority shall secure that the provisions of the code under this section are observed in relation to all programmes (other than advertisements) broadcast by them.
- (3) The Authority may, in the discharge of their general responsibility for programmes other than advertisements, impose requirements as to standards and practice for such programmes which go beyond, or relate to matters not covered by, the provisions of the code under this section.
- (4) The methods of control exercisable by the Authority for the purpose of securing that the provisions of the code under this section are observed, and for the purpose of securing compliance with requirements imposed under subsection (3) which go beyond, or relate to matters not covered by, the code, shall include a power to give

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directions to a programme contractor (or any other person providing programmes other than advertisements) imposing prohibitions or restrictions as respects items of a specified class or description or as respects a particular item.

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

- C13** Ss. 2(2)(a)(b), 3(1)(a)(b)(3)(4)(7), 4, 5, 8, 9, 14(1), 15, 16(1), 42, 61, 62 extended (*prosp.*) by Cable and Broadcasting Act 1984 (c. 46, SIF 96), ss. 44(1), 51(1), 59(4), **Sch. 4**
- C14** S. 5 modified by Broadcasting Act 1990 (c. 42, SIF 96), s. 129, Sch. 11 Pt. II paras. 1(3)(b)(4), 5, Pt. IV para. 1(3)(b)(4)

## **6 Submission of programme schedules for Authority's approval.**

- (1) In the case of programmes other than advertisements, the methods by which the Authority discharge their duties under sections 2(2) and 5 in relation to television broadcasts shall, and in relation to local sound broadcasts (to such extent as the Authority consider appropriate) may, include consideration of programme schedules submitted by programme contractors to the Authority for approval in accordance with this section.
- (2) Subject to subsection (6), no programme (other than an advertisement) provided by a programme contractor—
- (a) if it is a television programme, or
  - (b) if it is a local sound broadcast which the Authority have required to be made in accordance with a programme schedule so approved,
- shall be broadcast by the Authority unless it forms part of a programme schedule approved by them in accordance with this section.
- (3) A programme schedule—
- (a) shall be drawn up in consultation with the Authority, and
  - (b) shall be for a period determined by them;
- and the Authority may give to programme contractors such directions as appear to the Authority expedient for the purpose of ensuring that the Authority have sufficient time to discharge their responsibilities in the consideration of programme schedules.
- (4) The Authority may give directions, which may be, to any degree, either general or specific and qualified or unqualified—
- (a) as to the exclusion of any item from a programme schedule;
  - (b) as to the inclusion in, or in a particular part of, a programme schedule of an item, or items, of a particular category; or
  - (c) as to the inclusion in a particular part of a programme schedule of a particular item;
- and the Authority shall not approve a programme schedule until they are satisfied that it conforms with any directions given under this section.
- (5) Without prejudice to the Authority's power to approve for the purposes of this section a revised or amended version of a programme schedule previously approved by them, the Authority may, if they think fit to do so in view of any change of circumstances occurring after a programme schedule has been approved by them, permit the programme contractor to make such alterations in that programme schedule as the Authority may approve, being alterations proposed to them in any convenient

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manner; and a programme schedule in which alterations have been made by virtue of this subsection shall, as so altered, be treated as having been approved by the Authority in accordance with this section.

- (6) The Authority may give directions, which may be, to any degree, either general or specific and conditional or unconditional, authorising the making of alterations in any approved programme schedule without prior reference to the Authority—

- (a) where it is difficult or impracticable for the programme contractor to communicate with the Authority in the time available, or
- (b) in the event of a technical breakdown;

and the programmes contained in a programme schedule in which alterations are made by virtue of this subsection may be broadcast by the Authority notwithstanding those alterations.

- (7) The Authority's approval under this section may be given subject to such exceptions, reservations and qualifications as the Authority think fit; and the Authority may at any time call for further particulars of a programme schedule submitted to them, or of any item in the programme schedule.

## 7 Programme prizes.

- (1) Without prejudice to the provision as to prizes and gifts contained in section 4(4), a programme (other than an advertisement) broadcast by the Authority—

- (a) shall not include anything which offers any prize of significant value (whether competed for or not) or any gift of significant value unless—
  - (i) the value of the prize or gift does not exceed an amount previously approved by the Authority for that prize or gift in relation to that programme, and
  - (ii) the aggregate value of all such prizes and gifts offered in the programme does not exceed an amount previously approved by the Authority for that programme; and
- (b) shall not include anything which offers any prize or gift of significant value in connection with a game, competition or test of any kind unless the rules governing the conduct of the game, competition or test have been previously approved by the Authority.

- (2) Subsection (1) shall not be taken to apply to a programme by reason only that in it there is broadcast a sporting or other event or competition not organised for the purposes of the programme.

### *Advertisements*

## 8 Advertisements.

- (1) The programmes broadcast by the Authority may, so long as the provisions of this Act are complied with in relation thereto, include advertisements inserted therein in consideration of payments to the relevant programme contractor or (in the case of an advertisement included in a programme or part of a programme provided under section 3(2)(b)) to the Authority.



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- (2) Orders for the insertion of the said advertisements may be received either through advertising or other agents or direct from the advertiser, but neither the Authority nor any programme contractor shall act as an advertising agent.
- (3) It shall be the duty of the Authority to secure that the provisions of Schedule 2 are complied with in relation to the advertisements included in the programmes broadcast by the Authority.
- (4) After consultation with the Authority the Secretary of State may make regulations amending, repealing, or adding to the provisions of Schedule 2.
- (5) Without prejudice to any of the duties incumbent on the Authority otherwise than under this subsection in relation to advertisements, it shall be the duty of the Authority—
  - (a) to consult from time to time with the Secretary of State as to the classes and descriptions of advertisements which must not be broadcast and the methods of advertising which must not be employed; and
  - (b) to carry out any directions which he may give them in those respects.
- (6) Subject to subsections (7) to (9), nothing shall be included in any programmes broadcast by the Authority, whether in an advertisement or not, which states, suggests or implies (or could reasonably be taken to state, suggest or imply) that any part of any programme broadcast by the Authority which is not an advertisement has been supplied or suggested by any advertiser; and, except as an advertisement, nothing shall be included in any programme broadcast by the Authority which could reasonably be supposed to have been included in the programme in return for payment or other valuable consideration to the relevant programme contractor or the Authority.
- (7) Nothing in subsection (6) shall be construed as prohibiting the inclusion of any of the following matters in any part of a programme broadcast by the Authority which is not an advertisement, namely—
  - (a) items designed to give publicity to the needs or objects of any association or organisation conducted for charitable or benevolent purposes;
  - (b) reviews of literary, artistic or other publications or productions, including current entertainments;
  - (c) items consisting of factual portrayals of doings, happenings, places or things, being items which in the opinion of the Authority are proper for inclusion by reason of their intrinsic interest or instructiveness and do not comprise an undue element of advertisement;
  - (d) announcements of the place of any performance included in the programme, or of the name and description of the persons concerned as performers or otherwise in any such performance, announcements of the number and description of any record so included, and acknowledgments of any permission granted in respect of any such performance, persons or record;
  - (e) items inserted at the request, or under the authority, of a Minister of the Crown (including the head of a Northern Ireland department);
  - (f) such other matters (if any) as may be prescribed by regulations made by the Secretary of State after consultation with the Authority.
- (8) Nothing in subsection (6) shall be construed as prohibiting the inclusion of an advertisement in any programme broadcast by the Authority by reason only of the fact that it is related in subject-matter to any part of that programme which is not an advertisement.

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- (9) So much of subsection (6) as prohibits the inclusion in programmes (other than advertisements) broadcast by the Authority of anything which could reasonably be supposed to have been included therein in return for payment or other valuable consideration to the Authority shall not apply to any programme so broadcast in an educational service provided under section 3(2)(c).
- (10) Any regulations under this section shall be made by statutory instrument; but no such regulations shall be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.

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

- C15** Ss. 2(2)(a)(b), 3(1)(a)(b)(3)(4)(7), 4, 5, 8, 9, 14(1), 15, 16(1), 42, 61, 62 extended (*prosp.*) by Cable and Broadcasting Act 1984 (c. 46, SIF 96), ss. 44(1), 51(1), 59(4), **Sch. 4**
- C16** S. 8 modified by Broadcasting Act 1990 (c. 42, SIF 96), s. 129, Sch. 11 Pt. II paras. 1(3)(b)(4)(6), **5**, Pt. IV para. 1(3)(b)(4)(6)
- C17** S. 8(5) modified (*temp.* ending with 31.12.1992) by Broadcasting Act 1990 (c. 42, SIF 96), s. 129, **Sch. 11 Pt. II para. 7(7)(a)**

**9 Code for advertisements.**

- (1) It shall be the duty of the Authority—
- (a) [<sup>F7</sup>after consultation with the Cable Authority] to draw up, and from time to time review, a code governing standards and practice in advertising and prescribing the advertisements and methods of advertising to be prohibited, or prohibited in particular circumstances; and
  - (b) to secure that the provisions of the code are complied with as regards the advertisements included in the programmes broadcast by the Authority.
- (2) The Authority may, in the discharge of their general responsibility for advertisements and methods of advertising, impose requirements as to advertisements and methods of advertising which go beyond the requirements imposed by the code under this section.
- (3) The methods of control exercisable by the Authority for the purpose of securing that the provisions of the code under this section are complied with, and for the purpose of securing compliance with requirements imposed under subsection (2) which go beyond the requirements of the code, shall include a power to give directions to a programme contractor with respect to the classes and descriptions of advertisements and methods of advertising to be excluded, or to be excluded in particular circumstances, or with respect to the exclusion of a particular advertisement, or its exclusion in particular circumstances.
- (4) The Authority may give directions to a programme contractor with respect to the times when advertisements are to be allowed.
- (5) Directions under this section may be, to any degree, either general or specific and qualified or unqualified; and directions under subsection (4) may, in particular, relate to—
- (a) the greatest amount of time to be given to advertisements in any hour or other period,

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- (b) the minimum interval which must elapse between any two periods given over to advertisements and the number of such periods to be allowed in any programme or item in a programme or in any hour or day,
  - (c) the exclusion of advertisements from a specified broadcast,
- and may make different provision for different parts of the day, different days of the week, different types of programmes or for other differing circumstances.

#### Textual Amendments

**F7** Words inserted by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), [Sch. 5 para. 40\(2\)](#)

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

- C18** Ss. 2(2)(a)(b), 3(1)(a)(b)(3)(4)(7), 4, 5, 8, 9, 14(1), 15, 16(1), 42, 61, 62 extended (*prosp.*) by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), ss. 44(1), 51(1), 59(4), [Sch. 4](#)
- C19** S. 9 modified by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 129, [Sch. 11 Pt. II paras. 1\(3\)\(b\)\(4\)\(7\)](#), Pt. IV para. 1(3)(b)(4)(6)(7)
- C20** S. 9(2)(3) applied by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 129, [Sch. 11 Pt. II para. 7\(7\)\(c\)](#)

### *Special provisions relating to the Fourth Channel*

## **10 Provision by Authority of second television service.**

- (1) If the Authority provide a television broadcasting service additional to that already being provided by them under this Act, the programmes (other than advertisements) broadcast in that service shall, subject to subsection (4) and without prejudice to section 12(2), be provided by the Authority themselves.
- (2) In this Act—
  - (a) “ITV” means the television broadcasting service already being provided by the Authority under this Act, and “on ITV” means in that service;
  - (b) “the Fourth Channel” means the additional television broadcasting service referred to in subsection (1) and “on the Fourth Channel” means in that service;
  - (c) “TV programme contractor” means a person whose contract as a programme contractor gives him the right and the duty to provide programmes or parts of programmes for broadcasting on ITV;
  - (d) references to the area of a TV programme contractor are references to the area for which he has the right and the duty to provide programmes or parts of programmes for broadcasting on ITV;
  - (e) references to a TV programme contractor’s contract are references to the contract by virtue of which he is such a contractor.
- (3) In consequence of subsection (1)—
  - (a) references in section 2(3) (provision of programmes by programme contractors) to programmes broadcast by the Authority shall not include references to programmes broadcast by them on the Fourth Channel; and
  - (b) section 3(2) (provision of programmes in exceptional cases otherwise than by programme contractors) and section 6 (submission of programme schedules by programme contractors for Authority’s approval) shall not apply in the case of the Fourth Channel.

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- (4) The programmes (other than advertisements) broadcast on the Fourth Channel so far they consist of programmes broadcast for reception in Wales shall be provided by the Welsh Fourth Channel Authority in accordance with Part II; and accordingly sections 11 and 12 do not apply in relation to the broadcasting by the IBA of television programmes, whether on ITV or otherwise, for reception in Wales.
- (5) In this section “television broadcasting service” does not include a teletext service.

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

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

- (3) Section 4(1)(d) (programmes to contain a suitable proportion of matter catering for the tastes and outlook of persons served by the station or stations in question and, where another language as well as English is in common use among such persons, a suitable proportion of matter in that language) shall not apply in the case of programmes broadcast on the Fourth Channel.

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

**C21** Ss. 11, 12, 13 modified by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 129, [Sch. 11 Pt. II paras. 3\(4\), 4](#)

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

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

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

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

- (2) The Authority shall arrange for the following activities involved in providing programmes (other than advertisements) for broadcasting on the Fourth Channel to be performed by a subsidiary of the Authority formed by them for the purpose, namely—
  - (a) obtaining and assembling the necessary material; and
  - (b) such of the other activities involved in providing such programmes as appear to the Authority appropriate.
- (3) As respects the selection of programmes (other than advertisements) for broadcasting on the Fourth Channel it shall be the duty of the Authority—
  - (a) to have regard, in particular, to their duties under section 11(1); and
  - (b) to secure that, so far as is consistent with their duties in relation to the Fourth Channel under sections 2(2) and 11, a substantial proportion of the programmes broadcast on the Fourth Channel are supplied otherwise than by persons of either of the following descriptions, namely a TV programme contractor and a body corporate under the control of a TV programme contractor.
- (4) In this section “subsidiary” shall be construed in accordance with [<sup>F8</sup>section 736 of the Companies Act 1985].

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**Textual Amendments**

**F8** Words substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. 30, [Sch. 2](#)

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

**C22** [Ss. 11, 12, 13](#) modified by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 129, [Sch. 11 Pt. II paras. 3\(4\), 4](#)

### 13 Advertisements on the Fourth Channel.

- (1) The programmes broadcast by the Authority on the Fourth Channel for reception in the area of any TV programme contractor may, so long as the provisions of this Act are complied with in relation thereto, include advertisements provided for insertion therein by that contractor in consideration of payments to him.
- (2) The contract of every TV programme contractor shall be framed so as to give him the right, in consideration of payments made to the Authority and so long as the provisions of this Act are complied with in relation thereto, to provide advertisements for inclusion in the programmes broadcast by the Authority on the Fourth Channel for reception in his area.
- (3) For any period in which programmes are to be broadcast on the Fourth Channel for reception in the area of a TV programme contractor it shall be the duty of the Authority to make suitable arrangements—

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- (a) for the contractor to receive advance information about the programmes other than advertisements which are to be so broadcast in that period and about the periods which will be available for the broadcasting of advertisements; and
  - (b) for the inclusion, in the programmes so broadcast in that period, of advertisements provided for the purpose by the contractor in the exercise of his right to do so under his contract.
- (4) In relation to the programmes broadcast by the Authority on the Fourth Channel, the provisions of sections 8 and 9 (together with Schedule 2) shall have effect with the following modifications, that is to say—
- (a) section 8(1) shall not apply;
  - (b) section 8(2) shall apply to orders for the inclusion by a TV programme contractor of advertisements among those provided by him for insertion in those programmes;
  - (c) section 8(9) and the reference to section 8(9) in section 8(6), shall not apply;
  - (d) section 9(4) and, in section 9(5), the words from “and directions under subsection (4)” onwards shall not apply.
- (5) Where two or more TV programme contractors share the same area, the preceding provisions of this section shall, in the case of each of them, apply as if the only programmes broadcast or to be broadcast by the Authority on the Fourth Channel for reception in that area were those so broadcast or to be broadcast in periods in respect of which his contract gives him the right and the duty to provide programmes or parts of programmes for reception in that area on ITV.

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

**C23** Ss. 11, 12, 13 modified by *Broadcasting Act 1990 (c. 42, SIF 96)*, s. 129, Sch. 11 Pt. II paras. 3(4), 4

*Teletext services*

**14 Provision of teletext services by Authority.**

- (1) Without prejudice to the generality of section 3(3), the television broadcasting services provided by the Authority may, if the Authority think fit, include teletext services.
- (2) Without prejudice to the powers conferred on the Authority by section 3(2), teletext transmissions broadcast by the Authority shall be provided not by the Authority but by persons (referred to in this Act as “teletext contractors”) who, under contracts with the Authority, have, in consideration of payments to the Authority and subject to such of the provisions of this Act as apply in relation to such transmissions, the right and the duty to provide material (which may include advertisements) to be included in teletext transmissions broadcast by the Authority.
- (3) A teletext contractor may, but need not, be a [F<sup>9</sup>TV or DBS programme contractor].
- (4) For the purposes of this Act teletext transmissions shall not be treated as programmes, subject however to subsection (5) and to any other provisions of this Act expressly requiring them to be so treated for the purpose of particular provisions.
- (5) In the provisions mentioned in Schedule 3—

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- (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;

and in section 3(2), in its application in relation to teletext transmissions or teletext contractors by virtue of this subsection, the reference to section 2(3) shall be read as a reference to subsection (2) of this section.

- (6) In this Act “teletext transmission” means a television transmission intended for general reception and consisting of a succession of visual displays (with or without accompanying sound) each capable of being selected and held for separate viewing or other use, and “teletext service” means a service consisting of teletext transmissions.

#### Textual Amendments

**F9** Words substituted by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), s. 57(1), **Sch. 5 para. 40(3)**

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

**C24** [Ss. 2\(2\)\(a\)\(b\), 3\(1\)\(a\)\(b\)\(3\)\(4\)\(7\), 4, 5, 8, 9, 14\(1\), 15, 16\(1\), 42, 61, 62](#) extended (*prosp.*) by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), ss. 44(1), 51(1), 59(4), **Sch. 4**

**C25** [S. 14\(2\)](#) extended by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), ss. 4(6), 87(6), 129, [Sch. 11 Pt. II paras. 2\(1\), 4](#)

**C26** [S. 14\(3\)](#) modified by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 129, [Sch. 11 Pt. II paras. 1\(3\)\(c\)\(4\), 5](#)

## 15 Code for teletext transmissions.

- (1) The Authority—
  - (a) shall draw up, and from time to time review, a code giving guidance as to such matters concerning standards and practice for teletext transmissions (including advertisements) broadcast by the Authority as the Authority may consider suitable for inclusion in the code; and
  - (b) shall secure that the provisions of the code are observed in relation to all teletext transmissions broadcast by the Authority.
- (2) Before drawing up or revising a code under this section the Authority shall consult the Secretary of State.
- (3) The Authority may, in the discharge of their general responsibility for television broadcasting services provided by them, impose requirements as to standards and practice for teletext transmissions broadcast by them which go beyond, or relate to matters not covered by, the provisions of the code.
- (4) The methods of control exercisable by the Authority—
  - (a) for the purpose of securing that the provisions of the code are observed; and
  - (b) for the purpose of securing compliance with requirements imposed under subsection (3) which go beyond, or relate to matters not covered by, the code,shall include a power to give directions to a teletext contractor imposing prohibitions or restrictions as respects items of a specified class or description or as respects a particular item.

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

- C27** Ss. 2(2)(a)(b), 3(1)(a)(b)(3)(4)(7), 4, 5, 8, 9, 14(1), 15, 16(1), 42, 61, 62 extended (*prosp.*) by **Cable and Broadcasting Act 1984 (c. 46, SIF 96)**, ss. 44(1), 51(1), 59(4), **Sch. 4**
- C28** S. 15 modified by **Broadcasting Act 1990 (c. 42, SIF 96)**, s. 129, Sch. 11 Pt. II paras. 1(3)(c)(4), **5**

*Advisory committees*

**16 General advisory council and specialist advisory committees etc.**

- (1) The Authority may appoint, or arrange for the assistance of, advisory committees to give advice to the Authority and programme contractors on such matters as the Authority may determine; and a general advisory council may be appointed under this subsection.
- (2) Without prejudice to the generality of subsection (1), the Authority shall in particular appoint, or arrange for the assistance of, the following committees, namely—
  - (a) a committee representative of the main streams of religious thought in the United Kingdom, the Isle of Man and the Channel Islands, to give advice to the Authority as to the exercise of their functions in relation to any such items as are mentioned in section 4(5)(a), and on any other matters of a religious nature included in the programmes broadcast by the Authority, or in any publications issued by the Authority;
  - (b) a committee so constituted as to be representative of both—
    - (i) organisations, authorities and persons concerned with standards of conduct in the advertising of goods and services (including in particular the advertising of goods or services for medical or surgical purposes), and
    - (ii) the public as consumers,
 to give advice to the Authority with a view to the exclusion of misleading advertisements from the programmes broadcast by the Authority, and otherwise as to the principles to be followed in connection with the advertisements included in such programmes or in any publications issued by the Authority; and
  - (c) a committee consisting of persons who have, or are representative of authorities or organisations who have, special interest and experience in education, to give advice to the Authority, and in particular advice on the policy for, and planning of, broadcasts intended for reception by schools and other educational establishments.
- (3) The functions of the committee referred to in subsection (2)(b) of this section shall include the duty of keeping under review the code under section 9 and submitting to the Authority recommendations as to any alterations which appear to them to be desirable.
- (4) Before appointing a person to be the chairman of the committee referred to in subsection (2)(b) of this section, the Authority shall satisfy themselves that that person—
  - (a) will have no financial or other interest in any advertising agency, and
  - (b) will have no such other financial or other interest in advertising as is in the opinion of the Authority likely to prejudice his independence as chairman;



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and the Authority shall also satisfy themselves from time to time that the chairman of that committee has no such interest as is described in paragraph (a) or (b) of this subsection.

- (5) The Authority shall, after consultation with such professional organisations as the Secretary of State may require and such other bodies or persons as the Authority think fit, appoint, or arrange for the assistance of, a medical advisory panel to give advice to the Authority as to—
- (a) advertisements for medicines and medical and surgical treatments and appliances,
  - (b) advertisements for toilet products which include claims as to the therapeutic or prophylactic effects of the products,
  - (c) advertisements for medicines and medical and surgical treatments for veterinary purposes,
- and such other advertisements as the Authority may think fit to refer to the panel.
- (6) The Authority shall consult the panel before drawing up the code under section 9 and in the course of any review of that code.
- (7) The Authority shall ensure that, before the first occasion on which they broadcast an advertisement which in their opinion falls under paragraph (a), (b) or (c) of subsection (5) of this section, the advertisement is, in accordance with arrangements approved by the Authority, referred to a member or members of the panel for advice.

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

- C29** Ss. 2(2)(a)(b), 3(1)(a)(b)(3)(4)(7), 4, 5, 8, 9, 14(1), 15, 16(1), 42, 61, 62 extended (*prosp.*) by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), ss. 44(1), 51(1), 59(4), [Sch. 4](#)
- C30** S. 16(2)(4)(5) amended by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), [s. 12\(5\)\(a\)](#)
- C31** S. 16(2)(b) amended by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), [s. 12\(5\)\(a\)\(b\)](#)
- C32** S. 16(3)(6) amended by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), [s. 12\(5\)\(a\)\(c\)](#)
- C33** S. 16(7) amended by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), [s. 12\(5\)\(a\)\(d\)](#)

**17 National advisory committees for Scotland, Wales and Northern Ireland.**

- (1) In addition to the committees which are to be, or may be, appointed under section 16, the Authority shall appoint—
- (a) an advisory committee for Scotland;
  - (b) an advisory committee for Wales; and
  - (c) an advisory committee for Northern Ireland.
- (2) The person for the time being holding office as the member of the Authority appointed pursuant to paragraph 1(2) of Schedule 1 to make the interests of Scotland, Wales or Northern Ireland, as the case may be, his special care shall be the chairman of the advisory committee appointed under this section for the part of the United Kingdom with which he is specially concerned.
- (3) Subject to subsection (2), each advisory committee appointed under this section (in this section referred to as a “national committee”)—
- (a) shall be so constituted, and
  - (b) shall consist of persons selected by reference to such qualifications,

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as in the opinion of the Authority would be appropriate for reflecting, so far as is reasonably practicable, the range of tastes and interests of persons residing in the part of the United Kingdom for which the committee is appointed (in this section referred to, in relation to a national committee, as its area).

(4) Before appointing a person to be a member of a national committee the Authority shall satisfy themselves that he—

- (a) will have no financial or other interest in any advertising agency, and
- (b) will have no such other financial or other interest in advertising as is in the opinion of the Authority likely to prejudice his independence as a member of that committee;

and the Authority shall also satisfy themselves from time to time that each member of a national committee has no such interest as is described in paragraph (a) or (b) of this subsection.

(5) The function of a national committee shall be—

- (a) to give to the Authority, with respect to the conduct of their television broadcasting services for the area of the committee, such advice as in the opinion of the committee would be appropriate for reflecting, so far as is reasonably practicable, the range of tastes and interests of persons residing in that area; and
- (b) to give to the Authority advice on such matters relating to the conduct of their local sound broadcasting services in that area as the Authority may from time to time specify.

## **18 Local advisory committees for local sound broadcasts.**

(1) In addition to the committees which are to be, or may be, appointed under section 16, the Authority shall also appoint local advisory committees in respect of all the localities for which local sound broadcasting services are provided by the Authority; and each such committee shall be appointed for an area consisting either of one such locality or of two or more such localities.

(2) Subject to subsection (3), each such committee (in this section referred to as a “local committee”)—

- (a) shall be so constituted, and
- (b) shall consist of persons selected by reference to such qualifications,

as in the opinion of the Authority would be appropriate for reflecting, so far as is reasonably practicable, the range of tastes and interests of persons residing in the area for which the committee is appointed (in this section referred to, in relation to a local committee, as its area).

(3) For each local committee the Authority shall invite the appropriate local authorities (either jointly or separately) to nominate persons with a view to their being appointed as members of the committee; and (unless the number of eligible persons so nominated for a local committee is insufficient for the purpose) the Authority shall appoint at least one-third of the members of each local committee from among persons so nominated.

(4) Before appointing a person to be a member of a local committee the Authority shall satisfy themselves that he—

- (a) will have no financial or other interest in any advertising agency, and

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- (b) will have no such other financial or other interest in advertising as is in the opinion of the Authority likely to prejudice his independence as a member of that committee;

and the Authority shall also satisfy themselves from time to time that each member of a local committee has no such interest as is described in paragraph (a) or (b) of this subsection.

In subsection (3) “eligible persons” means persons in respect of whom the Authority are satisfied that they have no such interest.

- (5) The function of a local committee shall be to give to the Authority, with respect to the conduct of their local sound broadcasting services for the area of the committee, such advice as in the opinion of the committee would be appropriate for reflecting, so far as is reasonably practicable, the range of tastes and interests of persons residing in that area.
- (6) In this section “appropriate local authority”, in relation to a local committee, means a local authority whose area consists of or includes the whole or part of the area of that committee, and “local authority”—
- (a) in relation to England and Wales, means any of the following, that is to say, the council of a county, district or London borough, . . . <sup>F10</sup>, the Common Council of the City of London and the Council of the Isles of Scilly;
  - (b) in relation to Scotland, means a regional, islands or district council; and
  - (c) in relation to Northern Ireland, means a district council.

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**Textual Amendments**

**F10** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), **ss. 1, 102(2)(3)**, 17

*Provisions applying to all contracts for programmes*

**19 Duration of contracts for programmes and prior consultation etc.**

- (1) The Authority shall not—
- (a) enter into any contract with a programme contractor for the provision of programmes for a period exceeding the relevant maximum period; or
  - (b) extend any contract with a programme contractor so that the period for which programmes are provided under the contract exceeds the relevant maximum period;
- but, subject to subsection (5), nothing in this subsection precludes the Authority from entering into successive contracts with the same programme contractor.
- (2) For the purposes of subsection (1) the relevant maximum period is—
- (a) ten years in the case of a contract taking effect on or after 1st January 1980 for the provision of local sound broadcasts in a locality—
    - (i) in which such broadcasts have not previously been provided by a programme contractor, or
    - (ii) in which such broadcasts have previously been so provided, but only in so much of it as in the opinion of the Authority does not amount to a substantial part of it; and

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- [<sup>F11</sup>(aa) [<sup>F12</sup>five] years in the case of a contract for the provision of television programmes for broadcasting in a DBS service; and]
- (b) eight years in every other case.
- [<sup>F13</sup>(2A) But in the case of a contract to which this subsection applies the relevant maximum period for the purposes of sub-section (1) is the period expiring on 31st December 1992.
- (2B) Subsection (2A) applies to a contract—
- (a) which is for the provision of television programmes for broadcasting otherwise than in a DBS service or an additional teletext service, and
- (b) under which at least one of the programmes is to be provided before 1st January 1993]
- (3) Before entering into any contract with a programme contractor for the provision of programmes in any area or locality, the Authority shall take such steps as appear to them appropriate (including if they think fit the holding of public meetings)—
- (a) to ascertain the opinions of the public in that area or locality about the service proposed to be provided there by the Authority, and
- (b) to encourage the making of comments and suggestions about that service by members of the public in that area or locality,
- and shall take into account those opinions and any such comments and suggestions received by them.
- (4) Before entering into any contract with a programme contractor for the provision of programmes in any area or locality, the Authority shall publish, in such manner as they think fit, a notice—
- (a) stating that they propose to enter into a contract for the provision of television programmes or, as the case may be, local sound broadcasts in that area or locality;
- (b) stating the date from which it is proposed that the contract will take effect; and
- (c) inviting applications for the contract.
- (5) Where the Authority and a programme contractor enter into a succession of contracts for the provision of programmes, each succeeding contract being entered into in pursuance of a provision to that effect in a preceding contract—
- (a) each succeeding contract entered into shall be treated for the purposes of subsection (1) as an extension, or further extension, of the first of those contracts; and
- (b) the Authority need not comply with subsection (3) or (4) in relation to any of those contracts other than the first.

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#### Textual Amendments

**F11** S. 19(2)(aa) inserted by Cable and Broadcasting Act 1984 (c. 46, SIF 96), ss. 38(1), 59(4)

**F12** Word substituted by Broadcasting Act 1987 (c. 10, SIF 96), s. 1(2)

**F13** S. 19(2A)–(2B) inserted by Broadcasting Act 1987 (c. 10, SIF 96), s. 1(3)

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

**C34** S. 19(1) to (2B) modified (*temp.* ending with 31.12.1992) by Broadcasting Act 1990 (c. 42, SIF 96), s. 129, Sch. 11 Pt. II paras. 2(2)(a), 5

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- C35** S. 19(1) to (2B) modified by Broadcasting Act 1990 (c. 42, SIF 96), ss. 87(6), 129, **Sch. 11 Pt. II para. 2(3)(a)(4)**
- C36** S. 19(4) excluded by Cable and Broadcasting Act 1984 (c. 46, SIF 96), **s. 46(1)(2)**

## **20 Programme contractors.**

- (1) The Authority shall not enter into any contract with a programme contractor whereby (whether by virtue of that contract alone or by virtue of that contract together with one or more other contracts) the contractor is to provide television programmes for an area and is to provide local sound broadcasts for reception in a locality which, in the opinion of the Authority, is comprised in that area.
- (2) It shall be the duty of the Authority to do all that they can to secure—
  - (a) that persons who are disqualified persons as defined in subsection (6) or (8) do not become or continue as programme contractors, either alone or in partnership with other persons, and
  - (b) that there is adequate competition to supply programmes between a number of programme contractors independent of each other both as to finance and as to control.
- (3) In the performance of their duty under subsection (2)(b) the Authority shall do all that they can to secure—
  - (a) that no programme contractor with whom the Authority enter into a contract for the provision of television programmes for an area, and no associate of such a programme contractor, has, or during the period of the contract will acquire, control over any programme contractor with whom the Authority enter into a contract for the provision of local sound broadcasts for reception in any locality which in the opinion of the Authority is comprised in that area; and
  - (b) that no programme contractor with whom the Authority enter into a contract for the provision of local sound broadcasts for reception in a particular locality, and no associate of such a programme contractor, has, or during the period of contract will acquire, control over any programme contractor for the provision of television programmes for an area which in the opinion of the Authority includes that locality.
- (4) No contract and no interest in a contract between a programme contractor and the Authority shall be assignable either in whole or in part without the previous consent in writing of the Authority.
- (5) Every contract concluded between the Authority and a programme contractor shall, where the programme contractor is a body corporate, contain all such provisions as the Authority think necessary or expedient to ensure that if any change affecting the nature or characteristics of the body corporate, or any change in the persons having control over or interests in the body corporate, takes place after the conclusion of the contract, which, if it had occurred before the conclusion of the contract, would have induced the Authority to refrain from entering into the contract, the Authority may by notice in writing to the programme contractor, taking effect forthwith or on a date specified in the notice, determine the contract.
- (6) In subsection (2)(a) “disqualified person”, in relation to contracts for the provision of television programmes, means a person who—
  - (a) being an individual is neither—

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- (i) a national of a member State who is ordinarily resident within the European Economic Community, nor
  - (ii) ordinarily resident in the United Kingdom, the Isle of Man or the Channel Islands;
  - (b) being a body corporate is neither—
    - (i) a body formed under the law of a member State which has its registered or head office or principal place of business within the European Economic Community, nor
    - (ii) a body incorporated under the law of the Isle of Man or the Channel Islands;
  - (c) being an individual or a body corporate, 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, or is a director or officer of any such body corporate, or is employed by any person who carries on business as an advertising agent; or
  - (d) being a body corporate, is under the control of any such person as is mentioned in paragraph (a), (b) or (c) of this subsection, or of any two or more such persons together, or has among its directors, officers or servants any person who is a disqualified person otherwise than by virtue of paragraph (a) or (b) of this subsection.
- (7) For the purposes of subsection (6)(a)(i) “national”, in relation to the United Kingdom, means a person—
- (a) who is a citizen of the United Kingdom and Colonies or a British subject not possessing that citizenship or the citizenship of any other Commonwealth country or territory, who, in either case, has the right of abode in the United Kingdom; or
  - (b) who is a citizen of the United Kingdom and Colonies by birth or by registration or naturalisation in Gibraltar, or whose father was so born, registered or naturalised.
- (8) In subsection (2)(a) “disqualified person”, in relation to contracts for the provision of local sound broadcasts, means a person who either falls within paragraph (a), (b), (c) or (d) of subsection (6) or, being an individual or body corporate, carries on (whether alone or in partnership) a business which (either wholly, or to an extent which in the opinion of the Authority is substantial)—
- (a) consists of the manufacture of records or of the publication of musical works, or
  - (b) consists of promoting the broadcasting of sound recordings or of promoting the broadcasting or performance of musical works, or
  - (c) consists of obtaining employment for theatrical performers or for persons to take part as performers in programmes broadcast (whether by the Authority or otherwise) by way of television or sound broadcasting.
- or has control over any body corporate which carries on such a business, or is a director or officer of any such body corporate, or is employed by any person who carries on such a business.
- (9) For the purposes of subsection (8)—
- (a) .....<sup>F14</sup>
  - (b) “theatrical performer” has the same meaning as in the<sup>M4</sup>Theatrical Employers Registration Act 1925.

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#### Textual Amendments

**F14** S. 20(9)(a) repealed by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 303(1)(2), Sch. 7 para. 29(3), **Sch. 8**

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

**C37** S. 20(1)(2)(b)(3) excluded by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), s. 37(2)(c)

**C38** S. 20(2)–(9) modified by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 129, **Sch. 11 Pt. IV para. 2(3)(a)(4)**

**C39** S. 20(2)–(9) modified (*temp.* ending with 31.12.1992) by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 129, Sch. 11 Pt. II paras. 2(2)(a), 4(4), 5

**C40** S. 20(9) modified (*temp.* ending with 31.12.1992) by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 129, Sch. 11 Pt. II paras. 2(2)(a), 4, 5

#### Marginal Citations

**M4** 1925 c. 50.

## 21 Provisions to be included in contracts for programmes.

- (1) The contracts between the Authority and the various programme contractors shall contain all such provisions as the Authority think necessary or expedient to be inserted for complying and securing compliance with the provisions of this Act and any restrictions or requirements imposed thereunder in relation to the programmes provided by the programme contractors.
- (2) Without prejudice to subsection (1), every contract between the Authority and a programme contractor—
  - (a) shall contain a provision reserving to the Authority an absolute right to serve on the programme contractor such a notice as is mentioned in subsection (3) if, in view of any breaches by the programme contractor of his obligations under his contract with the Authority, the Authority, after giving the programme contractor a reasonable opportunity of making representations with respect to the matter, think it necessary to do so; but
  - (b) shall be such as to secure that no notice can be given in pursuance of a right reserved in accordance with paragraph (a) unless the programme contractor has broken the contract on at least three occasions and, in respect of each of those breaches of contract, has received from the Authority written particulars of the breach within one month from the time when the breach came to the notice of the Authority.
- (3) The notice referred to in subsection (2)(a) is a notice in writing, taking effect forthwith or on a date stated in the notice, to determine or suspend for such period as may be specified in the notice, or until a further notice is given, the Authority's obligation to transmit the programmes supplied by the programme contractor (without prejudice, however, to the programme contractor's obligations as to the supply of programmes up to the date when the notice takes effect).
- (4) Where a notice is given in pursuance of a right reserved in accordance with subsection (2)(a), the programme contractor shall not be entitled to any compensation from the Authority, or to any refund of any sum previously paid by him, or to any relief from any liability which has accrued at the date when the notice takes effect for any sums payable by him to the Authority.

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- (5) Without prejudice to the power of the parties to agree upon any wider form of arbitration provision, every contract between the Authority and a programme contractor shall be such as to secure that any dispute—
- (a) whether an alleged breach of which the programme contractor has received written particulars is a breach of the contract for the purposes of the provisions included in the contract in pursuance of subsection (2)(b), or
  - (b) whether the written particulars were received from the Authority within one month from the time when the breach came to the notice of the Authority,
- shall be determined by arbitration.
- (6) Every contract concluded between the Authority and a programme contractor shall contain all such provisions as the Authority for the purposes of the discharge of their functions think necessary or expedient to ensure that the programme contractor—
- (a) if so required, will provide the Authority in advance with scripts and particulars of the programmes or any part thereof (including advertisements) and of full details of the technical arrangements for obtaining visual images and sounds which are to form the programmes or any part thereof;
  - (b) if so required, will make visual and sound records of the programmes or any part thereof (including advertisements) and produce them to the Authority for examination or reproduction;
  - (c) will provide the Authority with such declarations, returns, documents and other information as the Authority may require;
  - (d) in particular, if so required, will provide the Authority with information as to the costs incurred by the programme contractor in providing the programmes or any part thereof (including advertisements) and his receipts from advertisers;
  - (e) if so required, will give reasonable facilities to the Authority for inspecting the books, accounts, records and other documents kept by the programme contractor for the purposes of any business carried on by him, and for taking copies of, or of any part of, any such documents.
- (7) Without prejudice to subsection (1) of this section, every contract between the Authority and a programme contractor shall contain such provisions as the Authority think necessary or expedient to ensure compliance by the programme contractor with any request to which section 56(6) applies which may be made to him by the Broadcasting Complaints Commission.
- (8) The provisions of this section relating to breaches of contract on the part of programme contractors shall be without prejudice—
- (a) to the right of the Authority to accept as a repudiation by a programme contractor any breach of contract by the programme contractor going to the root of the contract, and
  - (b) to any other remedies of the Authority for the enforcement of their rights in respect of contracts with programme contractors,
- and shall not, except as expressly provided therein, affect the jurisdiction of any court in respect of such contracts.

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

**C41** Ss. 21–25 modified (*temp.* ending with 31.12.1992) by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 129, Sch. 11 Pt. II paras. 2(2)(b), 4(4), 5



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- C42** Ss. 21–25 modified by Broadcasting Act 1990 (c. 42, SIF 96), s. 129, **Sch. 11 Pt. IV para. 2(3)(b)(4)**  
**C43** S. 21(1)(6)(a)(b)(7) extended by Cable and Broadcasting Act 1984 (c. 46, SIF 96), ss. 44(1), 55(1), **Sch. 4**

## 22 Provision for news broadcasts.

The contracts between the Authority and the various programme contractors shall contain all such provisions as the Authority think necessary or expedient to ensure—

- (a) that there is at all times at least one body or organisation effectively equipped and adequately financed to provide news for broadcasting in the programmes supplied to the Authority by the respective programme contractors, and that in so far as any such body or organisation supplies to programme contractors other programmes which it can suitably provide, it is effectively equipped and adequately financed for the purpose;
- (b) that each of the programme contractors with whom the Authority enter into contracts for the provision of television programmes is afforded opportunities of obtaining a financial interest in that body or organisation or, if there are two or more such bodies or organisations providing news for broadcasting in the television programmes supplied to the Authority by those contractors, is afforded opportunities of obtaining a financial interest in such of those bodies or organisations as the Authority may in his case direct; and
- (c) that the appointment of the manager, editor or other chief executive of any such body or organisation is approved by the Authority.

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### Modifications etc. (not altering text)

- C44** Ss. 21–25 modified (*temp.* ending with 31.12.1992) by Broadcasting Act 1990 (c. 42, SIF 96), s. 129, **Sch. 11 Pt. II paras. 2(2)(b), 4(4), 5**  
**C45** Ss. 21–25 modified by Broadcasting Act 1990 (c. 42, SIF 96), s. 129, **Sch. 11 Pt. IV para. 2(3)(b)(4)**  
**C46** S. 22 excluded by Cable and Broadcasting Act 1984 (c. 46, SIF 96), s. 37(2)(d)

## 23 Newspaper shareholdings in programme contractors.

- (1) Every contract concluded between the Authority and a programme contractor shall, where the programme contractor is a body corporate, contain all such provisions as the Authority think necessary or expedient to ensure that if at any time—

- (a) there are newspaper shareholdings in the programme contractor, and
- (b) it appears to the Authority that the existence of those shareholdings has led or is leading to results which are contrary to the public interest,

the Authority, with the consent of the Secretary of State, may by notice in writing to the programme contractor, taking effect forthwith or on a date specified in the notice, determine or suspend for such period as may be so specified or until a further notice is given, the Authority's obligation to transmit the programmes supplied by the programme contractor.

- (2) Without prejudice to any such provisions contained in a contract between the Authority and a programme contractor, if at any time there are newspaper shareholdings in the programme contractor, and it appears to the Secretary of State that the existence of those shareholdings has led or is leading to results which are contrary to the public interest, he may, after consultation with the Authority, by order—

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- (a) determine on a date specified in the order the Authority's obligation to transmit the programmes supplied by the programme contractor; or
  - (b) suspend that obligation for such period as may be so specified, or during a period beginning with a date so specified and continuing so long as the order remains in force; and
  - (c) whether or not the order provides for the determination or suspension of the said obligation, direct that, while the order remains in force, the Authority shall not enter into any further contract with the programme contractor for the supply of programmes.
- (3) Any order under subsection (2) shall be made by statutory instrument; but no such order, other than an order the sole purpose of which is to rescind, postpone commencement of or terminate a period of suspension or to cancel a direction, shall be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (4) The determination or suspension in accordance with this section of the Authority's obligation to transmit the programmes supplied by the programme contractor, whether effected by a notice or by an order, shall not affect the programme contractor's obligation as to the supply of programmes up to the date when the determination or suspension takes effect.
- (5) Where such a determination or suspension takes effect, the programme contractor shall not be entitled to any compensation from the Authority or to any refund of any sum previously paid by the programme contractor or to any relief from any liability which has accrued at the date when the determination or suspension takes effect for any sums payable by the programme contractor to the Authority.
- (6) For the purposes of this section there are newspaper shareholdings in a body corporate if shares in that body corporate are held by any individual or body corporate being either—
- (a) the proprietor of any newspaper, whether national or local, or
  - (b) a person who has control over any body corporate which is a proprietor of such a newspaper.

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

- C47** Ss. 21–25 modified (*temp.* ending with 31.12.1992) by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 129, Sch. 11 Pt. II paras. 2(2)(b), 4(4), 5
- C48** Ss. 21–25 modified by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 129, [Sch. 11 Pt. IV para. 2\(3\)\(b\)\(4\)](#)

## 24 Buying and selling of programmes by programme contractors.

- (1) The Authority may give directions to any programme contractor requiring him to supply to another programme contractor for inclusion in any comparable programme of his any item supplied or originated by the first programme contractor; and the contracts between the Authority and the various programme contractors shall contain all such provisions as the Authority think necessary or expedient for ensuring—
- (a) that each programme contractor will take all reasonable steps to put himself in a position to comply with any directions which may be given to him under this subsection and, when any such directions have been given to him, to enable

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- the other programme contractor to include the item to which the directions relate in any comparable programme of his; and
- (b) that if financial and other arrangements for the supply of any item in respect of which directions have been given under this subsection are not agreed between the two programme contractors, or when so agreed do not receive the approval of the Authority required by virtue of subsection (2), the item will be supplied in accordance with such financial and other arrangements as may be determined by the Authority.
- (2) The contracts between the Authority and the various programme contractors shall provide that, where items to be included in the programmes of a programme contractor are not originated by that programme contractor, the financial and other arrangements between the programme contractor and the supplier shall require the approval of the Authority—
- (a) in all cases where the supplier is another programme contractor, and
- (b) in such other cases as the Authority may from time to time direct;
- and directions given for the purposes of this subsection may apply to programme contractors generally or may be different for different programme contractors.
- (3) For the purposes of this section two programmes shall be regarded as being comparable if either—
- (a) both are television programmes, or
- (b) both are local sound broadcasts.

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

- C49** Ss. 21–25 modified (*temp.* ending with 31.12.1992) by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 129, [Sch. 11 Pt. II paras. 2\(2\)\(b\), 4\(4\), 5](#)
- C50** Ss. 21–25 modified by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 129, [Sch. 11 Pt. IV para. 2\(3\)\(b\)\(4\)](#)
- C51** S. 24 excluded by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), s. 37(2)(e)

**25 Wages, conditions of employment, and training of persons employed by programme contractors.**

- (1) ..... **F15**
- (2) ..... **F16**
- (3) ..... **F16**
- (4) The contracts between the Authority and the various programme contractors shall contain such provisions as the Authority think necessary or expedient to ensure that each programme contractor makes adequate provision for the training of persons employed by him in the preparation or making of programmes.
- (5) ..... **F16**

**Textual Amendments**

- F15** S. 25(1) repealed by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), s. 50, [Sch. 6](#)
- F16** S. 25(2)(3)(5) repealed by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), [Sch. 6](#)

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

- C52** Ss. 21–25 modified (*temp.* ending with 31.12.1992) by **Broadcasting Act 1990 (c. 42, SIF 96)**, s. 129, Sch. 11 Pt. II paras. 2(2)(b), 4(4), 5
- C53** Ss. 21–25 modified by **Broadcasting Act 1990 (c. 42, SIF 96)**, s. 129, **Sch. 11 Pt. IV para. 2(3)(b)(4)**

*Sound programme contracts*

**26 Accumulation of interests in sound programme contracts.**

- (1) Before entering into a sound programme contract the Authority shall seek to ascertain—
- (a) whether the person or any of the persons with whom the contract is proposed to be made is (either alone or in partnership with one or more other persons) entitled to the benefit of one or more existing sound programme contracts; and
  - (b) where the person or any of the persons with whom the contract is proposed to be made is a body corporate, whether that body corporate, or any associate of that body corporate, or any participant in that body corporate or in any such associate, is—
    - (i) a person or one of the persons entitled to the benefit of one or more existing sound programme contracts, or
    - (ii) a participant in a body corporate so entitled or included among the persons so entitled, or
    - (iii) a participant in an associate of a body corporate so entitled or so included;

and, having regard to any matters ascertained by them under this subsection, the Authority shall consider whether, if the proposed contract were made, any one person would, in any one or more of the capacities mentioned in paragraphs (a) and (b) or in any combination of any such capacities, have an aggregate interest in the benefit of two or more sound programme contracts.

- (2) If, in the circumstances mentioned in subsection (1) it appears to the Authority that a person would have such an aggregate interest and that, having regard to—
- (a) the nature and extent of that aggregate interest, and
  - (b) any other circumstances appearing to the Authority to be material,
- the existence of that aggregate interest might prejudice the performance by the Authority of any duty imposed on them by this Act in relation to local sound broadcasting services, the Authority shall refrain from entering into the proposed contract.

- (3) In this section—
- “sound programme contract” means a contract for the provision of local sound broadcasts;
- “existing sound programme contract”, in relation to any contract proposed to be entered into by the Authority, means a sound programme contract which is in force at the time when the Authority are considering entering into the proposed contract; and
- “participant”, in relation to a body corporate, means a person who (whether alone or jointly with one or more other persons, and whether directly or through one or more nominees) holds or is beneficially entitled to not less than one-twentieth of the shares in that body corporate.

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*Information as to programme contracts etc.*

**27 Information as to programme contracts and applications for such contracts.**

- (1) Where the Authority enter into a contract with a programme contractor for the provision either of television programmes or local sound broadcasts to be transmitted from one or more stations, the Authority shall, on request made by any person and on payment by him of such sum (if any) as the Authority may reasonably require, furnish to that person such one or more of the following as may be specified in the request, that is to say—
  - (a) a copy of that contract;
  - (b) a statement of the number of applications (if any) received by the Authority for a programme contract for the provision of television programmes or (as the case may be) local sound broadcasts to be transmitted from that station or those stations in addition to the application received from the contractor with whom the contract is made; and
  - (c) subject to subsection (2), a copy of so much of that contractor's application for such a contract as related to the character of the television programmes or local sound broadcasts which he proposed to provide if his application were accepted by the Authority.
- (2) The Authority shall not be required by virtue of subsection (1) to furnish to any person such a copy as is mentioned in paragraph (c) of that subsection until after television programmes or (as the case may be) local sound broadcasts provided by the contractor under the contract in question have begun to be transmitted by the Authority.

*Powers of Government in relation to Authority*

**28 Government control over Authority as to hours of broadcasting.**

- (1) The Secretary of State may from time to time by notice in writing give directions to the Authority—
  - (a) as to the maximum or minimum time, or both the maximum and the minimum time, which is to be given in any day, week or other period to broadcasts from any of the broadcasting stations used by them, and
  - (b) as to the hours of the day in which such broadcasts are or are not to be given; and it shall be the duty of the Authority to comply with the notice.
- (2) A direction under this section may be framed in any way, and in particular—
  - (a) may be confined to broadcasts from those broadcasting stations which transmit, or usually transmit, the same programme, or may be different for different broadcasting stations, or for different programmes broadcast from the same station;
  - (b) may make special provision for annual holidays and other special occasions;
  - (c) may be confined to a specified day in the week, or may be different for different days in the week;
  - (d) in imposing a maximum number of hours for any purpose, may allow for programmes or items of specified kinds being left out of account in determining the maximum (whether in all circumstances or depending on the fulfilment of specified conditions as regards programmes or items so specified).

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- (3) The Secretary of State may, whether or not a direction under this section provides for exemptions, exempt the Authority from any requirement of such a direction on any occasion or in any circumstances.
- (4) Nothing in the preceding provisions of this section shall be taken as authorising the Secretary of State to give directions which make different provisions for the parts of programmes consisting of advertisements and the other parts of programmes.
- (5) The powers conferred by this section are in addition to any powers specially conferred on the Secretary of State by any other provisions of this Act.

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

- C54** Ss. 28–30 extended (*prosp.*) by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), ss. 44(1), 51(1), 59(4), [Sch. 4](#)
- C55** Ss. 28, 29 modified by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 129, [Sch. 11 Pt. II paras. 1\(3\)\(d\)\(4\)\(8\), 5, Pt. IV para. 1\(3\)\(c\)\(4\)\(8\)](#)

**29 Government control over Authority as to certain other matters.**

- (1) The Secretary of State or any other Minister of the Crown may, if it appears to him to be necessary or expedient to do so in connection with his functions as such, at any time by notice in writing require the Authority to broadcast, at such times and from such of the stations used by them as may be specified in the notice, any announcement specified in the notice, with or without visual images of any picture, scene or object mentioned in the announcement; and it shall be the duty of the Authority to comply with the notice.
- (2) Where the Authority broadcast any announcement in pursuance of a notice under subsection (1) they may, if they think fit, announce that they are doing so in pursuance of such a notice.
- (3) Subject to subsection (4), the Secretary of State may at any time by notice in writing require the Authority to refrain from broadcasting any matter or classes of matter specified in the notice; and it shall be the duty of the Authority to comply with the notice.
- (4) If the Secretary of State by notice in writing requires the Authority under subsection (3) to refrain from broadcasting anything, the Authority may, if they think fit, broadcast an announcement of the notice or of the revocation or expiration of the notice.
- (5) The Secretary of State may at any time, after consultation with the Authority, by notice in writing require the Authority—
  - (a) to adopt or use, or refrain from adopting or using, technical measures or processes specified in the notice;
  - (b) to install, establish, maintain or use any such additional station, stations or apparatus as may be so specified, situated in such places and complying with such requirements as may be so specified;
  - (c) to broadcast such test or experimental transmissions from such station or stations, and at such times and for such periods, as may be so specified;
 and it shall be the duty of the Authority to comply with the notice.

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*Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1981, Part I. (See end of Document for details)*

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- (6) A copy of any notice served on the Authority under subsection (5) shall be laid by the Secretary of State before each House of Parliament.
- (7) The powers conferred by this section are in addition to any powers specifically conferred on the Secretary of State by any other provisions of this Act.
- (8) In relation to any broadcasting station in Northern Ireland, the reference in subsection (1) to a Minister of the Crown includes a reference to the head of any Northern Ireland department.

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

- C56** Ss. 28–30 extended (*prosp.*) by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), ss. 44(1), 51(1), 59(4), [Sch. 4](#)
- C57** Ss. 28, 29 modified by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), s. 129, Sch. 11 Pt. II paras. 1(3)(d)(4)(8), 5, Pt. IV para. 1(3)(c)(4)(8)

**30 Prevention of exclusive arrangements for broadcasting events of national interest.**

- (1) With a view to preventing the making of exclusive arrangements for the broadcasting of sporting or other events of national interest, the Secretary of State may make regulations as to the grant to the Authority and programme contractors, to the BBC and to the Welsh Fourth Channel Authority respectively of broadcasting facilities in respect of such events.
- (2) Regulations made under this section shall not apply to the broadcasting of a record of any event specified in the regulations where the transmission is made more than seven days after that event.
- (3) Any regulations under this section shall be made by statutory instrument; but no such regulations shall be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.

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

- C58** Ss. 28–30 extended (*prosp.*) by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), ss. 44(1), 51(1), 59(4), [Sch. 4](#)

**31 Co-operation of Authority with BBC in the use of broadcasting installations.**

- (1) The Secretary of State may at any time by notice in writing—
  - (a) require the Authority to radiate such of their broadcast transmissions as may be specified in the notice from a mast, tower or other installation belonging to the BBC; or
  - (b) require the Authority to permit such of the BBC's broadcast transmissions as may be so specified to be radiated from a mast, tower or other installation belonging to the Authority; or
  - (c) require the Authority to co-operate with the BBC in providing and using an installation and to radiate such of the Authority's broadcast transmissions as may be so specified from that installation;

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and it shall be the duty of the Authority to comply with any such notice.

- (2) Before giving a notice under this section to the Authority the Secretary of State shall consult the Authority and the BBC.
- (3) If, after a notice is given under this section to the Authority, a dispute between the Authority and the BBC arising out of the matters to which the notice relates is referred to the Secretary of State by either body, or it appears to the Secretary of State that there is such a dispute, he may give such directions to the Authority as he may think expedient for determining the dispute; and it shall be the duty of the Authority to comply with any such directions.

### *Rental payments*

## **32 Rental payments by programme contractors.**

- (1) The contracts between the Authority and the various programme contractors for the provision of television programmes shall provide for payments to be made by the programme contractors to the Authority under two heads, namely—
  - (a) payments representing what appear to the Authority, in relation to the branch of their undertaking consisting of the provision of television broadcasting services, to be the appropriate contributions of the respective programme contractors towards meeting the sums which the Authority regard as necessary in order to discharge their duty under section 36(2) in relation to that branch of their undertaking; and
  - (b) additional payments of amounts [<sup>F17</sup>in respect of profits and in respect of advertising revenue] determined in accordance with this section.
- (2) The contracts between the Authority and the various programme contractors for the provision of local sound broadcasts shall provide for payments to be made by the programme contractors to the Authority under two heads corresponding to those under subsection (1), namely—
  - (a) payments representing what appear to the Authority, in relation to the branch of their undertaking consisting of the provision of local sound broadcasting services, to be the appropriate contributions of the respective programme contractors towards meeting the sums which the Authority regard as necessary in order to discharge their duty under section 36(2) in relation to that branch of their undertaking; and
  - (b) additional payments of amounts [<sup>F18</sup>in respect of profits] determined in accordance with this section.
- (3) The payments mentioned in subsections (1)(b) and (2)(b) (referred to in this and the following sections of this Act as “additional payments”) shall not form part of the revenue of the Authority and, when received by the Authority, shall be paid into the Consolidated Fund of the United Kingdom or the Consolidated Fund of Northern Ireland as provided by section 33(3).
- (4) If the accounting period of a programme contractor is a period of 12 months, the amount of the additional payments to be made by him shall be that provided in the following [<sup>F19</sup>Tables].



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[<sup>F19</sup>Table A

RATES OF ADDITIONAL PAYMENTS IN RESPECT OF ADVERTISING REVENUE

	<i>Rate for determining amount of additional payments</i>
For so much of the advertising revenue for the accounting period as does not exceed the free slice for advertising revenue.	Nil
For so much of the advertising revenue for the accounting period as exceeds the free slice for advertising revenue.	The relevant revenue rate except where the rate is nil

For the purposes of this Table—

- (a) a nil rate, instead of the relevant revenue rate, is applicable in the case of persons who are DBS programme contractors or DBS teletext contractors;
- (b) the relevant revenue rate is [<sup>F20</sup>2.5 per cent]; and
- (c) the free slice for advertising revenue is [<sup>F21</sup>£25 million] or, in the case of a TV programme contractor, that amount with the addition of the payments payable by him in pursuance of section 13(2).

Table B

RATES OF ADDITIONAL PAYMENTS IN RESPECT OF PROFITS

	<i>Rate for determining amount of additional payments</i>
For so much of the profits for the accounting period after deducting any amount payable under Table A as does not exceed the free slice for profits.	Nil
For so much of the profits for the accounting period after deducting any amount payable under Table A as exceeds the free slice for profits.	The relevant profits rate except where the rate is nil.

For the purposes of this Table—

- (a) a nil rate, instead of the relevant profits rate, is applicable in the case of—
  - (i) programme contractors who provide local sound broadcasts, and
  - (ii) DBS programme contractors or DBS teletext contractors;
- (b) the relevant profits rate is 25 per cent; and
- (c) the free slice for profits £2 million.]

[(4A) .....<sup>F22</sup>]

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- (5) If the accounting period is more or less than 12 months, for the [<sup>F23</sup>relevant sum mentioned in the Tables above] there shall be substituted that sum multiplied by

$$\frac{X}{52}$$

where X is the number of weeks in the accounting period, counting an odd 4 days or more as a week.

- (6) In the case of a [<sup>F24</sup>TV or DBS programme contractor] who is also a teletext contractor, his profits for any accounting period shall be computed for the purposes of this section as if the teletext transmissions provided by him were television programmes provided by him in his capacity as a [<sup>F24</sup>TV or DBS programme contractor]
- (7) Where an order under section 35 applies to the accounting period of the programme contractor, the amount of the additional payments [<sup>F25</sup>in respect of profits] to be made by him by virtue of subsection (1)(b) or (2)(b) (as the case may be) for that accounting period shall be—
- (a) that prescribed by the preceding provisions of this section, or
  - (b) the amount prescribed by the order,
- whichever is the greater.
- (8) The Secretary of State may with the approval of the Treasury, and after consultation with the Authority, by order amend [<sup>F26</sup>any of the provisions of subsections (4)] and (5) of this section so as to increase or reduce any rate, or the number of different rates, or the amount to which any rate applies; and the references in this subsection to a rate include the case where the rate is nil.

Any order under this subsection shall be made by statutory instrument; but no such order shall be made unless a draft of it has been laid before Parliament and approved by resolution of each House.

An order under this subsection shall have effect as respects all additional payments for any accounting period beginning on or after the date on which the order comes into force, whether the contracts under which the additional payments are due were executed before or after the making of the order.

- [<sup>F27</sup>(9) The power of the Secretary of State under subsection (8) shall include power to amend the provisions in question as there mentioned—
- (a) only in their application in relation to the additional payments mentioned in subsection (1)(b); or
  - (b) only in their application in relation to the additional payments mentioned in subsection (2)(b); or
  - (c) differently in their application as mentioned in paragraphs (a) and (b) respectively; or
  - (d) only in their application in relation to additional payments in respect of advertising revenue; or
  - (e) only in their application in relation to additional payments in respect of profits; or
  - (f) differently in their application as mentioned in paragraphs (d) and (e) respectively.

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- (9A) In the application of the provisions mentioned in subsection (8) in relation to the additional payments mentioned in subsection (1)(b), the power of the Secretary of State under subsection (8) shall also include power to amend those provisions as mentioned in subsection (8)—
- (a) only in relation to persons who are TV programme contractors (including persons who are both TV programme contractors and teletext contractors); or
  - (b) only in relation to persons who are DBS programme contractors (including persons who are both DBS programme contractors and teletext contractors); or
  - (c) only in relation to persons who are teletext contractors (other than DBS teletext contractors) but are not TV or DBS programme contractors; or
  - (d) only in relation to persons who are DBS teletext contractors but are not TV or DBS programme contractors; or
  - (e) differently in relation to persons within paragraphs (a), (b), (c) and (d) respectively.]
- (10) Schedule 4 shall have effect for supplementing this section, and in that Schedule this section, together with sections 33 to 35, are referred to as “the principal sections”.

#### Subordinate Legislation Made

- P1** S. 32: power previously exercised by S.I. 1982/1522 and 1986/629.  
**P2** S. 32(8)(9)(d): s. 32(8) (with s. 32(9)(d)) power exercised (18.12 1991) by S.I. 1991/2868.

#### Textual Amendments

- F17** Words inserted by Finance Act 1989 (c. 26, SIF 96), s. 181(1), Sch. 16 Pt. I para. 1(2)  
**F18** Words inserted by Finance Act 1989 (c. 26, SIF 96), s. 181(1), Sch. 16 Pt. I para. 1(3)  
**F19** Word “Tables” and Tables A and B substituted by virtue of Finance Act 1986 (c. 41, SIF 96), s. 111, Sch. 22 Pt. I para. 1(2) and Finance Act 1989 (c. 26, SIF 96), s. 181(1), Sch. 16 Pt. I para. 1(4)  
**F20** Words in s. 32(4) substituted (1.1.1992) by S.I. 1991/2868, art. 2(a) for the purposes of Table A.  
**F21** Words in s. 32(4) substituted (1.1.1992) by 1991/2868, art. 2(b) for the purposes of Table A.  
**F22** S. 32(4A) inserted by Finance Act 1986 (c. 41, SIF 96), s. 111, Sch. 22 Pt. I para. 1(3) and repealed by Finance Act 1989 (c. 26, SIF 96), ss. 181(1), 187, Sch. 16 Pt. I para. 1(5), Sch. 17 Pt. XI  
**F23** Words substituted by virtue of Finance Act 1986 (c. 41, SIF 96), s. 111, Sch. 22 Pt. I para. 1(4) and Finance Act 1989 (c. 26, SIF 96), s. 181(1), Sch. 16 Pt. I para. 1(6)  
**F24** Words substituted by Cable and Broadcasting Act 1984 (c. 46, SIF 96), s. 40(1)  
**F25** Words inserted by Finance Act 1989 (c. 26, SIF 96), s. 181(1), Sch. 16 Pt. I para. 1(7)  
**F26** Words substituted by virtue of Finance Act 1986 (c. 41, SIF 96), s. 111, Sch. 22 Pt. I para. 1(5) and Finance Act 1989 (c. 26, SIF 96), s. 181(1), Sch. 16 Pt. I para. 1(8)  
**F27** S. 32(9)(9A) substituted for s. 32(9) by Finance Act 1989 (c. 26, SIF 96), s. 181(1), Sch. 16 Pt. I para. 1(9)

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

- C59** Ss. 32–35 modified (*temp.* ending with 31.12.1992) by Broadcasting Act 1990 (c. 42, SIF 96), s. 129, Sch. 11 Pt. II paras. 2(2)(c), 4, 5, 8(2)(3)  
**C60** Power to modify ss. 32–35 conferred by Broadcasting Act 1990 (c. 42, SIF 96), s. 129, Sch. 11 Pt. III para. 2  
**C61** Ss. 32–35 modified by Broadcasting Act 1990 (c. 42, SIF 96), s. 129, Sch. 11 Pt. IV para. 2(3)(c)(4)  
**C62** Finance Act 1986 (c. 41, SIF 96), s. 111, Sch. 22 Pt. I and Finance Act 1989 (c. 26, SIF 96), s. 181(1), Sch. 16 Pt. I, provide that the Broadcasting Act 1981 shall have effect with respect to additional payments payable by programme contractors as therein mentioned.

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**C63** S. 32(4) modified (*temp.* in relation to any time before the making under subsection (8) of section 32 of the 1981 Act of an order amending subsection (4) of that section) by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\), s. 40\(3\)](#)

### 33 Provisions supplemental to s. 32.

- (1) The contracts between the Authority and the various programme contractors shall include such terms as are in the opinion of the Authority necessary or expedient to ensure that, except for deduction of commission by persons acting as advertising agents, the amount of the [<sup>F28</sup>advertising revenue] of a programme contractor is not reduced under arrangements by which any part of the consideration for the insertion of advertisements in programmes provided by the programme contractor is receivable by any person other than the programme contractor (whether that person is under the control of the programme contractor or not).
- (2) Every contract between the Authority and a programme contractor which provides either for the supply of television programmes or for the supply of local sound broadcasts to be broadcast [<sup>F29</sup>for reception in areas or localities] of which some are in Great Britain and some in Northern Ireland shall provide that, as regards his [<sup>F30</sup>advertising revenue] for any period, the programme contractor shall give to the Authority such information as they may require for the purpose of ascertaining the proportions in which [<sup>F30</sup>the revenue derives] from the broadcasting of advertisements [<sup>F29</sup>for reception in areas or localities] in Great Britain and [<sup>F29</sup>areas or localities] in Northern Ireland respectively.
- (3) On receipt of any additional payments the Authority shall deal with them as follows—
  - (a) if they were paid under a contract for the supply of programmes to be broadcast [<sup>F29</sup>for reception in areas or localities] all of which are in Great Britain, the Authority shall pay them into the Consolidated Fund of the United Kingdom;
  - (b) if they were paid under a contract for the supply of programmes to be broadcast [<sup>F29</sup>for reception in areas or localities] all of which are in Northern Ireland, the Authority shall pay them into the Consolidated Fund of Northern Ireland;
  - (c) if they were paid under such a contract as is mentioned in subsection (2), the Authority shall pay them into the Consolidated Funds of the United Kingdom and Northern Ireland respectively in the proportions in which, according to the information supplied by the programme contractor, the [<sup>F31</sup>advertising revenue] for the relevant accounting period [<sup>F32</sup>derives] from the broadcasting of advertisements [<sup>F29</sup>for reception in areas or localities] in Great Britain and [<sup>F29</sup>areas or localities] in Northern Ireland or, if the programme contractor has failed to supply the necessary information, in such proportions as the Authority estimate to be appropriate.
- (4) The Authority shall prepare in respect of each financial year—
  - (a) an account showing the additional payments received under all their contracts with programme contractors for the provision of television programmes and of the sums paid into the Consolidated Funds of the United Kingdom and Northern Ireland respectively under subsection (3) in respect of those payments, and

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- (b) an account showing the additional payments received under all their contracts with programme contractors for the provision of local sound broadcasts and of the sums paid as mentioned in paragraph (a) in respect of those payments; and shall send those accounts to the Comptroller and Auditor General not later than the end of November following the year; and the Comptroller and Auditor General shall examine, certify and report on each of those accounts and lay copies of it, together with his report, before each House of Parliament.

#### Textual Amendments

- F28** Words substituted by Finance Act 1989 (c. 26, SIF 96), s. 181(1), **Sch. 16 Pt. I para. 2(2)**  
**F29** Words substituted by Cable and Broadcasting Act 1984 (c. 46, SIF 96), s. 57(1), **Sch. 5 para. 40(4)**  
**F30** Words substituted by Finance Act 1989 (c. 26, SIF 96), s. 181(1), **Sch. 16 Pt. I para. 2(3)**  
**F31** Words substituted by Finance Act 1989 (c. 26, SIF 96), s. 181(1), **Sch. 16 Pt. I para. 2(4)**  
**F32** Word substituted by Finance Act 1989 (c. 26, SIF 96), s. 181(1), **Sch. 16 Pt. I para. 2(4)**

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

- C64** Ss. 32–35 modified (*temp.* ending with 31.12.1992) by Broadcasting Act 1990 (c. 42, SIF 96), s. 129, **Sch. 11 Pt. II paras. 2(2)(c), 4, 5, 8(2)(3)**  
**C65** Power to modify ss. 32–35 conferred by Broadcasting Act 1990 (c. 42, SIF 96), s. 129, **Sch. 11 Pt. III para. 2**  
**C66** Ss. 32–35 modified by Broadcasting Act 1990 (c. 42, SIF 96), s. 129, **Sch. 11 Pt. IV para. 2(3)(c)(4)**  
**C67** Finance Act 1986 (c. 41, SIF 96), s. 111, **Sch. 22 Pt. I** and Finance Act 1989 (c. 26, SIF 96), s. 181(1), **Sch. 16 Pt. I**, provide that the Broadcasting Act 1981 shall have effect with respect to additional payments payable by programme contractors as therein mentioned.

### 34 Instalments payable on account by programme contractors in respect of additional payments.

- (1) It shall be the duty of the Authority in framing the contracts with the various programme contractors to include terms enabling the Authority to estimate before the beginning of an accounting period the additional payments due for that accounting period, and requiring the programme contractor to pay the estimated amount by monthly instalments throughout the accounting period.
- (2) The Authority shall in particular include terms—
- authorising the Authority to revise any estimate on one or more occasions, and to adjust the instalments payable by the programme contractor to take account of the revised estimate;
  - providing for the adjustment of any overpayment or underpayment . . . <sup>F33</sup>;
  - ensuring that any amount due under the contract is paid promptly and in full.
- [<sup>F34</sup>(3) Where any amount falls to be paid to a programme contractor to adjust any overpayment made by him, that amount shall be paid to him—
- if the contract is for the supply of programmes to be broadcast for reception in areas or localities all of which are in Great Britain, out of the Consolidated Fund of the United Kingdom;
  - if the contract is for the supply of programmes to be broadcast for reception in areas or localities all of which are in Northern Ireland, out of the Consolidated Fund of Northern Ireland; and

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- (c) if the contract is one which falls within subsection (2) of section 33, out of each of those Funds, apportioned in the same way as [<sup>F35</sup>revenue is] apportioned under subsection (3)(c) of that section.]
- (4) Any reference in section 33 to additional payments shall be construed as including any sum payable in pursuance of this section as being an instalment or unpaid balance of any additional payments.
- (5) The accounts to be prepared under paragraphs (a) and (b) of section 33(4) shall show any sums paid in pursuance of subsection (3) of this section in respect of the financial year in question and relating to the additional payments mentioned in those paragraphs respectively.

#### Textual Amendments

- F33** Words repealed by Finance Act 1986 (c. 41, SIF 96), ss. 111, 114, Sch. 22 Pt. I para. 2(2), **Sch. 23 Pt. XI**
- F34** S. 34(3) substituted by Finance Act 1986 (c. 41, SIF 96), s. 111, **Sch. 22 Pt. I para. 2(3)**
- F35** Words substituted by Finance Act 1989 (c. 26, SIF 96), s. 181(1), **Sch. 16 Pt. I para. 3(2)**

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

- C68** Ss. 32–35 modified (*temp.* ending with 31.12.1992) by Broadcasting Act 1990 (c. 42, SIF 96), s. 129, Sch. 11 Pt. II paras. 2(2)(c), 4, 5, **8(2)(3)**
- C69** Power to modify ss. 32–35 conferred by Broadcasting Act 1990 (c. 42, SIF 96), s. 129, **Sch. 11 Pt. III para. 2**
- C70** Ss. 32–35 modified by Broadcasting Act 1990 (c. 42, SIF 96), s. 129, **Sch. 11 Pt. IV para. 2(3)(c)(4)**
- C71** Finance Act 1986 (c. 41, SIF 96), s. 111, **Sch. 22 Pt. I** and Finance Act 1989 (c. 26, SIF 96), s. 181(1), **Sch. 16 Pt. I**, provide that the Broadcasting Act 1981 shall have effect with respect to additional payments payable by programme contractors as therein mentioned.

### 35 Provision for supplementing additional payments.

- (1) Where the Secretary of State is advised by the Authority, or after consultation with the Authority is of the opinion, that (apart from the provisions of this section)—
- (a) the aggregate amount of the additional payments [<sup>F36</sup>in respect of profits] to be made for an accounting period of a programme contractor in accordance with section 32 by virtue of subsection (1)(b) or (as the case may be) (2)(b) of that section is [<sup>F37</sup>or is] likely to be deficient, and
- [<sup>F38</sup>(b) the deficiency is, or would be, wholly or mainly attributable to either or both of the following—
- (i) excessive expenditure forming part of the expenditure by reference to which those additional payments fall to be calculated;
- (ii) . . . . .<sup>F39</sup>the receipt of consideration for the provision of any programme which is less than that which the contractor would have received had the transaction in question been in all respects at arm's length.]
- the Secretary of State, with the consent of the Treasury, may make an order prescribing the minimum amount of additional payments to be made by the programme contractor for that accounting period [<sup>F40</sup>in respect of profits of his for that period].
- (2) In determining, for the purposes of subsection (1) of this section, whether in the case of a programme contractor any particular expenditure is excessive, the Authority or

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the Secretary of State, as the case may be, shall have regard to such considerations as they or he may consider relevant in the circumstances, and in particular to—

- (a) the scale (if any) on which any comparable expenditure has formed part of the . . . <sup>F41</sup> expenditure by reference to which the additional payments of that programme contractor for any previous accounting period have fallen to be calculated, and
- (b) the scale (if any) on which any comparable expenditure has formed or is expected to form part of the . . . <sup>F41</sup> expenditure by reference to which the additional payments of any other programme contractor for the provision of television programmes or (as the case may be) local sound broadcasts for any current accounting period of his have fallen or are expected to fall to be calculated.

For the purposes of paragraph (b) of this subsection, an accounting period of another programme contractor shall be treated as current if the whole or a part of it is comprised in the accounting period referred to in subsection (1) of this section.

[<sup>F42</sup>(2A) In determining, for the purposes of subsection (1) of this section, whether in the case of a programme contractor any consideration received by him for the provision of any programme is less than that which the contractor would have received had the transaction in question been in all respects at arm's length, the Authority or the Secretary of State, as the case may be, shall have regard to such matters as they or he may consider relevant, and in particular to any available information as to—

- (a) the consideration received for the provision by the contractor of the programme in other comparable markets;
- (b) the consideration received by that or any other programme contractor for the provision of other comparable programmes in the same market.]

(3) Any order made under subsection (1) of this section in respect of an accounting period may, by a further order made by the Secretary of State after consultation with the Authority, and with the consent of the Treasury—

- (a) be revoked, or
- (b) be varied by substituting a greater or lesser amount for the amount specified in the order (whether as originally made or as previously varied under this subsection).

(4) No order shall be made under this section after the end of the accounting period to which it relates, [<sup>F43</sup>the period of six months beginning with the date on which the programme contractor furnishes to the Authority, in accordance with the terms of his contract as a programme contractor, a copy of his audited accounts for the accounting period to which the order relates].

(5) In making their contracts with the various programme contractors, it shall be the duty of the Authority to require those contracts to include such provisions as in the opinion of the Authority will ensure that the Authority will be in a position to comply with any order made under this section.

(6) Any order under this section shall be made by statutory instrument; but no such order shall be made unless a draft of it has been laid before Parliament and approved by a resolution of each House.

(7) An order under this section shall, notwithstanding that it makes different provision in relation to one programme contractor from the provision made by any order under this section in relation to any other programme contractor, proceed in Parliament as if its provisions would, apart from this section, require to be enacted by a public Bill

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which cannot be committed to a Select or other Committee of either House under the Standing Orders of either House relating to Private Bills.

#### Textual Amendments

- F36** Words inserted by Finance Act 1989 (c. 26, SIF 96), s. 181(1), **Sch. 16 Pt. I para. 4(2)(a)**
- F37** Words inserted by Finance Act 1986 (c. 41, SIF 96), s. 111, **Sch. 22 Pt. I para. 3(2)**
- F38** S. 35(1)(b) substituted by Finance Act 1986 (c. 41, SIF 96), s. 111, **Sch. 22 Pt. I para. 3(3)**
- F39** Words repealed by Finance Act 1989 (c. 26, SIF 96), s. 181(1), **Sch. 16 Pt. I para. 4(2)(b)**
- F40** Words added by Finance Act 1989 (c. 26, SIF 96), s. 181(1), **Sch. 16 Pt. I para. 4(2)(c)**
- F41** Word repealed by Finance Act 1986 (c. 41, SIF 96), s. 114, **Sch. 23 Pt. XI**
- F42** S. 35(2A) inserted by Finance Act 1986 (c. 41, SIF 96), s. 111, **Sch. 22 Pt. I para. 3(5)**
- F43** Words substituted by Finance Act 1986 (c. 41, SIF 96), s. 111, **Sch. 22 Pt. I para. 3(4)**

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

- C72** Ss. 32–35 modified (*temp.* ending with 31.12.1992) by Broadcasting Act 1990 (c. 42, SIF 96), s. 129, **Sch. 11 Pt. II paras. 2(2)(c), 4, 5, 8(2)(3)**
- C73** Power to modify ss. 32–35 conferred by Broadcasting Act 1990 (c. 42, SIF 96), s. 129, **Sch. 11 Pt. III para. 2**
- C74** Ss. 32–35 modified by Broadcasting Act 1990 (c. 42, SIF 96), s. 129, **Sch. 11 Pt. IV para. 2(3)(c)(4)**
- C75** Finance Act 1986 (c. 41, SIF 96), s. 111, **Sch. 22 Pt. I** and Finance Act 1989 (c. 26, SIF 96), s. 181(1), **Sch. 16 Pt. I**, provide that the Broadcasting Act 1981 shall have effect with respect to additional payments payable by programme contractors as therein mentioned.

### *Finances of Authority*

#### **36 Television and sound broadcasting to be separately financed by Authority.**

- (1) The provision by the Authority of television broadcasting services, and the provision by them of local sound broadcasting services, shall for financial purposes constitute separate branches of their undertaking; and references in this Act to a branch of the Authority's undertaking shall be construed accordingly.
- (2) For each branch of their undertaking it shall be the duty of the Authority so to conduct their affairs as to secure that their revenues from that branch become at the earliest possible date, and thereafter continue, at least sufficient—
  - (a) to meet all sums properly chargeable to revenue account in respect of that branch of their undertaking (including sums which, for the purposes of that branch, are required for the repayment of loans and interest thereon, for provision for depreciation and for the establishment and maintenance of the reserve fund for that branch); and
  - (b) to make provision towards, and as soon as practicable for, necessary capital expenditure for the purposes of that branch of their undertaking.
- (3) For each branch of their undertaking the Authority shall establish and maintain a reserve fund; and, subject to the following provisions of this section, the management of that fund, the sums to be carried from time to time to the credit of the fund, and the application of the fund, shall be as the Authority may determine.
- (4) No part of either of those funds shall be applied otherwise than for the purposes of the branch of the Authority's undertaking for which the fund was established.



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- (5) The Secretary of State may, with the approval of the Treasury, give to the Authority such directions as he may think fit as to any matter relating to the establishment or management of either of those funds, to the carrying of sums to the credit thereof, or to the application thereof; and the Authority shall comply with the directions.

**37 Application of any excess of revenues over expenditure.**

- (1) In the case of each branch of the Authority's undertaking any excess of the revenues of the Authority for any financial year over the total sums properly chargeable by the Authority to revenue account for that year, including in such sums (without prejudice to the generality of that expression) sums credited under section 36(3) of the reserve fund established for that branch, shall be applied by the Authority in such manner as the Secretary of State, with the approval of the Treasury after consultation with the Chairman (or in his absence the Deputy Chairman) of the Authority, may direct.
- (2) A direction under subsection (1) of this section may require the whole or any part of any excess of the revenues of the Authority to be paid into the Consolidated Fund.
- (3) A direction under subsection (1) of this section shall not require any part of any excess of the revenues of the Authority attributable to one branch of their undertaking to be applied for the purposes of the other branch of their undertaking.

**38 Advances to Authority for purposes of local sound broadcasting.**

- (1) For the purpose of enabling the Authority to defray expenditure properly attributable to capital account in respect of the provision of local sound broadcasting services, and for the purpose of furnishing the Authority with working capital in connection with those services, the Secretary of State may with the consent of the Treasury make advances to the Authority out of money provided by Parliament.
- (2) The aggregate amount outstanding by way of principal in respect of sums advanced to the Authority under this section shall not at any time exceed £2 million.
- (3) Any sums advanced under this section shall be repaid to the Secretary of State at such times and by such methods, and interest on those sums shall be paid to him at such times and at such rates, as he may from time to time direct with the consent of the Treasury.
- (4) All sums received by the Secretary of State in pursuance of subsection (3) shall be paid into the Consolidated Fund.

*Payments by Authority*

**39 Payments by Authority to Welsh Authority.**

- (1) For each financial year the Authority shall pay to the Welsh Fourth Channel Authority such sum or sums as may be agreed between them to be appropriate for enabling the Welsh Authority to meet their reasonable outgoings or, in default of such agreement, such sum or sums as the Secretary of State may determine to be appropriate for that purpose.
- (2) All sums paid by the Authority to the Welsh Authority in pursuance of subsection (1) shall be treated for the purposes of section 36(2) as sums properly chargeable to

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revenue account in respect of the branch of their 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 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 by programme contractors under the head described in subsection (1)(a) of that section which is attributable to the provisions of this section and Part II.

#### **40 Contributions towards cost of Broadcasting Complaints Commission.**

- (1) For the financial year in which the Broadcasting Complaints Commission is established and each subsequent financial year the Secretary of State shall notify to the Authority the total sum which he considers to be the appropriate contribution of the programme contractors towards the expenses of the Commission.
- (2) The contracts between the Authority and the various programme contractors shall contain such provisions as the Authority consider necessary for securing that the programme contractors make to the Authority in respect of every financial year payments (additional to those required by section 32) representing what appear to the Authority to be the appropriate contributions of the respective programme contractors towards meeting the sum notified to the Authority for that year under subsection (1).
- (3) The payments made to the Authority by virtue of subsection (2) shall not form part of the revenue of the Authority and, when received by the Authority, shall be paid to the Secretary of State.
- (4) All sums received by the Secretary of State under subsection (3) shall be paid into the Consolidated Fund.
- (5) Any payment made by a programme contractor to the Authority by virtue of subsection (2) in any accounting period shall be treated as relevant expenditure for the purposes of Schedule 4.

#### **41 Grants by Authority to local sound programme contractors.**

- (1) If, in the case of any local sound programme contractor, the Authority consider it necessary or expedient to do so for the purpose of enabling the Authority to discharge more fully the duties mentioned in subsection (2), they may make to that contractor a grant of such amount as they think fit.
- (2) Those duties are the duties of the Authority under subsections (1) and (2) of section 2 in relation to local sound broadcasting services, and in particular their duties under subsection (2)(b) and (c) of that section to ensure that the programmes broadcast in each area maintain a high general standard in respect of their content and quality, and to secure a wide hearing for programmes of merit.
- (3) A grant made to a local sound programme contractor under this section may be made on such conditions as the Authority think appropriate for securing that it is used only for specified purposes, being purposes which in the opinion of the Authority will be conducive to the achievement of the purpose mentioned in subsection (1).
- (4) Any number of grants may be made to the same local sound programme contractor under this section.

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- (5) In this section “local sound programme contractor” means a person who is a programme contractor by virtue of a contract for the provision of local sound broadcasts.

*Accounts, audit and annual reports*

**42 Accounts and audit.**

- (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 with the approval of the Treasury may direct, being a form which shall conform with the best commercial standards.

[<sup>F44</sup>(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.

(2A) A person [<sup>F45</sup>shall not be so appointed unless he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989.]

- (3) The Authority shall at all reasonable times upon demand made by the Secretary of State or by any person 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 engagements of the Authority.

**Textual Amendments**

**F44** S. 42(2)(2A) substituted for s. 42(2) by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), s. 57(1), [Sch. 5 para. 40\(5\)](#)

**F45** Words in s. 42(2A) substituted (1.10.1991) by [S.I. 1991/1997, regs. 1\(1\), 2](#), [Sch. para.42](#)

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

**C76** [Ss. 2\(2\)\(a\)\(b\), 3\(1\)\(a\)\(b\)\(3\)\(4\)\(7\), 4, 5, 8, 9, 14\(1\), 15, 16\(1\), 42, 61, 62](#) extended (*prosp.*) by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), [ss. 44\(1\), 51\(1\), 59\(4\)](#), [Sch. 4](#)

**43 Annual reports.**

- (1) As soon as may be 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 consider it and 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 auditor on that statement, and shall also include such information relating to the plans, and past and present activities, of the Authority, and to the financial position of the Authority, as the Secretary of State may from time to time direct.

- (3) The report for any financial year shall also include—

- (a) an account of the way in which the power to make grants under section 41 has been exercised during that year; and

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- (b) a description of the provision made by the various programme contractors for the training of persons employed by them in the preparation or making of programmes.
- (4) The report for any financial year in which the Authority provide both ITV and the Fourth Channel shall include the following information—
- (a) a general description of the programmes broadcast on ITV and the Fourth Channel respectively, with particular reference to programmes containing news or news features and programmes of an educational nature, and a general account of how the programmes broadcast on the Fourth Channel differed from those broadcast on ITV, with particular reference as aforesaid;
  - (b) an account of the way in which the Authority have discharged their duty under section 11(1)(c) as regards the encouragement of innovation and experiment in the form and content of programmes for broadcasting on the Fourth Channel;
  - (c) a description of the sources from which the programmes broadcast on ITV and the Fourth Channel respectively were obtained, and an account of the extent to which the Authority have discharged their duty under section 12(3)(b) as regards the sources of programmes broadcast on the Fourth Channel;
  - (d) a description of the arrangements made by the Authority with respect to the broadcasting of advertisements on ITV and the Fourth Channel respectively, and a general account of—
    - (i) any complaints received by the Authority about those arrangements or about the conduct of TV programme contractors in connection with the sale of advertising time in those services respectively; and
    - (ii) the action taken by the Authority in relation to those complaints.

In this subsection “programmes” means programmes other than advertisements.

- (5) Subsection (4) does not apply in relation to programmes broadcast by the Authority, whether on ITV or otherwise, for reception in Wales.
- (6) Subsections (3) and (4) are without prejudice to the power of the Secretary of State under subsection (2) to give directions as to the information to be included in any report under this section; and that power shall include power to direct the Authority to include in any such report such information relating to any matter required by subsection (3) or (4) to be dealt with in the report as may be specified in the directions.

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

**C77** S. 43(1)(2) and Sch. 2 extended (*prosp.*) by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), ss. 44(1), 51(1), 59(4), [Sch. 4](#)

**C78** S. 43(2) modified (*prosp.*) by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), ss. 44(2), 51(1), 59(4)

*Miscellaneous*

**44 Machinery for settling terms and conditions of employment of Authority’s staff, etc.**

- (1) Except so far as the Authority are satisfied that adequate machinery exists for achieving the purposes of this section, it shall be the duty of the Authority to seek consultation with any organisation appearing to them to be appropriate with a view

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*Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1981, Part I. (See end of Document for details)*

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to the conclusion between the Authority and that organisation of such agreements as appear to the parties to be desirable with respect to the establishment and maintenance of machinery for—

- (a) the settlement by negotiation of terms and conditions of employment of persons employed by the Authority, with provision for reference to arbitration, in default of such settlement, of such cases as may be determined by or under the agreements; and
  - (b) the promotion and encouragement of measures affecting the safety, health, training and welfare of persons employed by the Authority, and the discussion of other matters of mutual interest to the Authority and such persons.
- (2) The Authority shall send to the Secretary of State copies of any such agreement and of any instrument varying the terms of any such agreement.
  - (3) In relation to any agreement affecting employment in Northern Ireland, the reference in subsection (2) to the Secretary of State includes a reference to the Department of Manpower Services for Northern Ireland.

#### **45 Audience research.**

- (1) The functions of the Authority shall include the making of arrangements for bringing the programmes broadcast by the Authority and the other activities of the Authority under constant and effective review, and in particular for ascertaining the state of public opinion concerning the programmes broadcast by the Authority and for encouraging the making of useful comments and suggestions by members of the public.
- (2) Those arrangements shall include provision for full consideration by the Authority of the facts, comments and suggestions so obtained.
- (3) In this section “programmes” includes advertisements.

**Changes to legislation:**

There are currently no known outstanding effects for the Broadcasting Act 1981, Part I.