



Broadcasting Act 1996

1996 CHAPTER 55

PART III

AMENDMENTS OF THE BROADCASTING ACT 1990

Restrictions on holding of licences

73 Restrictions on holding of licences

Schedule 2 (which makes amendments of the 1990 Act relating to restrictions on the holding of licences under that Act or under Part I or II) shall have effect.

Regional Channel 3 services

74 Provision of news programmes by holders of regional Channel 3 licences

(1) With respect to the broadcasting of news programmes on and after 1st January 1998, section 31 of the 1990 Act (provision of news on Channels 3 and 5) is amended as follows.

(2) In subsection (2)—

- (a) at the beginning there is inserted “For the purpose of securing the nationwide broadcast, by holders of regional Channel 3 licences (taken together), of news programmes which are able to compete effectively with other news programmes broadcast nationwide in the United Kingdom,”,
- (b) for “a nominated news provider” there is substituted “the appointed news provider”, and
- (c) in paragraph (b), for “the same nominated” there is substituted “the appointed”.

(3) For subsection (3) there is substituted—

Status: This is the original version (as it was originally enacted).

“(3) In subsection (2) “appointed news provider” means, subject to subsection (4), the body corporate for the time being appointed for the purposes of subsection (2), from among the bodies corporate nominated by the Commission under section 32, in accordance with conditions included by virtue of section 31A in regional Channel 3 licences.

(4) A body corporate ceases by virtue of this subsection to be the appointed news provider if its nomination is terminated by the Commission under any provision of section 32.”

75 Appointment of news provider by holders of regional Channel 3 licences

(1) After section 31 of the 1990 Act there is inserted—

“31A Appointment of news provider by holders of regional Channel 3 licences

A regional Channel 3 licence shall include conditions requiring the holder of the licence to do all that he can to ensure—

- (a) that arrangements are made between all holders of regional Channel 3 licences (“the relevant licence holders”) for the appointment by them, from among the bodies corporate nominated by the Commission under section 32, and on such terms as the relevant licence holders may agree, of a single body corporate to be the appointed news provider for the purposes of section 31(2), and
- (b) that, so long as he provides his licensed service, an appointment for the purposes of section 31(2) is in force.”

(2) The Independent Television Commission may not include in pursuance of section 31A of the 1990 Act any condition in a regional Channel 3 licence (within the meaning of Part I of the 1990 Act) which would require an appointment for the purposes of section 31(2) of that Act (as amended by this Act) to take effect before 1st January 1998.

76 Nomination by Commission for purposes of section 31(2) of Broadcasting Act 1990

(1) Section 32 of the 1990 Act (nomination of bodies to provide news for regional Channel 3 services) is amended in accordance with subsections (2) to (5).

(2) For subsections (1) to (6) there is substituted—

“(1) With a view to enabling them to nominate bodies corporate as eligible for appointment for the purposes of section 31(2), the Commission shall invite bodies appearing to them to be qualified for nomination to make applications to be so nominated.

(2) Where a body corporate—

- (a) applies to the Commission (whether in pursuance of any such invitation or not) to be nominated under this section as a nominated news provider, and
- (b) appears to the Commission to be qualified for nomination,

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

the Commission shall so nominate that body.

- (3) Subject to subsection (5), any nomination made by the Commission under this section shall remain in force for a period of ten years, and at the end of that period may be renewed by the Commission for a further period of ten years.
 - (4) Where the Commission are notified by the holders of licences to provide regional Channel 3 services that the appointment of the appointed news provider is due to expire, or to be renewed or terminated in accordance with the terms of the appointment, the Commission shall review the qualification for nomination of all nominated news providers (including the appointed news provider).
 - (5) If on any such review it appears to the Commission that a body is no longer qualified for nomination they shall (subject to subsection (6)) by notice terminate that body's nomination.
 - (6) The Commission shall not terminate a body's nomination under subsection (5) unless they have given the body a reasonable opportunity of making representations to them about the proposed termination."
- (3) In subsection (9), paragraph (b) is omitted.
 - (4) In subsection (12), for the words from "appearing", where second occurring, onwards there is substituted "which—
 - (a) in their opinion is or, if appointed, would be effectively equipped and adequately financed to provide high quality news programmes for broadcasting in regional Channel 3 services; and
 - (b) appears to them not to be disqualified for being nominated under this section by virtue of this subsection."
 - (5) In subsection (13)—
 - (a) in paragraph (b), after "section", where second occurring, there is inserted "as eligible for appointment", and
 - (b) after paragraph (b) there is inserted—

"and

 - (c) references to the appointed news provider are references to the person for the time being appointed for the purposes of section 31(2) under the arrangements referred to in section 31A(a)."
 - (6) Subsections (2), (4) and (5) do not affect the application of section 32 of the 1990 Act before 1st January 1998 in relation to nomination for the purposes of section 31(2) of that Act as originally enacted.

77 Modification of Restrictive Trade Practices Act 1976 in its application to agreements relating to Channel 3 news provision

- (1) After section 194 of the 1990 Act there is inserted—

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

“194A Modification of Restrictive Trade Practices Act 1976 in its application to agreements relating to Channel 3 news provision

- (1) In this section a “relevant agreement” means an agreement—
 - (a) which is made between all holders of regional Channel 3 licences for securing the appointment by them, in accordance with conditions included in their licences by virtue of section 31A(a), of a single body corporate to be the appointed news provider for the purposes of section 31(2), or
 - (b) which is made between them and the body corporate appointed to be the appointed news provider for the purposes of section 31(2) for purposes connected with the appointment.
- (2) If a relevant agreement is registered under the Restrictive Trade Practices Act 1976 (“the 1976 Act”), the Director General of Fair Trading shall report to the Secretary of State as to whether it appears to the Director that the agreement falls within subsection (4).
- (3) If, on receiving a report under subsection (2), it appears to the Secretary of State that the agreement falls within subsection (4), he may give a direction to the Director requiring him not to make an application to the Restrictive Practices Court under Part I of the 1976 Act in respect of the relevant agreement.
- (4) A relevant agreement falls within this subsection if—
 - (a) those provisions of the agreement by virtue of which the 1976 Act applies to the agreement do not have, and are not intended or likely to have, to any significant extent the effect of restricting, distorting or preventing competition, or
 - (b) all or any of those provisions have, or are intended or likely to have, that effect to a significant extent, but that the effect is not greater than is necessary—
 - (i) in the case of a relevant agreement falling within subsection (1)(a), for securing the appointment by holders of regional Channel 3 licences of a single body corporate to be the appointed news provider for the purposes of section 31(2), or
 - (ii) in the case of a relevant agreement falling within subsection (1)(b), for compliance by them with conditions included in their licences by virtue of section 31(1) and (2).
- (5) The Secretary of State may vary or revoke any direction given under subsection (3) above if he is satisfied that there has been a material change of circumstances such that—
 - (a) the grounds for the direction have ceased to exist, or
 - (b) there are grounds for giving a different direction;and where the Secretary of State so varies or revokes any direction, he shall give notice of the variation or revocation to the Director.
- (6) In this section—
 - (a) “agreement” and “Director” have the same meaning as in the 1976 Act, and

- (b) “regional Channel 3 licence” has the same meaning as in Part I.”
- (2) Subsection (1) shall not apply in relation to any agreement (within the meaning of the Restrictive Trade Practices Act 1976) made for the purposes of the provision of news programmes by a nominated news provider under section 31(2) of the 1990 Act as originally enacted.

78 Variation of regional Channel 3 licence following change of control

- (1) After section 21 of the 1990 Act there is inserted—

“21A Variation of regional Channel 3 licence following change of control

- (1) Any regional Channel 3 licence granted to a body corporate after the commencement of this section shall include—
 - (a) a condition requiring the body to give the Commission advance notice of any proposals known to the body that may give rise to a relevant change of control, and
 - (b) a condition requiring the licence holder to provide the Commission, in such manner and at such times as they may reasonably require, with such information as they may require for the purposes of exercising their functions under this section.
- (2) Subsections (3) and (4) have effect where—
 - (a) in pursuance of a condition in a regional Channel 3 licence the Commission receive notice of any proposals that may give rise to a relevant change of control, or
 - (b) a relevant change of control takes place in relation to a body corporate which holds a regional Channel 3 licence (whether or not that change has been previously notified to the Commission).
- (3) If it appears to the Commission that the relevant change of control is or would be prejudicial to one or more of the following matters, namely—
 - (a) the quality or range of regional programmes included in the service,
 - (b) the quality or range of other programmes included in the service which contribute to the regional character of the service, or
 - (c) the quality or range of the programmes made available by the licence holder for the purposes of inclusion in the nationwide system of services referred to in section 14(1),then, with a view to ensuring that the relevant change of control is not prejudicial to any of those matters, the Commission shall vary the licence, by a notice served on the licence holder, so as to include in the licence such conditions relating to any of those matters as they consider appropriate.
- (4) If it appears to the Commission that, having regard to the effect, or likely effect, of the relevant change of control on—
 - (a) the time given, in the programmes included in the service—
 - (i) to regional programmes, or
 - (ii) to programmes of the kind mentioned in subsection (3)(b),
 - (b) the proportion of regional programmes included in the service which are made within the area for which the service is provided,

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

- (c) the extent of the use in connection with the service—
 - (i) of offices or studios situated within the area for which the service is provided, or
 - (ii) of the services of persons employed (whether by the licence holder or any other person) within that area, or
- (d) the extent to which managerial or editorial decisions relating to programmes to be included in the service are taken by persons so employed within that area,

the relevant change of control is or would be prejudicial to the regional character of the service, the Commission may vary the licence, by a notice served on the licence holder, so as to include in the licence such conditions relating to any of the matters specified in paragraphs (a), (b), (c) and (d) as they consider appropriate.

- (5) Subject to subsection (6), any new or varied condition imposed under subsection (3) or (4) in relation to any matter specified in that subsection may be more onerous than any existing conditions relating to that matter; and in this subsection “existing condition” means a condition of the licence as it has effect, or had effect, before the relevant change of control.
- (6) The Commission may not under subsection (3) or (4) include any new or varied condition in a licence unless the new condition or the condition as varied is one which (with any necessary modifications) would have been satisfied by the licence holder—
 - (a) during the three months immediately before the relevant date, or
 - (b) if the Commission consider that the performance of the licence holder during that period is not typical of its performance during the twelve months before the relevant date, during such other period of three months during those twelve months as they may notify in writing to the licence holder;

and for the purposes of this subsection “the relevant date” is the date of the relevant change of control or, if earlier, the date on which the Commission exercise their powers under subsection (3) or (4).

- (7) The Commission shall not serve a notice on any body under subsection (3) or (4) unless they have given it a reasonable opportunity of making representations to them about the variation.
- (8) Where, in a case falling within subsection (2)(a), a notice under subsection (3) or (4) varying a licence is served before the change to which it relates takes place, the variation shall not take effect until the change takes place.

- (9) In this section—
 - “regional programme”, in relation to any regional Channel 3 service, means any programme (including a news programme) which is of particular interest—
 - (a) to persons living within the area for which the service is provided,
 - (b) to persons living within any part of that area, or
 - (c) to particular communities living within that area;
 - “relevant change of control” means a change in the persons having control over—

- (a) the body holding the licence, or
- (b) any body which is connected with that body and appears to the Commission to be, or to be likely to be, involved to any extent in the provision of programmes for inclusion in the licensed service.”

- (2) Any regional Channel 3 licence (within the meaning of Part I of the 1990 Act) granted before the commencement of this section shall, as from that commencement, be taken to include the conditions referred to in section 21A(1)(a) and (b) of the 1990 Act.

79 Powers of Commission in relation to modification or replacement of networking arrangements

- (1) Section 39 of the 1990 Act (networking arrangements between holders of regional Channel 3 licences) is amended as follows.

- (2) After subsection (9) there is inserted—

“(9A) The matters to which the Commission shall have regard in deciding whether to approve any arrangements or modification under subsection (4) or (8) include the likely effect of the arrangements in question, or (as the case may be) those arrangements as proposed to be modified, on the ability of the holders of regional Channel 3 licences to maintain the quality and range—

- (a) of the regional programmes (as defined by section 21A(9)) included in each regional Channel 3 service, and
- (b) of the other programmes included in each service which contribute to the regional character of the service.”

- (3) For subsection (10) there is substituted—

“(10) Without prejudice to the generality of their power to refuse to approve any arrangements or modification under subsection (4) or (8), the Commission shall refuse to do so if—

- (a) they are not satisfied that the arrangements in question, or (as the case may be) those arrangements as proposed to be modified, would be appropriate for the purpose mentioned in subsection (1), or
- (b) it appears to them that the arrangements in question, or (as the case may be) those arrangements as proposed to be modified, would be likely to prejudice the ability of the holder of any regional Channel 3 licence to comply with—
 - (i) any condition imposed in pursuance of section 33(1), for the purpose of securing the implementation of proposals relating to the matters specified in section 16(2)(c), or
 - (ii) any condition imposed in pursuance of subsection (3) of section 21A in relation to the matters specified in paragraph (a) of that subsection.”

Channel 4 and S4C

80 Funding of Sianel Pedwar Cymru

- (1) For section 61 of the 1990 Act there is substituted—

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

“61 Funding of Welsh Authority

- (1) The Secretary of State shall, in the year 1998 and in each subsequent year, pay to the Welsh Authority the prescribed amount as increased by the appropriate percentage.
 - (2) In this section “the prescribed amount” means the 1997 amount or such amount as may from time to time be prescribed under subsection (4).
 - (3) In this section “the 1997 amount” means the amount paid by the Secretary of State to the Welsh Authority by way of interim payment for the year 1997 (under this section as originally enacted).
 - (4) The Secretary of State may, if he is satisfied that it is appropriate to do so having regard to the cost to the Welsh Authority of transmitting S4C and the service referred to in section 57(1A)(a), by order provide that the prescribed amount is to be an amount which is greater than the 1997 amount and is specified in the order.
 - (5) Before making an order under subsection (4) the Secretary of State shall consult the Welsh Authority.
 - (6) In this section “the appropriate percentage”, in relation to any year (“the relevant year”), means the percentage which corresponds to the percentage increase between—
 - (a) the retail prices index for November 1996, and
 - (b) the retail prices index for the month of November in the year preceding the relevant year;
 and for this purpose “the retail prices index” has the same meaning as in section 19(10).
 - (7) Any sums required by the Secretary of State under this section shall be paid out of money provided by Parliament.
 - (8) An order shall not be made under subsection (4) unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.”
- (2) In section 62 of the 1990 Act for “sections 26 and 61” there is substituted “section 26”.
 - (3) Subsections (1) and (2) shall not have effect in relation to payments for any year before 1998.
 - (4) No payment shall be made to or by the Welsh Authority under subsection (3) or (4) of section 61 of the 1990 Act (as originally enacted) for the year 1997; and in this subsection “the Welsh Authority” has the same meaning as in the 1990 Act.

81 Public service fund of Sianel Pedwar Cymru

- (1) After section 61 of the 1990 Act there is inserted—

“61A Welsh Authority public service fund

- (1) The Welsh Authority shall not exercise their powers under section 57(1A)(b) before such date (in this section referred to as “the notified date”) as they may notify to the Secretary of State for the purposes of this section.
 - (2) All amounts received by the Welsh Authority under section 61 on or after the notified date shall be kept by the Authority in a separate fund (in this section referred to as “the public service fund”) which may be applied only for the purposes of their functions under section 57(1) or (1A)(a).
 - (3) No S4C company shall receive any direct or indirect subsidy from the public service fund.
 - (4) The Welsh Authority shall secure that no television programme which has been wholly or partly financed out of the public service fund is included in a television programme service provided by an S4C company before it is first broadcast on S4C or in the service referred to in section 57(1A)(a).
 - (5) On the notified date—
 - (a) all the assets then held by the Welsh Authority other than cash, together with the appropriate proportion of any cash then held by them, shall be taken to be comprised in the public service fund, and
 - (b) the remainder of any cash then held by the Authority shall be taken to be comprised in a general fund.
 - (6) In subsection (5)(a) “the appropriate proportion” means the proportion which, in the last financial year in respect of which a statement of accounts has been prepared under paragraph 12(1) of Schedule 6 before the notified date, the total amount received by the Welsh Authority under section 61 bears to the total amount of its income from all sources.”
- (2) In paragraph 12 of Schedule 6 of the 1990 Act (accounts and audit) after subparagraph (1) there is inserted—
- “(1A) The statement of accounts must deal separately with the public service fund referred to in section 61A of this Act and with the general fund referred to in subsection (5)(b) of that section.”.

82 Multiplex revenue to be taken into account in connection with funding of Channel Four Television Corporation

- (1) Section 26 of the 1990 Act (revenue deficits of Channel Four Television Corporation to be funded by Channel 3 licensees) is amended as follows.
- (2) For subsection (2) there is substituted—
 - “(2) For the purposes of this section the Corporation’s prescribed minimum income for any year shall be 14 per cent. of the total television revenues for that year.
 - (2A) For the purposes of this section “total television revenues” means, in relation to any year, the aggregate of—
 - (a) the qualifying revenues for that year of the following, namely—
 - (i) all holders of Channel 3 or Channel 5 licences;

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

- (ii) the Welsh Authority; and
- (iii) the Corporation itself; and
- (b) the multiplex revenues for that year in respect of all holders of multiplex licences (within the meaning of Part I of the Broadcasting Act 1996).”

(3) After subsection (9) there is inserted—

“(9A) Sections 13(4) to (6) and 14 of, and Schedule 1 to, the Broadcasting Act 1996 shall have effect, with any necessary modifications, for the purpose of enabling the Commission to estimate or determine the multiplex revenue in respect of any person for any year for the purposes of this section.”

83 Application of excess revenues of Channel Four Television Corporation

(1) Section 27 of the 1990 Act (application of excess revenues of Channel Four Television Corporation) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a), for “one half” there is substituted “50 per cent.”, and
- (b) in paragraph (b), for “the other half” there is substituted “the remainder of the excess”.

(3) In subsection (3)—

- (a) in paragraph (a), for “half” there is substituted “50 per cent.”, and
- (b) in paragraph (b), for “the other half” there is substituted “the remainder of that amount”.

(4) After subsection (6) there is inserted—

“(7) The Secretary of State may by order—

- (a) amend subsection (1)(a) by substituting for the percentage for the time being specified there a percentage specified in the order, which may be nil but must not be more than 50 per cent., and
- (b) amend subsection (3)(a) by substituting for the percentage for the time being specified there a percentage specified in the order, which may be nil.

(8) An order shall not be made under subsection (7) unless a draft of it has been laid before and approved by a resolution of each House of Parliament.”

84 Extension of powers of Channel Four Television Corporation and Sianel Pedwar Cymru

(1) In section 24 of the 1990 Act (Channel 4 to be provided as licensed service) after subsection (4) there is inserted—

“(5) The Corporation shall also have power—

- (a) (subject to and in accordance with Part I of the Broadcasting Act 1996) to arrange for the broadcasting of Channel 4 in digital form in any part of the United Kingdom as a qualifying service (within the meaning of that Part), and

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

- (b) to establish qualifying companies, to purchase or otherwise acquire shares, stocks or other securities of qualifying companies and to assist any qualifying company.
- (6) In subsection (5)(b) “qualifying company” means any company (whether incorporated under the law of the United Kingdom or of any other country) which is or will be wholly or mainly engaged in one or more of the following activities—
 - (a) the provision of one or more services which are licensed by the Commission or by the Radio Authority or which, if provided in the United Kingdom, would be required to be so licensed,
 - (b) activities incidental to such provision, and
 - (c) the holding of shares in any other company which is wholly or mainly engaged in such provision or in activities incidental to such provision.”
- (2) In paragraph 1 of Schedule 3 to the 1990 Act (status and capacity of Channel Four Television Corporation) after sub-paragraph (3) there is inserted—
 - “(4) Section 24(5)(b) of this Act shall not be taken to limit the Corporation’s power by virtue of sub-paragraph (3) to do such things and enter into such transactions as are incidental or conducive to the discharge of their functions under section 24(1) or (5)(a).”
- (3) In section 57 of the 1990 Act (functions and duties of Welsh Authority) after subsection (1) there is inserted—
 - “(1A) The Welsh Authority shall also have power—
 - (a) (subject to and in accordance with Part I of the Broadcasting Act 1996) to provide a further service as a qualifying service (within the meaning of that Part), and to arrange for the broadcasting of that service in digital form, and
 - (b) to establish qualifying companies, to purchase or otherwise acquire shares, stocks or other securities of qualifying companies and to assist any qualifying company.
 - (1B) In subsection (1A)(b) “qualifying company” means any company (whether incorporated under the law of the United Kingdom or of any other country) which is or will be wholly or mainly engaged in one or more of the following activities—
 - (a) the provision of one or more services which are licensed by the Commission or by the Radio Authority or which, if provided in the United Kingdom, would be required to be so licensed,
 - (b) activities incidental to such provision, and
 - (c) the holding of shares in any other company which is wholly or mainly engaged in such provision or in activities incidental to such provision.”
- (4) In paragraph 1 of Schedule 6 to the 1990 Act (status and capacity of Welsh Authority) after sub-paragraph (2) there is inserted—
 - “(3) Section 57(1A)(b) of this Act shall not be taken to limit the Authority’s power by virtue of sub-paragraph (2) to do such things and enter into

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

such transactions as are incidental or conducive to the discharge of their functions under section 57(1) or (1A)(a).”

Miscellaneous amendments relating to television broadcasting

85 Restricted television services

After section 42 of the 1990 Act there is inserted—

“CHAPTER IIA

RESTRICTED SERVICES

42A Restricted services

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

- (a) consists in the broadcasting of television programmes for a particular establishment or other defined location, or a particular event, in the United Kingdom, and
- (b) is provided on a frequency or frequencies assigned to the Commission under section 65.

42B Licensing etc. of restricted services

- (1) An application for a licence to provide a restricted service shall be made in such manner as the Commission may determine, and shall be accompanied by such fee (if any) as the Commission may determine.
- (2) Subject to subsections (3) and (4), sections 40 to 42 shall apply in relation to such a licence as they apply in relation to a licence to provide a Channel 3 service.
- (3) In its application to a licence to provide a restricted service, section 41 shall have effect with the omission of subsection (2); and the maximum amount which the holder of such a licence may be required to pay by way of a financial penalty imposed in pursuance of subsection (1)(a) of that section shall not exceed whichever is the greater of—
 - (a) £50,000, and
 - (b) the amount determined under subsection (4).
- (4) The amount referred to in subsection (3)(b) is—
 - (a) in a case where a penalty under section 41(1)(a) has not previously been imposed on the holder of the licence during any period for which his licence has been in force (“the relevant period”), 3 per cent. of the qualifying revenue for his last complete accounting period (as determined in accordance with section 19(2) to (6)); and
 - (b) in any other case, 5 per cent. of the qualifying revenue for that accounting period (as so determined);

and in relation to a person whose first complete accounting period falling within the relevant period has not yet ended, paragraphs (a) and (b) above shall be construed as referring to 3, or (as the case may be) 5, per cent. of the amount

which the Commission estimate to be the qualifying revenue for that accounting period (as so determined).”

86 Award of certain licences subject to conditions

(1) After section 17 of the 1990 Act there is inserted—

“17A Award of Channel 3 licence subject to conditions

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

(2) In section 51 of the 1990 Act (procedure to be followed by Commission in connection with consideration of applications for, and awarding of, licences to provide additional services), in subsection (3)—

- (a) for “section 17” there is substituted “sections 17 and 17A”, and
- (b) for “it applies” there is substituted “they apply”.

(3) After section 76 of the 1990 Act there is inserted—

“76A Award of local delivery licence subject to conditions

- (1) The Commission may, when awarding a local delivery licence to any person, make the grant of the licence to him conditional on his compliance before the grant with such specified requirements relating to the financing of the service as appear to them to be appropriate, having regard to—
 - (a) any duties which are or may be imposed on them, or on the licence holder, by or under this Act, and
 - (b) any information provided to them under section 74(3)(d) by the person to whom the licence is awarded as to his projected financial position during the period for which the licence would be in force.
- (2) Where the Commission determine that any condition imposed by them in relation to a local delivery licence in pursuance of subsection (1) has not been satisfied, section 76 shall (subject to subsection (3)) have effect as if the person to whom the licence was awarded had not made an application for it.

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

- (3) Section 76 shall not so have effect if the Commission decide that it would be desirable to publish a fresh notice under section 74(1) in respect of the grant of the licence.”

87 Ancillary services

Section 48 of the 1990 Act (additional services) is amended in paragraph (c) of subsection (3) by the addition after the words “their contents” of the words “or relate to the promotion or listing of such programmes”.

88 Enforcement of licences to provide non-domestic satellite services

- (1) Section 45 of the 1990 Act (licensing etc. of non-domestic satellite services) is amended as follows.

(2) In subsection (5), for “and” there is substituted “to”.

(3) In subsection (6), for “shall instead be £50,000” there is substituted—

“shall not exceed whichever is the greater of—

- (a) £50,000, and
- (b) the amount determined under subsection (6A).

(6A) The amount referred to in subsection (6)(b) is—

- (a) in a case where a penalty under section 41(1)(a) has not previously been imposed on the holder of the licence during any period for which his licence has been in force (“the relevant period”), 3 per cent. of the qualifying revenue for his last complete accounting period (as determined in accordance with section 19(2) to (6)); and
- (b) in any other case, 5 per cent. of the qualifying revenue for that accounting period (as so determined);

and in relation to a person whose first complete accounting period falling within the relevant period has not yet ended, paragraphs (a) and (b) above shall be construed as referring to 3, or (as the case may be) 5, per cent. of the amount which the Commission estimate to be the qualifying revenue for that accounting period (as so determined).”

(4) Subsections (8) and (9) are omitted.

89 Power of Independent Television Commission to suspend licence to provide non-domestic satellite service

After section 45 of the 1990 Act there is inserted—

“45A Special power of revocation and suspension on certain grounds in case of licence to provide non-domestic satellite service

(1) If the Commission are satisfied—

- (a) that the holder of a licence to provide a non-domestic satellite service has included in the service one or more programmes containing material likely to encourage or incite to crime or to lead to disorder,

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

- (b) that he has thereby failed to comply with a condition included in the licence in pursuance of section 6(1)(a), and
 - (c) that the failure is such as to justify the revocation of the licence,
- they shall serve on the holder of the licence a notice under subsection (2).

- (2) A notice under this subsection is a notice—
- (a) stating that the Commission are satisfied as mentioned in subsection (1),
 - (b) specifying the respects in which, in their opinion, the licence holder has failed to comply with the condition mentioned in paragraph (b) of that subsection,
 - (c) stating that the Commission may revoke his licence after the end of the period of twenty-one days beginning with the date on which the notice is served on the licence holder,
 - (d) informing the licence holder of his right to make representations to the Commission within that period about the matters complained of, and
 - (e) suspending the licence as from the time when the notice is served on the licence holder until the revocation takes effect or the Commission decide not to revoke the licence.
- (3) If the Commission, having considered any representations about the matters complained of made to them within the period referred to in subsection (2)(c) by the licence holder, are satisfied that it is necessary in the public interest to revoke the licence in question, they shall serve on the licence holder a notice revoking the licence.
- (4) A notice under subsection (3) shall not take effect until the end of the period of twenty-eight days beginning with the day on which that notice was served on the licence holder.
- (5) Section 42 (as applied by section 45(5)) shall not have effect in relation to the revocation of a licence in pursuance of a notice under subsection (1).”

90 Enforcement of licences to provide licensable programme services

- (1) Section 47 of the 1990 Act (licensing etc. of licensable programme services) is amended as follows.
- (2) In subsection (8), for “and” there is substituted “to”.
- (3) In subsection (9), for “shall instead be £50,000” there is substituted—
- “shall not exceed whichever is the greater of—
- (a) £50,000, and
 - (b) the amount determined under subsection (9A).
- (9A) The amount referred to in subsection (9)(b) is—
- (a) in a case where a penalty under section 41(1)(a) has not previously been imposed on the holder of the licence during any period for which his licence has been in force (“the relevant period”), 3 per cent. of the qualifying revenue for his last complete accounting period (as determined in accordance with section 19(2) to (6)); and

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

(b) in any other case, 5 per cent. of the qualifying revenue for that accounting period (as so determined);

and in relation to a person whose first complete accounting period falling within the relevant period has not yet ended, paragraphs (a) and (b) above shall be construed as referring to 3, or (as the case may be) 5, per cent. of the amount which the Commission estimate to be the qualifying revenue for that accounting period (as so determined).”

(4) Subsections (11) and (12) are omitted.

91 Certain delivery services to carry certain broadcasts

(1) After section 78 of the 1990 Act there is inserted—

“78A Inclusion of certain services in local delivery service provided by digital means

- (1) Where the Commission are satisfied, in the case of a local delivery service by means of which one or more of the services specified in section 72(2) is delivered in digital form, that it would be appropriate, having regard to the extent of the use and proposed use of digital technology in the provision of the service, for the service to be treated as a digital local delivery service for the purposes of this section, they shall serve a notice to that effect on the holder of the licence to provide the service.
- (2) The Commission shall do all that they can to secure that, subject to subsection (3) and to any exceptions for which the Secretary of State, after consultation with the Commission, the BBC and the Welsh Authority, may by order provide, every digital local delivery service provided by any person in any area includes, by the reception and immediate re-transmission of the broadcasts—
 - (a) the programmes included in each relevant service, and
 - (b) if the area for which the local delivery service is provided falls wholly or partly in Wales, the programmes included in the appropriate Welsh service.
- (3) The Commission may exempt any digital local delivery service from the requirement to include any service (“the broadcast service”) if it appears to the Commission that, at the place where the holder of the licence to provide the local delivery service receives or would receive the broadcast service, the broadcast service is not capable of being received at a level satisfying such technical standards as the Commission may from time to time determine.
- (4) Where a relevant service provided for reception in an area for which a digital local delivery service is provided consists in the broadcasting for simultaneous reception of programmes contained in two or more programme schedules, then, so far as relating to that relevant service, the duty in subsection (2) shall be subject to the limitation in whichever of subsections (5) and (6) is appropriate.
- (5) Where the programmes contained in one of the programme schedules are broadcast for reception in a greater part of the area than the programmes contained in the other schedule or any of the other schedules, the duty in

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

- subsection (2) so far as so relating shall extend only to the programmes contained in the first-mentioned schedule.
- (6) Where subsection (5) does not apply, the duty in subsection (2) so far as so relating shall extend only to the programmes contained in such one of the programme schedules as the relevant broadcasting body may determine.
- (7) For the purposes of this section Channel 3 shall be taken to be a single service consisting in the broadcasting for simultaneous reception of programmes contained in several programme schedules.
- (8) Each broadcaster shall provide any person providing a digital local delivery service with such assistance as he may reasonably require in relation to the technical arrangements for the re-transmission in pursuance of this section of the broadcasts of that broadcaster.
- (9) In this section—
- “the appropriate Welsh service” means the service referred to in section 57(1A)(a) or, if no such service is being broadcast, S4C;
 - “broadcaster” means the Welsh Authority or any person providing a relevant service;
 - “digital local delivery service” means any local delivery service in respect of which the Commission have given a notice under subsection (1);
 - “the relevant broadcasting body” means—
 - (a) in relation to any service provided by the BBC, the BBC, and
 - (b) in relation to any service licensed by the Commission, the Commission;
 - “relevant service” means any of the following services—
 - (a) Channel 3, Channel 4 and Channel 5,
 - (b) the teletext service referred to in section 49(2), and
 - (c) the television broadcasting services and teletext service provided by the BBC.
- (10) Expressions used in subsections (7) and (9) and in Part I of this Act have the same meaning in those provisions as in that Part.
- (11) An order under subsection (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (2) In Part III of Schedule 12 to the 1990 Act (transitional provisions relating to existing cable services), for paragraph 4 there is substituted—
- “4 (1) The Commission shall do all that they can to secure that, subject to subparagraph (2) and to any exceptions for which the Secretary of State, after consultation with the Commission, the BBC and the Welsh Authority, may by order provide, every diffusion service provided by any person in any area under a relevant licence includes, by the reception and immediate re-transmission of the broadcasts, the programmes included in each relevant service provided for reception in that area.
- (2) The Commission may exempt any diffusion service from the requirement to include any relevant service if it appears to the Commission that, at the place where the holder of the licence to provide the diffusion service

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

receives or would receive the relevant service, the relevant service is not capable of being received at a level satisfying such technical standards as the Commission may from time to time determine.

- (3) Where a relevant service provided for reception in an area for which a diffusion service is provided consists in the broadcasting for simultaneous reception of programmes contained in two or more programme schedules, then, so far as relating to that relevant service, the duty in sub-paragraph (1) shall be subject to the limitation in whichever of sub-paragraphs (4) and (5) is appropriate.
 - (4) Where the programmes contained in one of the programme schedules are broadcast for reception in a greater part of the area than the programmes contained in the other schedule or any of the other schedules, the duty in sub-paragraph (1) so far as so relating shall extend only to the programmes contained in the first-mentioned schedule.
 - (5) Where sub-paragraph (4) does not apply, the duty in sub-paragraph (1) so far as so relating shall extend only to the programmes contained in such one of the programme schedules as the relevant broadcasting body may determine.
 - (6) For the purposes of this paragraph Channel 3 shall be taken to be a single service consisting in the broadcasting for simultaneous reception of programmes contained in several programme schedules.
 - (7) Each person providing a relevant service (“the broadcaster”) shall provide any person providing a diffusion service with such assistance as he may reasonably require in relation to the technical arrangements for the re-transmission in pursuance of this paragraph of the broadcasts of that broadcaster.
 - (8) In this paragraph—
 - “the relevant broadcasting body” means—
 - (a) in relation to any service provided by the BBC, the BBC, and
 - (b) in relation to any service licensed by the Commission, the Commission;
 - “relevant service” means any of the following services—
 - (a) Channel 3, Channel 4 and S4C,
 - (b) the teletext service referred to in section 49(2) of this Act, and
 - (c) the two television broadcasting services provided by the BBC on the passing of the Broadcasting Act 1996 and the teletext service provided by the BBC at that time.
 - (9) Expressions used in sub-paragraphs (6) and (8) and in Part I of this Act have the same meaning in those sub-paragraphs as in that Part.
 - (10) An order under sub-paragraph (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- 4A (1) Where the Commission are satisfied, in the case of any diffusion service which is provided under a relevant licence and by means of which one or more of the services specified in section 72(2) of this Act is delivered

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

in digital form, that it would be appropriate, having regard to the extent of the use and proposed use of digital technology in the provision of the service, for the service to be treated as a digital diffusion service for the purposes of this paragraph, they shall serve a notice to that effect on the holder of the licence to provide the service; and in this paragraph “digital diffusion service” means a diffusion service in respect of which such a notice has been served.

- (2) Subsections (2) to (8) of section 78A of this Act shall have effect in relation to a digital diffusion service as they have effect in relation to a digital local delivery service (within the meaning of that section); and nothing in paragraph 4 shall have effect in relation to a digital diffusion service.”

Sound broadcasting

92 Renewal of licences to provide national radio services

After section 103 of the 1990 Act there is inserted—

“103A Renewal of national licences

- (1) A national licence may (subject to the following provisions of this section) be renewed on one occasion for a period of eight years beginning with the date of renewal.
- (2) An application for the renewal of a national licence under subsection (1) may be made by the licence holder not earlier than three years before the date on which it would otherwise cease to be in force and not later than the relevant date.
- (3) Where any such application is made before the relevant date—
 - (a) if no simulcast radio service provided by the applicant is being broadcast in digital form when the application is made, the Authority shall postpone the consideration of the application until the relevant date or, if earlier, the date on which the broadcasting of such a service in that form begins, and
 - (b) in any other case, the Authority may postpone the consideration of the application for so long as they think appropriate having regard to subsection (8).
- (4) Where an application for the renewal of a national licence has been duly made to the Authority, they shall (subject to subsection (5)) grant the application if, but only if—
 - (a) the Authority are satisfied that the applicant would, if his licence were renewed, provide a national service which complied with the conditions included in the licence in pursuance of section 106 (whether as originally imposed or as varied under that section),
 - (b) the applicant has given notice to the Authority under section 41(2)(a) of the Broadcasting Act 1996 of his intention to provide a service for broadcasting in digital form, and
 - (c) a simulcast radio service provided by the applicant is being broadcast in digital form or the Authority are satisfied that by the relevant date the

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

applicant has done all that it would in the circumstances be reasonable to expect him to do by that date to procure the broadcasting of such a service within such time as the Authority consider reasonable.

- (5) Section 100(4) to (6) shall apply in relation to an applicant for the renewal of a national licence as those provisions apply in relation to such an applicant as is mentioned in section 100(4), but as if any reference to the awarding of such a licence to the applicant were a reference to the renewal of the applicant's licence under this section.
- (6) On the grant of any application under this section the Authority—
- (a) may, in a case where a simulcast radio service provided by the applicant is not yet being broadcast in digital form on the relevant date, determine a date by which the broadcasting of such a service in that form must begin;
 - (b) shall determine an amount which is to be payable to the Authority by the applicant in respect of the first complete calendar year falling within the period for which the licence is to be renewed; and
 - (c) may specify a different percentage from that specified under section 98(1)(d)(ii) as the percentage of qualifying revenue for each accounting period of his that will be payable by the applicant in pursuance of section 102(1)(c) during the period for which the licence is to be renewed.
- (7) The amount determined by the Authority under subsection (6)(b) in connection with the renewal of a licence shall be such amount as would, in their opinion, be payable to them by virtue of section 102(1)(a) if they were granting a fresh licence to provide the national service in question.
- (8) Where the Authority have granted a person's application under this section they shall formally renew his licence not later than the relevant date or, if that is not reasonably practicable (whether because subsection (3)(a) precluded the consideration of the application before that date or for any other reason), as soon after that date as is reasonably practicable; and they shall not so renew his licence unless they have notified him of—
- (a) any date determined by them under subsection (6)(a),
 - (b) the amount determined by them under subsection (6)(b), and
 - (c) any percentage specified by them under subsection (6)(c),
- and he has, within such period as is specified in that notification, notified them that he consents to the licence being renewed on those terms.
- (9) Where a national licence has been renewed under this section—
- (a) any conditions included in it in pursuance of section 102 shall have effect during the period for which the licence has been renewed—
 - (i) as if the amount determined by the Authority under subsection (6)(b) were an amount specified in a cash bid submitted by the licence holder, and
 - (ii) subject to any determination made under subsection (6)(c);
 - (b) (subject to paragraph (a)) that section shall have effect in relation to the period for which the licence has been renewed as it has effect in relation to the period for which a national licence is originally in force;

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

- (c) where the Authority have determined a date under subsection (6)(a), they shall include in the licence as renewed a condition requiring a simulcast radio service to be broadcast in digital form throughout the period beginning with the date determined under subsection (6)(a) and ending with the date on which the licence (as renewed) is to expire; and
 - (d) the reference in section 111(4) to the end of the period for which a national licence is to continue in force shall, in relation to the licence, be construed as a reference to the end of the period for which it has been renewed.
- (10) Subsections (6)(a) and (9)(c) do not prejudice the generality of section 48(3)(b) of the Broadcasting Act 1996 (power to vary national licence to include conditions relating to digital broadcasting).
- (11) In this section—
- “simulcast radio service” has the same meaning as in Part II of the Broadcasting Act 1996;
 - “the relevant date”, in relation to a national licence, means the date which the Authority determine to be that by which they would need to publish a notice under section 98(1) if they were to grant, as from the date on which that licence would expire if not renewed, a fresh licence to provide the national service formerly provided under that licence.”

93 Variation of local radio licence following change of control

After section 106 of the 1990 Act there is inserted—

“106A Variation of local licence following change of control

- (1) Any local licence granted to a body corporate before the commencement of this section shall be taken to include—
- (a) a condition requiring the body to give the Authority advance notice of any proposals known to the body that may give rise to a relevant change of control, and
 - (b) a condition requiring the body to provide the Authority, in such manner and at such times as they may reasonably require, with such information as they may require for the purposes of exercising their functions under subsection (3).
- (2) Subsection (3) applies in relation to any local licence which—
- (a) was granted before the commencement of this section,
 - (b) is held by a body corporate, and
 - (c) has not previously been varied under that subsection.
- (3) Where, in relation to any local licence to which this subsection applies—
- (a) the Authority receive notice, in pursuance of a condition imposed under subsection (1) or section 88(2)(d), of any proposals that may give rise to a relevant change of control, or
 - (b) a relevant change of control takes place (whether or not that change has been previously notified to the Authority),
- the Authority may vary the licence, by a notice served on the licence holder, so as to include in the licence such conditions as they consider appropriate for the

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

purpose of ensuring that the character of the local service is maintained after the relevant change of control.

- (4) Subject to subsection (5), any new or varied condition imposed under subsection (3) in relation to any matter may be more onerous than any existing condition imposed under section 106(1) in relation to that matter; and in this subsection “existing condition” means a condition of the licence as it has effect, or had effect, before the relevant change of control.
- (5) The Authority may not under subsection (3) include any new or varied condition in a licence unless the new condition or the condition as varied is one which (with any necessary modifications) would have been satisfied by the licence holder—
 - (a) during the three months immediately before the relevant date, or
 - (b) if the Authority consider that the performance of the licence holder during that period is not typical of its performance during the twelve months before the relevant date, during such other period of three months during those twelve months as they may notify in writing to the licence holder;

and for the purposes of this subsection “the relevant date” is the date of the relevant change of control or, if earlier, the date on which the Authority exercise their powers under subsection (3).
- (6) The Authority shall not serve a notice on any body under subsection (3) unless they have given it a reasonable opportunity of making representations to them about the variation.
- (7) Where, in any case falling within paragraph (a) of subsection (3), a notice under that subsection is served before the change to which it relates takes place, the variation shall not take effect until the change to which it relates takes place.
- (8) The power in subsection (1) of section 106 to vary conditions imposed under that subsection includes power to vary conditions imposed under subsection (3).
- (9) In this section “relevant change of control” means a change in the persons having control over the body holding the licence.”

94 Renewal of licences to provide local radio services

- (1) After section 104 of the 1990 Act there is inserted—

“104A Renewal of local licences

- (1) A local licence may (subject to the following provisions of this section) be renewed on one occasion for a period of eight years beginning with the date of renewal.
- (2) No application for the renewal of a local licence under subsection (1) may be made before the Authority first publish a notice pursuant to section 50(2) of the Broadcasting Act 1996 inviting applications for a licence to provide a relevant local radio multiplex service.
- (3) Subject to subsection (2), an application for the renewal of a local licence under subsection (1) may be made by the licence holder not earlier than three

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

years before the date on which it would otherwise cease to be in force and not later than the relevant date.

- (4) The applicant must, in his application or at any time before the consideration of his application, nominate—
 - (a) a local digital sound programme service provided or to be provided by him, and
 - (b) a relevant local radio multiplex service,but may not nominate together a local digital sound programme service and a local radio multiplex service if another local licence held by him includes a condition in pursuance of subsection (12) relating to the broadcasting of that local digital sound programme service by that local radio multiplex service.
- (5) Where an application for the renewal of a local licence has been duly made to the Authority, they shall grant the application if—
 - (a) they are satisfied that the applicant would, if his licence were renewed, provide a local service which complied with the conditions included in the licence in pursuance of section 106 (whether as originally imposed or as varied under that section), and
 - (b) the nominated local digital sound programme service provided by the applicant is being broadcast by means of the nominated local radio multiplex service.
- (6) Where the condition specified in subsection (5)(a) is satisfied, the Authority may grant the application even though the condition specified in subsection (5)(b) is not satisfied if—
 - (a) the applicant holds a licence to provide local digital sound programme services,
 - (b) a licence to provide the nominated local radio multiplex service has been awarded, and
 - (c) it appears to the Authority that, under a contract between the applicant and the person to whom that licence has been awarded, the applicant is obliged to provide the nominated local digital sound programme service for broadcasting by means of the nominated local radio multiplex service.
- (7) The Authority may in any case postpone consideration of the application until the relevant date.
- (8) If, at the relevant date, the condition specified in subsection (5)(b) is not satisfied, and any of the conditions specified in subsection (6) is not satisfied, the Authority may postpone consideration of the application for such period not exceeding twelve months as they think appropriate.
- (9) Where the Authority postpone consideration of an application under this section for any period beyond the relevant date (the “postponement period”), they shall extend the period for which the licence is in force by a period equal to the postponement period; and section 86(3) shall not limit the powers of the Authority under this subsection.
- (10) On the grant of any application under this section the Authority shall—
 - (a) where the nominated local digital sound programme service provided by the applicant is not being broadcast by means of the nominated

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

- local radio multiplex service, determine a date by which that service must have begun to be so broadcast; and
- (b) specify a fee payable to the Authority in respect of the renewal.
- (11) Where the Authority have granted a person’s application under this section they shall formally renew his licence as soon afterwards as is reasonably practicable; and they shall not so renew his licence unless they have notified him of—
- (a) any date determined by them under subsection (10)(a), and
- (b) the renewal fee specified by them under subsection (10)(b),
- and he has, within such period as is specified in that notification, notified them that he consents to the licence being renewed on those terms.
- (12) Where the Authority renew a licence under this section they shall include in the licence as renewed a condition requiring the licence holder to do all that he can to ensure that the nominated local digital sound programme service is broadcast by means of the nominated local radio multiplex service throughout the period beginning with whichever is the later of—
- (a) the date on which the licence would expire if not renewed, and
- (b) any date determined by them under subsection (10)(a),
- and ending with the date on which the licence (as renewed) is to expire.
- (13) In this section—
- (a) “local digital sound programme service” has the same meaning as in Part II of the Broadcasting Act 1996;
- (b) “nominated” means nominated by the applicant under subsection (4);
- (c) “relevant date”, in relation to a local licence, means the date which the Authority determine to be that by which they would need to publish a notice under section 104(1) if they were to grant, as from the date on which that licence would expire if not renewed, a fresh licence to provide the local service formerly provided under that licence; and
- (d) “relevant local radio multiplex service”, in relation to a local licence, means a local radio multiplex service (within the meaning of Part II of the Broadcasting Act 1996) with a coverage area which to a significant extent includes the coverage area of the local service provided under the local licence; and for this purpose “coverage area”, in relation to a service, has the meaning given by paragraph 3A of Part I of Schedule 2.

104B Special application procedure for local licences

- (1) Where—
- (a) a local licence is due to expire (otherwise than by virtue of section 110),
- (b) the local service provided under the licence falls within category B, C or D of the Table in paragraph 9 of Part III of Schedule 2, and
- (c) the Authority propose to grant a further licence to provide the service in question,
- the Authority may if they think fit publish a notice under subsection (2) instead of a notice under section 104(1).

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

- (2) A notice under this subsection is a notice—
 - (a) stating that the Authority propose to grant a further licence to provide a specified local service,
 - (b) specifying the area or locality in the United Kingdom for which the service is to be provided,
 - (c) inviting declarations of intent to apply for a licence to provide the service,
 - (d) specifying the closing date for such declarations, and
 - (e) specifying—
 - (i) the application fee payable on any declaration made in pursuance of the notice, and
 - (ii) a deposit of such amount as the Authority may think fit.
- (3) A declaration of intent made in pursuance of a notice under subsection (2) must be in writing and accompanied by the application fee and deposit specified under subsection (2)(e)(i) and (ii).
- (4) Where the Authority receive a declaration of intent in accordance with the provisions of this section from a person other than the licence holder in relation to the service in question, they shall—
 - (a) publish a notice under section 104(1),
 - (b) specify—
 - (i) in relation to persons who have made a declaration of intent in accordance with the provisions of this section, no further application fee, and
 - (ii) in relation to all other applicants, an application fee of the same amount as the fee referred to in subsection (2)(e)(i), and
 - (c) repay the deposit referred to in subsection (2)(e)(ii) to every person—
 - (i) who has made a declaration of intent in accordance with the provisions of this section, and
 - (ii) who duly submits an application in pursuance of the notice referred to in paragraph (a).
- (5) Where the Authority receive a declaration of intent in accordance with the provisions of this section from the licence holder in relation to the service in question, and no such declaration from any other person, they shall—
 - (a) invite the licence holder to apply for the licence in such manner as they may determine (but without requiring any further application fee), and
 - (b) on receiving an application duly made by him, repay to him the deposit referred to in subsection (2)(e)(ii).
- (6) The Secretary of State may by order amend subsection (1) by removing any of the categories of local service for the time being specified in that subsection, or by substituting for any of such categories any one or more categories of local service set out in the Table in paragraph 9 of Part III of Schedule 2.
- (7) Any order under subsection (6) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

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

- (2) In section 104 of the 1990 Act (applications for licences other than national licences), subsections (5) and (6)(a) shall cease to have effect.

95 Financing of Gaelic sound programmes

- (1) Section 183 of the 1990 Act (financing of television programmes in Gaelic out of Gaelic Television Fund) is amended as mentioned in subsections (2) to (6).
- (2) In subsection (2), for “Gaelic Television Fund” there is substituted “Gaelic Broadcasting Fund”.
- (3) In subsection (3), for “Comataidh Telebhisein Gaidhlig (the Gaelic Television Committee)” there is substituted “Comataidh Craolaidh Gaidhlig (the Gaelic Broadcasting Committee)”.
- (4) After subsection (3) there is inserted—
- “(3A) Before making any appointment under subsection (3) the Commission shall consult the Radio Authority.”.
- (5) In subsection (4), in each of paragraphs (a)(i) and (b), after “television” there is inserted “and sound”.
- (6) In subsection (6)—
- (a) after “will” there is inserted “—
(a)”;
and
- (b) for “but” there is substituted—
- “(b) widen the range and improve the quality of sound programmes in Gaelic that are broadcast for reception in Scotland;
but”.
- (7) In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified) there is inserted at the appropriate place—
- “Comataidh Craolaidh Gaidhlig”.

96 Power of Radio Authority to suspend licence to provide satellite service

After section 111A of the 1990 Act there is inserted—

“111B Power to suspend licence to provide satellite service

- (1) If the Authority are satisfied—
- (a) that the holder of a licence to provide a satellite service has included in the service one or more programmes containing material likely to encourage or incite to crime or to lead to disorder,
- (b) that he has thereby failed to comply with the condition included in the licence in pursuance of section 90(1)(a), and
- (c) that the failure is such as to justify the revocation of the licence,
- they shall serve on the holder of the licence a notice under subsection (2).

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

- (2) A notice under this subsection is a notice—
 - (a) stating that the Authority are satisfied as mentioned in subsection (1),
 - (b) specifying the respects in which, in their opinion, the licence holder has failed to comply with the condition mentioned in paragraph (b) of that subsection,
 - (c) stating that the Authority may revoke his licence after the end of the period of twenty-one days beginning with the date on which the notice is served on the licence holder,
 - (d) informing the licence holder of his right to make representations to the Authority within that period about the matters complained of, and
 - (e) suspending the licence as from the time when the notice is served on the licence holder until the revocation takes effect or the Authority decide not to revoke the licence.
- (3) If the Authority, having considered any representations about the matters complained of made to them within the period referred to in subsection (2)(c) by the licence holder, are satisfied that it is necessary in the public interest to revoke the licence in question, they shall serve on the licence holder a notice revoking the licence.
- (4) A notice under subsection (3) shall not take effect until the end of the period of twenty-eight days beginning with the day on which that notice was served on the licence holder.
- (5) Section 111 shall not have effect in relation to the revocation of a licence in pursuance of a notice under subsection (1).”