



# Broadcasting Act 1981

## 1981 CHAPTER 68

### PART I

#### THE INDEPENDENT BROADCASTING AUTHORITY

#### *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
- (b) eight years in every other case.

(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

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- (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.

## **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

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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—
    - (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)

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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) " record " and " sound recording " have the same meaning as in the Copyright Act 1956, and references to the publication, broadcasting or performance of musical works shall be construed as if they were contained in that Act; and
- (b) " theatrical performer" has the same meaning as in the Theatrical Employers Registration Act 1925.

## **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

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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.

- (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.

## 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.

## 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—

- (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.

## **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 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—

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- (a) both are television programmes, or
- (b) both are local sound broadcasts.

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

- (1) The wages paid by any programme contractor to persons employed by him in connection with his business as such and the conditions of employment of persons so employed shall, unless agreed upon by the programme contractor or any organisations representative of programme contractors and by organisations representative of the persons employed, be no less favourable to the person employed than the wages which would be payable, and the conditions which would have to be observed, under a contract which complies with the requirements of any resolution of the House of Commons for the time being in force applicable to contracts of Government departments.
- (2) If any dispute arises as to what wages ought to be paid, or what conditions ought to be observed, in accordance with subsection (1), it shall (if not otherwise disposed of) be referred by the Advisory, Conciliation and Arbitration Service to the Central Arbitration Committee for settlement.
- (3) Where any award has been made by the Central Arbitration Committee upon a dispute referred to that Committee under subsection (2), then, as from the date of the award or from such other date, not being earlier than the date on which the dispute to which the award relates first arose, as the Committee may direct, it shall be an implied term of the contract between the employer and workers to whom the award applies that the rate of wages to be paid, or the conditions of employment to be observed, under the contract shall, until varied in accordance with the provisions of this section, be in accordance with the award.
- (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) In relation to employment in Northern Ireland, the references in this section to the House of Commons, Government departments, the Advisory, Conciliation and Arbitration Service and the Central Arbitration Committee shall be construed as references to the Northern Ireland Assembly, Northern Ireland departments, the Department of Manpower Services for Northern Ireland and the Industrial Court in Northern Ireland.