



Broadcasting Act 1996

1996 CHAPTER 55

PART III

AMENDMENTS OF THE BROADCASTING ACT 1990

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.

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- (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.”

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- (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.
- (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

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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,
 - (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.

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(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
- (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

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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 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;

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- “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 sub-paragraph (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 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-

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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 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.”