

SCHEDULES

SCHEDULE 15

AMENDMENTS OF BROADCASTING ACTS

PART 1

AMENDMENTS OF THE 1990 ACT

Licences under Part 1

- 1 (1) Section 3 of the 1990 Act (licensing under Part 1) shall be amended as follows.
 - (2) For “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.
 - (3) In subsection (1), for “Chapter II, III, IV or V of this Part” there shall be substituted “Chapter 2 or 5 of this Part or section 235 of the Communications Act 2003”.
 - (4) For subsection (8) (saving for telecommunications licences) there shall be substituted —
 - “(8) The holding by a person of a licence under this Part shall not relieve him of—
 - (a) any liability in respect of a failure to hold a licence under section 1 of the Wireless Telegraphy Act 1949; or
 - (b) any obligation to comply with requirements imposed by or under Chapter 1 of Part 2 of the Communications Act 2003 (electronic communications networks and electronic communications services).”

General licence conditions

- 2 (1) Section 4 of the 1990 Act (general licence conditions) shall be amended as follows.
 - (2) For “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
 - (3) In subsection (1), in each of paragraphs (a) and (c), after “this Act” there shall be inserted “, the Broadcasting Act 1996 or the Communications Act 2003”.
 - (4) In subsection (3) (fixing of fees), the words from “and the amount” onwards shall be omitted.
 - (5) In subsection (5) (provision of false information to be breach of condition)—
 - (a) for “imposed under this Part” there shall be substituted “contained in the licence”; and
 - (b) after “and 42” there shall be inserted “or (as the case may be) sections 237 and 238 of the Communications Act 2003 (enforcement of television licensable content service licences)”.

Status: This is the original version (as it was originally enacted).

Restrictions on licence holding

- 3 (1) Section 5 of the 1990 Act (restrictions on licence holding) shall be amended as follows.
- (2) For “The Commission” and “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (2) (incidental requirements to provide information), after paragraph (d) there shall be inserted—
- “(da) impose conditions in a licence requiring the licence holder, if a body corporate, to give OFCOM notice, after they have occurred and irrespective of whether proposals for them have fallen to be notified, of changes, transactions or events affecting—
 - (i) shareholdings in the body; or
 - (ii) the directors of the body;
 - (db) impose conditions in a licence enabling OFCOM to require the licence holder to provide them with such information as they may reasonably require for determining—
 - (i) whether the licence holder is a disqualified person in relation to that licence by virtue of Part 2 of Schedule 2; or
 - (ii) whether any such requirements as are mentioned in subsection (1)(b) have been and are being complied with by or in relation to the licence holder;”.
- (4) In subsection (6)—
- (a) in paragraph (a), for “complained of” there shall be substituted “constituting their grounds for revoking the licence”; and
 - (b) in paragraph (b)(i), for “Parts III and IV of Schedule 2” there shall be substituted “the requirements imposed by or under Schedule 14 to the Communications Act 2003,”.
- (5) In subsection (6A)—
- (a) paragraph (a) shall cease to have effect; and
 - (b) in paragraph (b), for “Part IV of that Schedule” there shall be substituted “Part 1 of Schedule 14 to the Communications Act 2003”.
- (6) Subsection (6B) shall cease to have effect.
- (7) In subsection (7), for the words from “a failure” to the end of paragraph (c) there shall be substituted “a disqualification under Part 2 of Schedule 2 to this Act or a contravention of a requirement imposed by or under Schedule 14 to the Communications Act 2003”.

Repeal of previous regulatory regime

- 4 Sections 6 to 12 of the 1990 Act (which contain the mechanism for regulation in relation to licences under Part 1 of that Act) shall cease to have effect.

Prohibition on providing television services without a licence

- 5 (1) Section 13 of the 1990 Act (prohibition on providing television services without a licence) shall be amended as follows.

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

- (2) In subsection (1) (offence of providing such service without a licence), for “service falling within section 2(1)(a), (aa), (b), (c), (cc) or (d)” there shall be substituted “relevant regulated television service”.
- (3) After that subsection there shall be inserted—
- “(1A) In subsection (1) “relevant regulated television service” means a service falling, in pursuance of section 211(1) of the Communications Act 2003, to be regulated by OFCOM, other than a television multiplex service.”
- (4) In subsection (2) (exemption orders made after consulting the ITC), for “the Commission” there shall be substituted “OFCOM”.

Television broadcasting on Channel 3

- 6 In section 14 of the 1990 Act (establishment of Channel 3), for “The Commission” and “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

Applications for Channel 3 licences

- 7 (1) Section 15 of the 1990 Act (applications for Channel 3 licences) shall be amended as follows.
- (2) For “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (2), for “specified in section 16(2) or (3) (as the case may be)” there shall be substituted “that have to be imposed under Chapter 4 of Part 3 of the Communications Act 2003 by conditions relating to—
- (a) the public service remit for that service,
 - (b) programming quotas,
 - (c) news and current affairs programmes, and
 - (d) programme production and regional programming.”
- (4) In subsection (3)—
- (a) in paragraph (b), for “specified in section 16(2) or (3) (as the case may be)” there shall be substituted “that have to be imposed under Chapter 4 of Part 3 of the Communications Act 2003 by conditions relating to—
 - (i) the public service remit for that service,
 - (ii) programming quotas,
 - (iii) news and current affairs programmes, and
 - (iv) programme production and regional programming”;
 - (b) paragraphs (c) to (e) shall be omitted.
- (5) After subsection (3) there shall be inserted—
- “(3A) For the purposes of subsection (1)(d)(ii)—
- (a) different percentages may be specified for different accounting periods; and
 - (b) the percentages that may be specified for an accounting period include a nil percentage.”

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

- (6) In subsection (4), for “paragraphs (b) to (e)” there shall be substituted “paragraphs (b)”.

Procedure on consideration of applications for Channel 3 licences

- 8 (1) Section 16 of the 1990 Act (consideration of applications for Channel 3 licences) shall be amended as follows.
- (2) For “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (1), for “specified in subsection (2) or (3) below (as the case may be)” there shall be substituted “that have to be imposed under Chapter 4 of Part 3 of the Communications Act 2003 by conditions relating to—
- (i) the public service remit for that service,
 - (ii) programming quotas,
 - (iii) news and current affairs programmes, and
 - (iv) programme production and regional programming”.
- (4) Subsections (2) and (3) of that section shall cease to have effect.
- (5) In subsection (4) of that section—
- (a) for “specified in subsection (2) or (3) (as the case may be),” there shall be substituted “that have to be imposed under Chapter 4 of Part 3 of the Communications Act 2003 by conditions relating to—
 - (a) the public service remit for that service,
 - (b) programming quotas,
 - (c) news and current affairs programmes, and
 - (d) programme production and regional programming,”; - (b) the words from “and in applying” onwards shall be omitted.
- (6) Subsections (5) to (8) shall cease to have effect.

Television broadcasting on Channel 3

- 9 (1) Section 17 of the 1990 Act (award of licences to person submitting highest bid) shall be amended as follows.
- (2) For “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (12)(b), for “specified in section 16(2) or (3) (as the case may be)” there shall be substituted “that have to be imposed under Chapter 4 of Part 3 of the Communications Act 2003 by conditions relating to—
- (i) the public service remit for that service,
 - (ii) programming quotas,
 - (iii) news and current affairs programmes, and
 - (iv) programme production and regional programming”.

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Financial conditions of licence and failures to begin a service

- 10 In sections 17A to 19 of the 1990 Act (financial conditions in Channel 3 licences and failures to begin a service), for “The Commission” and “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

Changes of control in period after award of licence

- 11 (1) Section 21 of the 1990 Act (changes of control in period immediately after award of licence) shall be amended as follows.
- (2) For “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (2), in the definition of “associated programme provider”, for the words from “appears” to “inclusion” there shall be substituted “is or is likely to be involved, to a substantial extent, in the provision of the programmes included”.

Temporary provision of Channel 3 service for an additional area

- 12 In section 22 of the 1990 Act (temporary provision of regional Channel 3 Service for additional area), for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

Appointment of members of C4 Corporation

- 13 In section 23 of the 1990 Act (appointment of C4C members), for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

Channel 4 licence

- 14 In section 24(3) of the 1990 Act (Channel 4 licence), for “the Commission” there shall be substituted “OFCOM”.

Channel 5

- 15 In section 28 of the 1990 Act (Channel 5), for “The Commission” and “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

Application to Channel 5 of Channel 3 provisions

- 16 (1) In section 29 of the 1990 Act (application to Channel 5 of Channel 3 provisions)—
- (a) subsection (2)(b) and the word “and” immediately preceding it, and
- (b) subsection (3),
- shall cease to have effect.
- (2) In subsection (2)(a) of that section, for “the Commission” there shall be substituted “OFCOM”.

Announcement of programme Schedules

- 17 In section 37(1) of the 1990 Act (conditions requiring announcement of programme Schedules), for “the Commission” there shall be substituted “OFCOM”.

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Enforcement of conditions of Channel 3, Channel 4 and Channel 5 licences

- 18 (1) In sections 40 to 42 of the 1990 Act (enforcement of licences), for “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (2) In sections 41(1) and 42(1)(a) of that Act (which contain provisions relating to the enforcement of directions under Part 1 of that Act), after “this Part”, in each place, there shall be inserted “, Part 5 of the Broadcasting Act 1996 or Part 3 of the Communications Act 2003”.

Restricted services

- 19 In section 42B(1) of the 1990 Act (licensing of restricted services), for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

Additional television services

- 20 (1) Section 48 of the 1990 Act (additional services) shall be further amended as follows.
- (2) In subsection (1)—
- (a) for “telecommunication” there shall be substituted “electronic”; and
 - (b) for paragraphs (a) and (b) there shall be substituted “on a relevant frequency”.
- (3) In subsection (2), for paragraphs (a) and (b) there shall be substituted “any part of the signals which—
- (a) is not required for the purposes of the television broadcasting service for the purposes of which the frequency has been made available; and
 - (b) is determined by OFCOM to be available for the provision of additional services;”.
- (4) After that subsection there shall be inserted—
- “(2A) For the purposes of this Part, if they consider it appropriate to do so, OFCOM may, while an additional services licence is in force, from time to time modify the determination made under subsection (2)(b) for the purposes of that licence in any manner that does not reduce the amount of spare capacity made available for the licensed services; and when so modified any such licence shall have effect accordingly.”
- (5) In subsection (3)—
- (a) for “The Commission” there shall be substituted “OFCOM”; and
 - (b) for “(2)(a)” there shall be substituted “(2)(b)”;
 - (c) for paragraphs (a) to (c) there shall be substituted—
 - “(a) to the obligations contained in any code under section 303 of the Communications Act 2003 by virtue of subsection (5) of that section; and
 - (aa) to any need of the person providing the television broadcasting service in question to be able to use part of the signals carrying it for providing services (in addition to those provided for satisfying those obligations) which—
 - (i) are ancillary to programmes included in the service and directly related to their contents; or

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(ii) relate to the promotion or listing of such programmes.”

- (6) In subsection (4), for paragraphs (a) and (b) there shall be substituted—
- “(a) to provide services for the satisfaction in his case of obligations mentioned in subsection (3)(a); and
 - (b) to provide in relation to his television broadcasting service any such services as are mentioned in subsection (3)(aa).”

- (7) For subsection (6) there shall be substituted—

“(6) In this section—

- “electronic signals” means signals within the meaning of section 32 of the Communications Act 2003;
- “relevant frequency” means a frequency made available by OFCOM for the purposes of a television broadcasting service.”

- (8) This paragraph does not affect the validity of a licence granted or last renewed before the television transfer date, or the services licensed by any such licence.

Licensing of additional television services

- 21 (1) Section 49 of the 1990 Act (licensing of additional television services) shall be amended as follows.
- (2) For “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (1), for the words from “of the following” to “48(1)(b)” there shall be substituted “relevant frequency”.
- (4) For subsections (2) and (3) there shall be substituted—
- “(1A) An additional services licence is not required for an additional service that is comprised in the public teletext service (within the meaning of Part 3 of the Communications Act 2003).”
- (5) In subsection (10), at the end there shall be inserted “and “relevant frequency” has the same meaning as in section 48.”

Applications for additional services licences

- 22 (1) Section 50 of the 1990 Act (applications for additional services licences) shall be amended as follows.
- (2) For “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (1)(b)(ii), the words “(subject to the approval of the Secretary of State)” shall be omitted.
- (4) Subsection (7) shall cease to have effect.

Procedure on application etc. for additional television services licences

- 23 (1) Section 51 of the 1990 Act (consideration of applications for licences for additional television services) shall be amended as follows.

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- (2) For “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (1), for paragraph (a) (requirement of approval of technical plans) there shall be substituted—
 - “(a) that the technical plan submitted under section 50(3)(b), in so far as it involves the use of an electronic communications network (within the meaning of the Communications Act 2003), contains proposals that are acceptable to them; and”.
- (4) Subsections (2) and (7) shall cease to have effect.

Additional payments in respect of additional television services licences

- 24 In section 52 of the 1990 Act (additional payments in respect of additional television services licences), for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

Duration of additional television services licences

- 25 (1) Section 53 of the 1990 Act (duration and renewal of additional television services licences) shall be amended as follows.
 - (2) In subsection (1), for the words before paragraph (a) there shall be substituted—
 - “(1) A licence to provide additional services on a frequency which is a relevant frequency for the purposes of section 48 or (in the case of a licence granted before the television transfer date) was assigned under section 65—”.
 - (3) In subsection (2), after “not later than” there shall be inserted “the day falling three months before”.
 - (4) In subsections (4) to (11), for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
 - (5) In subsection (8), for the words from “payable” onwards there shall be substituted “the cash bid of the licence holder were the licence (instead of being renewed) to be granted for the period of the renewal on an application made in accordance with section 50(3).”
 - (6) After that subsection there shall be inserted—
 - “(8A) For the purposes of subsection (7)(b)—
 - (a) different percentages may be specified for different accounting periods; and
 - (b) the percentages that may be specified for an accounting period include a nil percentage.”
 - (7) After subsection (11) there shall be inserted—
 - “(12) A determination for the purposes of subsection (11)—
 - (a) must be made at least one year before the date determined; and
 - (b) must be notified by OFCOM to the person who holds the licence in question.

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- (13) In this section “the television transfer date” has the same meaning as in the Communications Act 2003.”

Additional television services not to interfere with other transmissions

- 26 (1) Section 54 of the 1990 Act (additional television services not to interfere with other transmissions) shall be amended as follows.
- (2) In subsection (1), for “the Commission” there shall be substituted “OFCOM”.
- (3) Subsection (2) shall cease to have effect.

Enforcement of additional television services licences

- 27 (1) Section 55 of the 1990 Act (further provision in relation to additional television services licences) shall be amended as follows.
- (2) For “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (4) at the end there shall be inserted “and, in the case of a licence renewed under section 53 as if the reference in section 42(4) to the end of the period for which the licence is to continue in force were a reference to the end of the period for which it has been renewed.”

The Welsh Authority

- 28 (1) Section 58 of the 1990 Act (sources of programmes for S4C) shall be amended as follows.
- (2) In subsection (1), for “comply with their duty under section 57(2)(b)” there shall be substituted “fulfil so much of their public service remit in relation to S4C under paragraph 3 of Schedule 12 to the Communications Act 2003 as is contained in sub-paragraph (2)(a) and (b) of that paragraph”.
- (3) In subsection (2)(a), for “comply with section 57(3)” there shall be substituted “fulfil so much of their public service remit in relation to S4C under paragraph 3 of Schedule 12 to the Communications Act 2003 as is contained in sub-paragraph (2) (c) of that paragraph”.
- (4) After subsection (5) there shall be inserted—
- “(6) In this section “programme” does not include an advertisement.”

Distribution of licensed public service channels

- 29 (1) Section 66 of the 1990 Act (requirements relating to transmission and distribution of services) shall be amended as follows.
- (2) For “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsections (1) and (2), for “for general reception” there shall be substituted “so as to be available for reception by members of the public”.
- (4) After subsection (2) there shall be inserted—

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“(2A) In subsections (1) and (2) “available for reception by members of the public” shall be construed in accordance with section 361 of the Communications Act 2003”.

Enforcement of licences held by BBC companies

30 In section 66A of the 1990 Act (enforcement of licences held by BBC companies), for “the Commission”, wherever occurring, there shall be substituted “OFCOM”.

Interpretation of Part 1

31 (1) Section 71 of the 1990 Act (interpretation) shall be amended as follows.

(2) For the definitions of “S4C” and “on S4C” there shall be substituted—

““S4C” has the same meaning as in Part 3 of the Communications Act 2003;”.

(3) For the definitions of “television broadcasting service” and “television programme service” there shall be substituted—

““television broadcasting service”, “television licensable content service” and “television programme service” each has the same meaning as in Part 3 of the Communications Act 2003;”.

Licensing functions of OFCOM

32 (1) Section 85 of the 1990 Act (licensing of independent radio services) shall be amended as follows.

(2) In subsections (1) and (2), for “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.

(3) In subsection (1), for “such licences to provide independent radio services as they may determine” there shall be substituted “licences to provide relevant independent radio services”.

(4) Subsections (3) and (4) (duty to secure the meeting of a variety of tastes and interests and to ensure fair and effective competition) shall cease to have effect.

(5) After subsection (7) there shall be inserted—

“(8) In this section “relevant independent radio services” means the following services so far as they are services falling to be regulated under section 245 of the Communications Act 2003—

- (a) sound broadcasting services;
- (b) radio licensable content services;
- (c) additional radio services.”

Licences under Part 3 of the 1990 Act

33 (1) Section 86 of the 1990 Act (licences under Part 3) shall be amended as follows.

(2) For “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.

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

(3) For subsection (9) of that section there shall be substituted—

“(9) The holding of a licence by a person shall not relieve him of—

- (a) any liability in respect of a failure to hold a licence under section 1 of the Wireless Telegraphy Act 1949; or
- (b) any obligation to comply with requirements imposed by or under Chapter 1 of Part 2 of the Communications Act 2003 (electronic communications networks and electronic communications services).”

General licence conditions

- 34 (1) Section 87 of the 1990 Act (general licence conditions) shall be amended as follows.
- (2) For “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (1), in each of paragraphs (a) and (d), after “this Act” there shall be inserted “, the Broadcasting Act 1996 or the Communications Act 2003”.
- (4) In subsection (2), sub-paragraph (ii) of paragraph (b) and the word “or” immediately preceding it shall be omitted.
- (5) In subsection (3) (fixing of fees), the words from “and the amount” onwards shall be omitted.

Restrictions on holding licences

- 35 (1) Section 88 of the 1990 Act (restrictions on the holding of licences) shall be amended as follows.
- (2) For “The Authority” and “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (2) (incidental requirements to provide information), after paragraph (d) there shall be inserted—
- “(da) impose conditions in a licence requiring the licence holder, if a body corporate, to give OFCOM notice, after they have occurred and irrespective of whether proposals for them have fallen to be notified, of changes, transactions or events affecting—
 - (i) shareholdings in the body; or
 - (ii) the directors of the body;
 - (db) impose conditions in a licence enabling OFCOM to require the licence holder to provide them with such information as they may reasonably require for determining—
 - (i) whether the licence holder is a disqualified person in relation to that licence by virtue of Part 2 of Schedule 2; or
 - (ii) whether any such requirements as are mentioned in subsection (1)(b) have been and are being complied with by or in relation to the licence holder;”.
- (4) In subsection (6)—
- (a) in paragraph (a), for “complained of” there shall be substituted “constituting their grounds for revoking the licence”; and

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- (b) in paragraph (b)(i), for “Parts III and IV of Schedule 2” there shall be substituted “the requirements imposed by or under Schedule 14 to the Communications Act 2003”.
- (5) In subsection (6A)—
 - (a) paragraph (a) shall cease to have effect; and
 - (b) in paragraph (b), for “Part IV of that Schedule” there shall be substituted “Part 1 of Schedule 14 to the Communications Act 2003”.
- (6) Subsection (6B) shall cease to have effect.
- (7) In subsection (7), for the words from “a failure” to the end of paragraph (c) there shall be substituted “a disqualification under Part 2 of Schedule 2 to this Act or a contravention of a requirement imposed by or under Schedule 14 to the Communications Act 2003,”.

Disqualification of persons convicted of transmission offences

- 36 (1) Section 89 of the 1990 Act (offences giving rise to disqualification) shall be amended as follows.
- (2) In subsection (1), for paragraph (a) there shall be substituted—
 - “(a) an offence under section 1(1) of the Wireless Telegraphy Act 1949 (“the 1949 Act”) consisting in the establishment or use of a station for wireless telegraphy, or the installation or use of wireless telegraphy apparatus, for the purpose of making a broadcast (within the meaning of section 9 of the Marine, &c., Broadcasting (Offences) Act 1967);
 - (aa) an offence under section 1A of the 1949 Act (keeping wireless telegraphy station or apparatus available for unauthorised use) where the relevant contravention of section 1 would constitute an offence falling within paragraph (a);
 - (ab) an offence under section 1B or 1C of the 1949 Act (unlawful broadcasting offences);”.
 - (3) In subsection (3), for the words from “concerned” onwards there shall be substituted “concerned in—
 - (a) the provision of the licensed service or the making of programmes included in it; or
 - (b) the operation of a station for wireless telegraphy used for broadcasting the service.”
 - (4) This paragraph does not impose a disqualification in respect of any offence committed before the commencement of this paragraph.

Offence of providing regulated radio services

- 37 (1) Section 97 of the 1990 Act (prohibition on providing services without a licence) shall be amended as follows.
- (2) In subsection (1), for the words from “independent” to “84(1)(d), (e) or (f)” there shall be substituted “relevant regulated radio service”.
 - (3) After that subsection there shall be inserted—

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

“(1A) In subsection (1) “relevant regulated radio service” means a service falling to be regulated by OFCOM under section 245 of the Communications Act 2003, other than a radio multiplex service.”

(4) In subsection (2) (exemption orders made after consulting the Radio Authority), for “the Authority” there shall be substituted “OFCOM”.

Applications for national licences

38 (1) Section 98 of the 1990 Act (applications for national licences) shall be amended as follows.

(2) For “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.

(3) In subsection (3)(a) (proposals to accompany application)—

(a) the word “both”, and

(b) sub-paragraph (ii) and the word “and” immediately preceding it, shall be omitted.

(4) After subsection (3) there shall be inserted—

“(3A) For the purposes of subsection (1)(d)(ii)—

(a) different percentages may be specified for different accounting periods; and

(b) the percentages that may be specified for an accounting period include a nil percentage.”

(5) In subsection (4) (provision of further information), after “paragraphs (a),” there shall be inserted “(aa),”.

(6) In subsection (6)(b) (publication of details of successful applicant), after “subsection (3)(a)” there shall be inserted “and (aa)”.

Consideration of applications for a national licence

39 (1) Section 99 of the 1990 Act (consideration of applications for national licence) shall be amended as follows.

(2) For “the Authority”, wherever occurring, there shall be substituted “OFCOM”.

(3) In paragraph (a) of subsection (1) (proposals to accompany application)—

(a) the word “both”, and

(b) sub-paragraph (ii) and the word “and” immediately preceding it, shall be omitted.

(4) In paragraph (b) of that subsection, after “maintain that service” there shall be inserted “and any proposed simulcast radio service corresponding to that service”.

Award of national licences

40 In section 100 of the 1990 Act (award of national licences to person submitting highest cash bid), for “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.

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

Failure to begin providing licensed service

- 41 (1) Section 101 of the 1990 Act (failure to begin providing licensed service) shall be amended as follows.
- (2) For “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (1)—
- (a) in paragraph (a) for “the service in question” there shall be substituted “the licensed national service or that he does not intend to provide a corresponding simulcast radio service that he is required to provide by a condition imposed under section 100A”; and
- (b) in paragraph (b), for “that service” there shall be substituted “the licensed national service or any such simulcast radio service”.
- (4) In subsection (2), for “the service in question” there shall be substituted “the licensed national service or the simulcast radio service”.

Additional payments in respect of national licences

- 42 In section 102 of the 1990 Act (additional payments in respect of national licences), for “the Authority”, wherever occurring, there shall be substituted “OFCOM”.

Restrictions affecting change in control of holder of national licence

- 43 (1) Section 103 of the 1990 Act (restrictions on change of control of national licence) shall be amended as follows.
- (2) For “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (2) (interpretation)—
- (a) in the definition of “associated programme provider”, for the words from “appears” to “inclusion” there shall be substituted “is or is likely to be involved, to a substantial extent, in the provision of the programmes included”; and
- (b) in the words after the definition of “the relevant period”, for the words from “as if” onwards there shall be substituted “as it has effect for the purposes of that Schedule.”

Renewal of national licences

- 44 (1) Section 103A of the 1990 Act (renewal of national licences) shall be amended as follows.
- (2) For “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (1), for “eight” there shall be substituted “twelve”.
- (4) In subsection (2), after “not later than” there shall be inserted “the day falling three months before”.
- (5) In subsection (3), paragraph (a) and in paragraph (b) the words “in any other case” shall cease to have effect.
- (6) In subsection (4), for paragraph (b) there shall be substituted—

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

“(b) the applicant gave notice to OFCOM, within the period of one month beginning with the commencement of section 42 of the Broadcasting Act 1996, of his intention to provide a simulcast radio service, and”.

(7) For subsection (7) there shall be substituted—

“(7) The amount determined under subsection (6)(b) must be equal to the amount which, in OFCOM’s opinion, would have been the cash bid of the licence holder were the licence (instead of being renewed) to be granted for the period of the renewal on an application made in accordance with section 98.

(7A) For the purposes of subsection (6)(c)—

- (a) different percentages may be specified for different accounting periods; and
- (b) the percentages that may be specified for an accounting period include a nil percentage.”

(8) After subsection (10) there shall be inserted—

“(10A) In the case of a pre-transfer national licence (including one for a period extended under section 253 of the Communications Act 2003)—

- (a) the licence is not to be capable of being renewed under this section if it has already been renewed under this section before the radio transfer date; and
- (b) on the renewal of the licence, it shall be the duty of OFCOM to secure that the renewed licence contains only such provision as would be included in a national licence granted by OFCOM under this Part after the radio transfer date.”

(9) After subsection (11) there shall be inserted—

“(12) A determination for the purposes of subsection (11)—

- (a) must be made at least one year before the date determined; and
- (b) must be notified by OFCOM to the person who holds the licence in question.”

Applications for local licences

- 45 (1) Section 104 of the 1990 Act (application for local licences) shall be amended as follows.
- (2) For “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (6), for the words from the beginning to “shall be made” there shall be substituted “An application for a licence to provide a restricted service shall be made”.

Renewal of local licences

- 46 (1) Section 104A of the 1990 Act (renewal of local licences) shall be amended as follows.
- (2) For “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.

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

- (3) In subsection (1), for “eight” there shall be substituted “twelve”.
- (4) In subsection (3), after “not later than” there shall be inserted “the day falling three months before”.
- (5) After subsection (12) there shall be inserted—
 - “(12A) In the case of a pre-transfer local licence (including one for a period extended under section 253 of the Communications Act 2003)—
 - (a) the licence is not to be capable of being renewed under this section if it has already been renewed under this section before the radio transfer date; and
 - (b) on the renewal of the licence, it shall be the duty of OFCOM to secure that the renewed licence contains only such provision as would be included in a local licence granted by OFCOM under this Part after the radio transfer date.”
- (6) In subsection (13)(d), for “paragraph 3A of Part I of Schedule 2” there shall be substituted “paragraph 8(2) of Schedule 14 to the Communications Act 2003”.
- (7) After subsection (13) there shall be inserted—
 - “(14) A determination for the purposes of subsection (13)(c)—
 - (a) must be made at least one year before the date determined; and
 - (b) must be notified by OFCOM to the person who holds the licence in question.”

Special procedure for applications for local licences

- 47 (1) Section 104B of the 1990 Act (special procedure for applications for local licences) shall be amended as follows.
 - (2) For “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
 - (3) After subsection (1) there shall be inserted—
 - “(1A) In subsection (1)(c) the reference to the service in question, in relation to a case in which it is a pre-transfer local licence that is due to expire, is a reference to the equivalent local service for which a licence is capable of being granted at times on or after the radio transfer date.”

Special requirements relating to grant of local licences

- 48 (1) Section 105 of the 1990 Act (special requirements relating to grant of local licences) shall be amended as follows.
 - (2) For “the Authority” there shall be substituted “OFCOM”.
 - (3) For paragraph (d) (duty to have regard to the extent to which proposed service supported by persons living in the area) there shall be substituted—
 - “(d) the extent to which there is evidence that, amongst persons living in that area or locality, there is a demand for, or support for, the provision of the proposed service.”

Requirements as to character and coverage of services

- 49 In subsections (1) to (4) and (6) of section 106 of the 1990 Act (requirements as to character and coverage of services), for “the Authority”, wherever occurring, there shall be substituted “OFCOM”.

Enforcement of licences

- 50 In sections 109 to 111A of the 1990 Act (enforcement of licences), for “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.

Power to suspend licences to provide radio licensable content services from a satellite

- 51 (1) Section 111B of the 1990 Act (power to suspend licence to provide satellite service) shall be amended as follows.
- (2) For “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In subsection (1)—
- (a) in paragraph (a), for “satellite service” there shall be substituted “radio licensable content service”;
 - (b) in paragraph (b), for the words from “included in the licence” to the end of the paragraph there shall be substituted “which in compliance with section 263 of the Communications Act 2003 is included in the licence for the purpose of securing the objective mentioned in section 319(2)(b) of that Act, and”.

Additional radio services

- 52 (1) Section 114 of the 1990 Act (additional radio services) shall be amended as follows.
- (2) In subsection (1)—
- (a) for “telecommunication” there shall be substituted “electronic”; and
 - (b) for paragraphs (a) and (b) there shall be substituted “on a relevant frequency”.
- (3) In subsection (2), for paragraphs (a) and (b) there shall be substituted “any part of the signals which—
- (a) is not required for the purposes of the sound broadcasting service for the purposes of which the frequency has been made available; and
 - (b) is determined by OFCOM to be available for the provision of additional services;”.
- (4) After that subsection there shall be inserted—
- “(2A) At any time while an additional services licence is in force, OFCOM may, if they consider it appropriate to do so, modify or further modify the determination made for the purposes of that licence under subsection (2)(b); and where there has been such a modification or further modification, the licence shall have effect accordingly.
- (2B) A modification or further modification under subsection (2A) must not reduce the amount of spare capacity made available for the licensed services.”

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

- (5) In subsection (3), for the words from the beginning to “subsection (2)(a)” there shall be substituted “OFCOM shall, when determining under subsection (2)”.
- (6) For subsection (6) there shall be substituted—
 - “(6) In this section “electronic signal” means a signal within the meaning of section 32 of the Communications Act 2003.
 - (7) In this section and section 115 “relevant frequency” means a frequency made available by OFCOM for the purposes of a sound broadcasting service.”
- (7) This paragraph does not affect the validity of a licence granted or last renewed before the radio transfer date, or the services licensed by any such licence.

Licensing of additional radio services

- 53 (1) Section 115 of the 1990 Act (licensing of additional radio services) shall be amended as follows.
 - (2) For “The Authority” and “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
 - (3) In subsection (1), for the words from “of the following” to “114(1)(b)” there shall be substituted “relevant frequency”.
 - (4) In subsection (4), at the end there shall be inserted “and who would not be in contravention of the requirements imposed by or under Schedule 14 to the Communications Act 2003 if he held such a licence”.
 - (5) In subsection (8), for “local, restricted or satellite service” there shall be substituted “local or restricted service or to provide a radio licensable content service”.

Applications for additional radio services licences

- 54 (1) Section 116 of the 1990 Act (applications for additional radio services licences) shall be amended as follows.
 - (2) For “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.
 - (3) In subsection (1)(b)(iii), the words “(subject to the approval of the Secretary of State)” shall be omitted.

Procedure for awarding additional radio services licences

- 55 (1) Section 117 of the 1990 Act (procedure for awarding additional radio services licences) shall be amended as follows.
 - (2) For “the Authority”, wherever occurring, there shall be substituted “OFCOM”.
 - (3) In subsection (1), for paragraph (a) (requirement of approval of technical plans) there shall be substituted—
 - “(a) that the technical plan submitted under section 116(3)(b), in so far as it involves the use of an electronic communications network (within the meaning of the Communications Act 2003), contains proposals that are acceptable to them; and”.

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(4) Subsections (2) and (7) shall cease to have effect.

Additional payments in respect of additional radio services licences

56 In section 118 of the 1990 Act (additional payments in respect of additional radio services licences), for “the Authority”, wherever occurring, there shall be substituted “OFCOM”.

Additional radio services not to interfere with other transmissions

57 (1) Section 119 of the 1990 Act (additional radio services not to interfere with other transmissions) shall be amended as follows.

(2) In subsection (1), for “the Authority” there shall be substituted “OFCOM”.

(3) Subsection (2) shall cease to have effect.

Enforcement of additional radio services licences

58 In section 120 of the 1990 Act (enforcement of additional radio services licences), for “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.

Interpretation

59 In subsection (1) of section 126 of the 1990 Act (interpretation of Part 3)—

(a) for the definition of “independent radio service” there shall be substituted

—
““independent radio service” means a service falling to be regulated under section 245 of the Communications Act 2003;”;

(b) for the definitions of “local service”, “national service”, “restricted service” and “satellite service” there shall be substituted—

““local service”, “national service” and “restricted service” each has the same meaning as in section 245 of the Communications Act 2003;

“pre-transfer local licence” and “pre-transfer national licence” each has the same meaning as in section 253 of that Act;

“radio licensable content service” has the same meaning as in Part 3 of that Act;

“radio transfer date” has the same meaning as in that Act;”;

(c) in the definition of “sound broadcasting service” for the words from “(as defined” to the end there shall be substituted “(within the meaning of Part 3 of the Communications Act 2003);”.

Duty to provide advance information about programmes

60 In column 1 of the Table in section 176(7) of the 1990 Act (persons who are the providers of services for the purposes of the obligations to give advance information about programmes)—

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

- (a) for “regulation by the Independent Television Commission” there shall be substituted “regulation by OFCOM”;
- (b) for “The television broadcasting service provided by the Welsh Authority and the service referred to in section 57(1A)(a)” there shall be substituted “The public television services of the Welsh Authority (within the meaning of Part 2 of Schedule 12 to the Communications Act 2003)”;
- (c) for “section 84(2)(a)(i)” there shall be substituted “section 126(1)”;
- (d) for “the Radio Authority”, in both places, there shall be substituted “OFCOM”.

Proscription of foreign satellite services

- 61 (1) Section 177 of the 1990 Act (proscription of foreign satellite stations) shall be amended as follows.
- (2) In subsection (2), for “the Independent Television Commission or the Radio Authority consider that the quality of any relevant” there shall be substituted “OFCOM consider that the quality of any”.
 - (3) In subsection (3), for the words from the beginning to “Authority” there shall be substituted “OFCOM”.
 - (4) In subsection (6), the definition of “relevant foreign satellite service” shall be omitted.

Financing of Gaelic Broadcasting

- 62 (1) Section 183 of the 1990 Act (financing of Gaelic Broadcasting) shall be amended as follows.
- (2) For “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
 - (3) In subsection (2), for “by them under this section to be” there shall be substituted “by the Independent Television Commission under this section and”.
 - (4) This paragraph—
 - (a) so far as it relates to subsection (1) of section 183 has effect in relation only to financial years beginning after the television transfer date; and
 - (b) so far as it relates to subsection (2) of that section does not apply to amounts paid for earlier financial years.

Gaelic Broadcasting in Scotland

- 63 (1) Section 184 of the 1990 Act (broadcasting of programmes in Gaelic on Channel 3 in Scotland) shall be amended as follows.
- (2) In subsection (1), for the words “subsection (2)” there shall be substituted “subsection (1)(a)”.
 - (3) In subsection (3), for the words from “The conditions” to “the purpose of” there shall be substituted “The regulatory regime for a service to which this section applies includes the conditions that OFCOM consider appropriate for”.
 - (4) After that subsection there shall be inserted—

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

“(3A) Section 263 of the Communications Act 2003 (regulatory regime) applies in relation to conditions included by virtue of subsection (3) in the regulatory regime for a licensed service as it applies in relation to conditions which are so included by virtue of a provision of Chapter 4 of Part 3 of that Act.”

(5) In subsection (4)(b), for “the Commission” there shall be substituted “OFCOM”.

Maintenance of the national television archive

- 64 (1) In section 185 of the 1990 Act (maintenance of the national television archive)—
- (a) for “The Commission” and “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
 - (b) in subsection (5), the definition of “the Commission” shall be omitted.
- (2) This paragraph so far as it relates to subsection (1) of that section has effect in relation only to financial years beginning after the television transfer date.

Modification of networking arrangements

- 65 (1) Section 193 of the 1990 Act (modification of networking arrangements in consequence of competition legislation) shall be amended as follows.
- (2) In subsection (1), for the words from “the Office of Fair Trading” to “relevant authority)” there shall be substituted “the relevant authority”.
- (3) After subsection (2) there shall be inserted—
- “(2A) In subsection (1), “relevant authority” means—
- (a) in relation to a relevant order falling within subsection (2)(a), the Office of Fair Trading, the Competition Commission or (as the case may be) the Secretary of State;
 - (b) in relation to a relevant order falling within subsection (2)(b), the Office of Fair Trading, the Competition Commission, the Secretary of State or (as the case may be) OFCOM.”
- (4) In subsection (4), for “section 39(1) above” there shall be substituted “section 290(4) of the Communications Act 2003”.

Search warrants

- 66 (1) Section 196 of the 1990 Act (grant of search warrant to person authorised by the Independent Television Commission or the Radio Authority) shall be amended as follows.
- (2) In subsection (1), for “the relevant authority” there shall be substituted “OFCOM”.
- (3) Subsection (2) (definition of “relevant authority”) shall be omitted.

Notices

- 67 In section 199(5) of the 1990 Act (publication of notices), for paragraphs (a) and (b) there shall be substituted “by OFCOM under section 21, 41, 42, 55, 103, 109, 110, 111 or 120”.

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

Interpretation

- 68 (1) Section 202 of the 1990 Act (general interpretation) shall be amended as follows.
- (2) In subsection (1), after the definition of “modifications” there shall be inserted—
- ““OFCOM” means the Office of Communications;”.
- (3) After subsection (6) there shall be inserted—
- “(6A) Subsections (2) and (3) of section 362 of the Communications Act 2003 (persons by whom services provided) are to apply for the purposes of this Act as they apply for the purposes of Part 3 of that Act.”

Disqualified persons

- 69 (1) Schedule 2 to the 1990 Act (restrictions on the holding of licences) shall be amended as follows.
- (2) In paragraph 1(1) of Part 1, after the definition of “associate” there shall be inserted—
- ““Broadcasting Act licence” means a licence under Part 1 or 3 of this Act or Part 1 or 2 of the Broadcasting Act 1996;”.
- (3) In paragraph 1(6) of Part 1 (meaning of “more than a 20 per cent. interest”), for “20 per cent.”, wherever occurring, there shall be substituted “5 per cent.”.
- (4) In Part 2 (disqualified persons), for “a licence granted by the Commission or the Authority”, wherever occurring, there shall be substituted “a Broadcasting Act licence”.
- (5) In paragraph 1(1)(i) of Part 2 (bodies controlled by persons falling within paragraphs (a) to (g)), for “(a)” there shall be substituted “(c)”.
- (6) In paragraph 3(1) of Part 2, for “by the Authority” there shall be substituted “under Part 3 of this Act or Part 2 of the Broadcasting Act 1996”.
- (7) In paragraph 4(1) of Part 2, for “that body” there shall be substituted “OFCOM”.
- (8) In paragraph 4(2) of Part 2—
- (a) in paragraph (a), for “by the Commission, means a body” there shall be substituted “under Part 1 of this Act or Part 1 of the Broadcasting Act 1996, means a person”; and
- (b) in paragraph (b), for “by the Authority, means a body” there shall be substituted “under Part 3 of this Act or Part 2 of the Broadcasting Act 1996, means a person”.
- (9) In paragraph 5A of Part 2—
- (a) in sub-paragraph (1)(a), the words “granted by the Commission”,
- (b) sub-paragraph (1)(b) and the word “and” immediately preceding it,
- (c) in sub-paragraph (2), the words “granted by the Authority”,
- shall be omitted.

C4C

- 70 (1) Schedule 3 to the 1990 Act (provision about constitution and management of C4C) shall be amended as follows.

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

- (2) For “the Commission”, wherever occurring, there shall be substituted “OFCOM”.
- (3) In paragraph 2(1) (persons disqualified from membership of the Corporation), for paragraphs (b) to (d) there shall be substituted “or
 - (b) a member or employee of OFCOM.”

The Welsh Authority

- 71 (1) Schedule 6 to the 1990 Act (provision about constitution and management of the Welsh Authority) shall be amended as follows.
- (2) In paragraph 2 (persons disqualified from membership of the Authority)—
 - (a) sub-paragraph (1) shall be omitted; and
 - (b) in sub-paragraph (2)(b), for “the Commission” there shall be substituted “OFCOM”.
 - (3) In paragraph 12(1A), for the words from “the general fund” onwards there shall be substituted “the assets of the Authority that are not comprised in that fund; and accordingly, the statement must deal with liabilities separately according to whether they fall to be met from that fund or from those assets.”

Computation of qualifying revenue

- 72 (1) Schedule 7 to the 1990 Act (computation of “qualifying revenue”) shall be amended as follows.
- (2) In Part 1, for “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.
 - (3) In Part 2, for “the Authority” and “The Authority”, wherever occurring, there shall be substituted “OFCOM”.

The Gaelic Television Committee

- 73 (1) Schedule 19 to the 1990 Act (Gaelic Television Committee) shall be amended as follows.
- (2) For “the Commission” and “The Commission”, wherever occurring, there shall be substituted “OFCOM”.
 - (3) For “Committee”, wherever occurring, there shall be substituted “Service”.
 - (4) In paragraph 8(c), the words “and (where the expenses relate to the Commission’s functions in connection with sound programmes) the Radio Authority” shall be omitted.
 - (5) In paragraph 11(4), the words “or the Radio Authority” and “or (as the case may be) the Authority” shall be omitted.