



Cable and Broadcasting Act 1984

1984 CHAPTER 46

PART I

CABLE PROGRAMME SERVICES

Introductory

1 The Cable Authority

- (1) There shall be an authority to be called the Cable Authority (in this Part referred to as "the Authority ") for the purpose of performing the functions assigned to the Authority by this Part.
- (2) The Authority shall consist of—
 - (a) a chairman and deputy chairman ; and
 - (b) such number of other members, not being less than three nor more than ten, as the Secretary of State may from time to time determine.
- (3) Schedule 1 to this Act shall have effect with respect to the Authority.

2 Meaning of " cable programme service " etc.

- (1) In this Act " cable programme service " means a service which consists wholly or mainly in the sending by any person, by means of a telecommunication system (whether run by him or by any other person), of sounds or visual images or both either—
 - (a) for reception, otherwise than by wireless telegraphy, at two or more places in the United Kingdom, whether they are so sent for simultaneous reception or at different times in response to requests made by different users of the service; or
 - (b) for reception, by whatever means, at a place in the United Kingdom for the purpose of their being presented there either to members of the public or to any group of persons.

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- (2) In this Part " licensable service" means a cable programme service which consists wholly or mainly in the sending by any person, by means of a telecommunication system (whether run by him or by any other person), of sounds or visual images or both either—
- (a) for simultaneous reception, otherwise than by wireless telegraphy, in two or more dwelling-houses in the United Kingdom; or
 - (b) for reception, by whatever means, at a place in the United Kingdom for the purpose of their being presented there either to members of the public or to a group of persons some or all of whom do not have a business interest in hearing or seeing them.
- (3) In this Part—
- " diffusion service" means a service falling within subsection (2)(a) above;
- " prescribed diffusion service" means a diffusion service of such a description as the Secretary of State after consultation with the Authority may by order made by statutory instrument prescribe;
- "restricted service" means a service falling within subsection (2)(b) above.
- (4) Subsections (1) and (2) above do not apply in relation to a service which consists wholly or mainly in the sending of sounds or visual images or both by any person if it is an essential feature of the service that, while they are being conveyed, there will or may be sent from each place of reception, by means of the telecommunication system or (as the case may be) the part of it by means of which they are conveyed, sounds or visual images or both for reception by that person.
- (5) References in subsections (2) and (4) above to sounds are references to speech or music or both except that they do not include, in relation to any telecommunication system, speech providing information for the purposes of facilitating the use of a telecommunication service provided by means of that system.
- (6) References in subsections (2) and (4) above to visual images are references to visual images which are such that sequences of them may be seen as moving pictures.
- (7) References in this section to a telecommunication system do not include references to a telecommunication system the running of which does not require to be licensed under Part II of the Telecommunications Act 1984 (in this Act referred to as " the 1984 Act ").
- (8) For the purposes of this section a person has a business interest in hearing sounds or seeing visual images if he has an interest in hearing or seeing them for the purposes of his business, trade, profession or employment.
- (9) In this section " dwelling-house" includes a hotel, inn, boarding house or other similar establishment.

Licensing of services by Authority

3 Prohibition on unlicensed services

- (1) Subject to any exceptions for which the Secretary of State after consultation with the Authority may by order provide, a person who provides a licensable service shall be guilty of an offence unless he is authorised to provide the service by a licence granted under section 4 below (in this Part referred to as a licence).

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- (2) A person guilty of an offence under this section shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (3) No proceedings in respect of an offence under this section shall be instituted—
 - (a) in England and Wales, except by or with the consent of the Director of Public Prosecutions;
 - (b) in Northern Ireland, except by or with the consent of the Director of Public Prosecutions for Northern Ireland.
- (4) Without prejudice to subsection (2) above, compliance with this section shall be enforceable by civil proceedings by the Crown for an injunction or interdict or for any other appropriate relief.
- (5) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

4 Power to license services

- (1) A licence may be granted by the Authority for the provision of such a licensable service as is specified in the licence or is of a description so specified.
- (2) A licence shall be in writing and, subject to subsections (3) and (8) and section 17 below, shall continue in force for such period as may be specified in the licence.
- (3) A licence for the provision of a prescribed diffusion service (whether as originally granted or as varied under subsection (8) below) shall not continue in force for a period exceeding the relevant maximum period.
- (4) For the purposes of subsection (3) above the relevant maximum period is—
 - (a) fifteen years in the case of a licence for the provision of a prescribed diffusion service in an area—
 - (i) in which such a service has not previously been provided; or
 - (ii) in which such a service has 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.
- (5) A licence may include—
 - (a) such conditions as appear to the Authority to be requisite or expedient having regard to the duties imposed on them by this Part and, in the case of a licence for the provision of a prescribed diffusion service, to the information included in the application in pursuance of section 6(1) below ;
 - (b) conditions requiring the rendering to the Authority of a payment on the grant of the licence or payments during the currency of the licence or both of such amount or amounts as may be determined by or under the licence; and
 - (c) conditions requiring the holder of the licence to furnish to the Authority, in such manner and at such times as they may reasonably require, such information as they may require for the purpose of exercising the functions assigned to them by or under this Part.
- (6) Without prejudice to the generality of paragraph (a) of subsection (5) above, conditions included in a licence by virtue of that paragraph may require the holder of the licence—

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- (a) to comply with any direction given by the Authority as to such matters as are specified in the licence or are of a description so specified ; and
 - (b) except in so far as the Authority consent to his doing or not doing them, not to do or to do such things as are specified in the licence or are of a description so specified.
- (7) The payment or payments required to be rendered to the Authority by conditions included in a licence by virtue of subsection (5)(b) above shall be such as to represent what appears to the Authority to be the appropriate contribution of the holder of the licence towards meeting the sums which the Authority regard as necessary in order to discharge their duty under section 18(1) below.
- (8) The Authority may vary a licence by notice in writing served on the holder of the licence if—
- (a) in the case of a variation of the period for which the licence is to continue in force, the holder consents ; or
 - (b) in any other case, the holder has been given a reasonable opportunity of making representations.
- (9) Subject to the provisions of this Part, it shall be the duty of the Authority to exercise the powers conferred on them by this section in the manner which they consider is best calculated—
- (a) to promote the provision of prescribed diffusion services ; and
 - (b) subject to paragraph (a) above, to promote the provision, by means of telecommunication systems, of services other than telecommunication services.

5 Publicity etc. with respect to certain licences

- (1) This section applies where the Authority propose to grant a licence for the provision of a prescribed diffusion service in any area.
- (2) The Authority shall publish, in such manner as they consider appropriate, a notice—
- (a) stating that they propose to grant a licence for the provision of such a service in the area ;
 - (b) inviting applications for the licence ; and
 - (c) stating the fee (if any) which will be payable on each application.
- (3) The Authority shall also publish, in such manner as they consider appropriate, as regards each application received—
- (a) the name and address of the applicant; and
 - (b) such of the information included in the application in pursuance of section 6(1) below as they consider appropriate.
- (4) The Authority shall take such steps as they consider appropriate—
- (a) to ascertain the opinions of the public in the area about the prescribed diffusion service and any related services proposed to be provided there ; and
 - (b) to encourage the making of comments and suggestions about those services by members of the public in the area,
- and shall take account of those opinions and any such comments and suggestions received by them.

- (5) In this section and section 7 below " related service", in relation to a prescribed diffusion service, means a service (other than a telecommunication service) provided by means of the same telecommunication system.

6 Applications for licences and prior consultation

- (1) An application for a licence must be in writing and, in the case of a licence for the provision of a prescribed diffusion service, must be accompanied by the fee (if any) stated in the notice under section 5(2) above and must contain information as the matters mentioned in section 7(2) below.
- (2) Before deciding whether or to whom to grant a licence, the Authority shall consult with—
- (a) the licensing authorities for the purposes of Part II of the 1984 Act; and
 - (b) in the case of a licence for the provision of a prescribed diffusion service in any area, every local authority whose area consists of or includes the whole or any part of that area.

7 Matters to be taken into account

- (1) In deciding whether or to whom to grant a licence, the Authority shall take into account all matters appearing to them to be relevant.
- (2) Without prejudice to the generality of subsection (1) above, in deciding whether or to whom to grant a licence for the provision of a prescribed diffusion service in any area, the Authority shall take into account the extent to which the applicant or each applicant proposes to do the following things, namely—
- (a) to include a range and diversity of programmes ;
 - (b) to include in the programmes matter which originates within the European Economic Community and is performed by nationals of member States;
 - (c) to include in the programmes an increasing proportion of such matter;
 - (d) to include programmes of an educational nature, programmes calculated to appeal specially to the taste and outlook of persons living in the area and programmes in which such persons are given an opportunity to participate;
 - (e) to include programmes provided otherwise than by himself or by associates of his ;
 - (f) to include programmes provided by local voluntary associations and to assist such organisations in the preparation and production of programmes ;
 - (g) to include in the programmes matter which is calculated to promote the understanding or enjoyment of programmes by persons who are deaf;
 - (h) to provide, or secure the provision of, related services.
- (3) In this section " local voluntary organisation " includes a local branch of a national voluntary organisation.

8 Restrictions on the holding of licences

- (1) The Authority shall do all that they can to secure that none of the following becomes or remains the holder of a licence for the provision of a diffusion service to which this section applies, that is to say—
- (a) an individual who is neither—

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- (i) a national of a member State who is ordinarily resident within the European Economic Community ; nor
 - (ii) ordinarily resident in the United Kingdom, the Isle of Man or the Channel Islands ;
 - (b) a body corporate which 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) a local authority;
 - (d) a body whose objects are wholly or mainly of a religious or political nature;
 - (e) an individual who is an officer of a body falling within paragraph (d) above ; and
 - (f) a body corporate which is under the control of a person falling within any of the foregoing paragraphs, or any two or more such persons together.
- (2) The Authority shall do all that they can to secure that a person who is, or is an associate of.—
- (a) a programme contractor for the provision of television programmes for any area;
 - (b) a programme contractor for the provision of local sound broadcasts for reception in any locality; or
 - (c) the proprietor of a local newspaper circulating wholly or mainly in any area, does not become or remain the holder of a licence for the provision in any part of that area or locality of a diffusion service to which this section applies.
- (3) The Authority shall do all that they can to secure that a body corporate in which—
- (a) any of the persons mentioned in subsection (4) below is a participant; or
 - (b) any of the persons mentioned in subsection (5) below is a principal participant,
- does not become or remain the holder of a licence for the provision of a diffusion service to which this section applies if, in the opinion of the Authority, that person's participation in that body corporate has led, is leading or is likely to lead to results which are adverse to the public interest.
- (4) The persons referred to in subsection (3)(a) above are—
- (a) a local authority ;
 - (b) a body whose objects are wholly or mainly of a religious or political nature;
 - (c) the BBC, the IBA and the Welsh Authority; and
 - (d) a body corporate which is under the control of a person falling within paragraph (a), (b) or (c) above.
- (5) The persons referred to in subsection (3)(b) above are—
- (a) a person who is a principal participant in another body corporate which is the holder of a licence for the provision of a diffusion service to which this section applies ;
 - (b) a programme contractor, the proprietor of a newspaper and an advertising agent;
 - (c) a person carrying on a business which consists (wholly or partly) of—
 - (i) the production, distribution or exhibition of cinematograph films;

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- (ii) the manufacture of records or the publication of musical works ; or
 - (iii) promoting the broadcasting of sound recordings or the broadcasting or performance of musical works;
 - (d) an associate of a person falling within paragraph (a), (b) or (c) above ;
 - (e) a person who has control over a body corporate falling within paragraph (a), (b), (c) or (d) above; and
 - (f) a body corporate which is under the control of a person falling within paragraph (a), (b), (c) or (d) above.
- (6) This section applies to any diffusion service in the case of which programmes are included otherwise than by the reception and immediate re-transmission of broadcasts made by a broadcasting authority.
- (7) In this section—
- " participant", in relation to a body corporate, means a person who (whether alone or jointly with one or more other persons, and whether directly or through one or more nominees) holds or is beneficially entitled to shares, or possesses voting power, in that body corporate ;
 - " principal participant", in relation to a body corporate, means a person who (whether alone or jointly with one or more other persons, and whether directly or through one or more nominees) holds or is beneficially entitled to not less than one-twentieth of the shares, or possesses not less than one-twentieth of the voting power, in that body corporate.
- (8) In this section " cinematograph film ", " record " and " sound recording " have the same meanings as in the Copyright Act 1956 (in this Act referred to as "the 1956 Act"); and references to the publication, broadcasting or performance of musical works shall be construed as if they were contained in the 1956 Act.

9 Information as to licences and applications for licences

- (1) Where the Authority grant a licence for the provision of a service other than a prescribed diffusion service, the Authority shall, on request made by any person and on payment by him of such sum (if any) as the Authority may reasonably require, furnish to that person a copy of that licence.
- (2) Where the Authority grant a licence for the provision of a prescribed diffusion service, the Authority shall, on request by any person and on payment by him of such sum (if any) as the Authority may reasonably require, furnish to that person such of the following as may be specified in the request, that is to say—
- (a) a copy of that licence;
 - (b) a statement of the number of applications received by the Authority for that licence ; and
 - (c) a copy of so much of the licensee's application for that licence as related to the matters mentioned in section 7(2) above.

Duties of Authority

10 General provisions as to programmes

- (1) The Authority shall do all that they can to secure that every licensed service complies with the following requirements, that is to say—

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- (a) that nothing is included in the programmes which offends against good taste or decency or is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling;
 - (b) that the programmes do not include any technical device which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to, or otherwise influencing the minds of, members of an audience without their being aware, or fully aware, of what has been done ;
 - (c) that all news given (in whatever form) in programmes which originate in the United Kingdom is presented with due accuracy and impartiality ; and
 - (d) that there are included in the programmes proper proportions of recorded and other matter which originates within the European Economic Community and is performed by nationals of member States.
- (2) References in this section and section 11 below to programmes do not include programmes which are included in a licensed service by the reception and immediate re-transmission of broadcasts made by a broadcasting authority.

11 Programmes other than advertisements

- (1) The Authority shall draw up, and from time to time review, a code giving guidance—
- (a) as to the rules to be observed in regard to the showing of violence, and in regard to the inclusion in sound programmes of sounds suggestive of violence, particularly in circumstances such that large numbers of children and young persons may be expected to be watching or listening to the programmes ;
 - (b) as to the rules to be observed in regard to the inclusion in programmes of appeals for donations ; and
 - (c) as to such other matters concerning standards and practice for programmes as the Authority may consider suitable for inclusion in the code;
- and the Authority shall do all that they can to secure that the provisions of the code are observed in the provision of licensed services.
- (2) In considering what other matters ought to be included in the code in pursuance of subsection (1)(c) above, the Authority shall have special regard to programmes included in a licensed service in circumstances such that large numbers of children and young persons may be expected to be watching or listening to the programmes.
- (3) The Authority shall do all that they can to secure that every licensed diffusion service complies with the following requirements, that is to say—
- (a) that undue prominence is not given in the programmes to the views and opinions of particular persons or bodies on religious matters or matters of political or industrial controversy or relating to current public policy; and
 - (b) that there are excluded from the programmes all expressions of the views and opinions of the person providing the service on religious matters or on matters (other than the provision of diffusion services) which are of political or industrial controversy or relate to current public policy.
- (4) In applying subsection (3)(a) above, the programmes included in a licensed diffusion service shall be taken as a whole.
- (5) References in this section to programmes do not include advertisements.

12 Advertisements

- (1) It shall be the duty of the Authority—
 - (a) after consultation with the IBA and such other bodies and persons concerned with standards of conduct in advertising as the Authority think fit, to draw up, and from time to time review, a code governing standards and practice in advertising (including in particular the sponsoring of programmes) and prescribing the advertisements and methods of advertising to be prohibited, or prohibited in particular circumstances ; and
 - (b) to do all that they can to secure that the provisions of the code are observed in the provision of licensed services.
- (2) The Authority shall do all that they can to secure that, subject to such exceptions as may be prescribed by order made by the Secretary of State, no licensed service includes an advertisement which—
 - (a) is inserted by or on behalf of any body whose objects are wholly or mainly of a political nature; or
 - (b) is directed towards any political end or has any relation to any industrial dispute.
- (3) The Authority shall do all that they can to secure that the amount of time which is given to advertisements in any hour or other period in any particular circumstances does not exceed—
 - (a) in the case of so much of a licensed diffusion service as appears to the Authority, after consultation with the IBA, calculated to appeal to tastes and interests which are generally catered for by ITV, the maximum amount of time which could be so given if that service were ITV; and
 - (b) in the case of so much of a licensed diffusion service as appears to the Authority, after consultation with the IBA, calculated to appeal to tastes and interests which are generally catered for by local sound broadcasting services, the maximum amount of time which could be so given if that service were a local sound broadcasting service.
- (4) It shall also be the duty of the Authority—
 - (a) to consult from time to time with the Secretary of State as to the classes and descriptions of advertisements which must not be included in licensed services and the methods of advertising which must not be employed in the provision of such services; and
 - (b) to carry out any directions which he may give to them in those respects.
- (5) The committee referred to in paragraph (b) of subsection (2) of section 16 (general advisory council and specialist advisory committees etc.) of the Broadcasting Act 1981 (in this Act referred to as "the 1981 Act") and the panel referred to in subsection (5) of that section shall also have the function of advising the Authority; and that section shall accordingly have effect as if—
 - (a) the first reference to the IBA in subsection (2), so far as relating to the committee referred to in paragraph (b) of that subsection, the first reference to the IBA in that paragraph and any reference to the IBA in subsections (3) to (7) included a reference to the Authority;
 - (b) any reference to the programmes broadcast by the IBA in paragraph (b) of subsection (2) were, in relation to the Authority, a reference to licensed services ;

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- (c) any reference to the code under section 9 of that Act in subsections (3) and (6) were, in relation to the Authority, a reference to the code under this section ; and
 - (d) the duty imposed on the Authority by subsection (7) were a duty to do all that they can to secure that, before the first occasion on which a licensed service includes an advertisement which in their opinion falls under paragraph (a), (b) or (c) of subsection (5), the advertisement is referred as mentioned in subsection (7).
- (6) An order under this section shall be made by statutory instrument; but no such order shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (7) References in this section to advertisements do not include advertisements which are included in a licensed service by the reception and immediate re-transmission of broadcasts made by a broadcasting authority.

13 Inclusion of certain broadcasts

- (1) The Authority shall do all that they can to secure that, subject to any exceptions for which the Secretary of State, after consultation with the Authority and both broadcasting authorities, may by order made by statutory instrument provide, every licensed diffusion service provided by any person in any area includes, by the reception and immediate re-transmission of the broadcasts, the programmes included in each television or sound broadcasting service provided by a broadcasting authority for reception in that area.
- (2) Where a television broadcasting service provided by a broadcasting authority for reception in an area in which a licensed 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 television broadcasting service, the duty in subsection (1) above shall be subject to the limitation in whichever of subsections (3) and (4) below is applicable.
- (3) 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 said duty so far as so relating shall extend only to the programmes contained in the first-mentioned schedule.
- (4) Where subsection (3) above does not apply, the said duty so far as so relating shall extend only to the programmes contained in such one of the programme schedules as the broadcasting authority may determine.
- (5) Where the programmes in a DBS service or additional teletext service provided by a broadcasting authority fall to be included in a licensed diffusion service provided by any person, they shall be so included on such terms as to—
- (a) the recovery by that person on behalf of that authority or, as the case may require, the programme or teletext contractors of any charges made by them for the reception of the programmes ;
 - (b) any payments to be made by one party to another; and
 - (c) any other matter for which provision requires to be made,
- as may be agreed between the parties or, in default of agreement, determined by a person appointed for the purpose by the Secretary of State; and any fee or other

sum charged by a person so appointed in respect of a determination made under this subsection shall be paid by the parties in such proportions as he may determine.

(6) In this section—

" additional teletext service ", in relation to a broadcasting authority, means a teletext service (other than a DBS service) which is additional to those already provided by that authority;

" DBS service" means a television broadcasting service provided by means of the technique known as direct broadcasting by satellite or DBS ;

" programme " includes a teletext transmission.

14 Restrictions on inclusion of certain events

(1) The Authority shall do all that they can to secure that no licensed service provided by any person includes a programme which consists of or includes the whole or any part of a listed event, unless the Authority are satisfied that both broadcasting authorities have been given an opportunity to acquire broadcasting rights in respect of that event on terms comparable to those on which that person acquired the right to include it in that service; and for the purposes of this subsection an opportunity given to the Welsh Authority, the IBA's subsidiary or a programme contractor to acquire broadcasting rights in respect of a listed event shall be treated as given to the IBA.

(2) The Authority shall do all that they can to secure that—

(a) no licensed diffusion service includes on pay-per-view terms; and

(b) no licensed restricted service includes,

a programme which consists of or includes the whole or any part of a listed or protected event.

(3) In this section—

" listed event" means a sporting or other event of national interest which is for the time being included in a list maintained by the Secretary of State for the purposes of this section and published by him in such manner as he considers appropriate for bringing it to the attention of the Authority and of persons providing licensed services ;

" national interest" includes interest within England, Scotland, Wales or Northern Ireland ;

" protected event" means a sporting or other event which, in the opinion of the Authority, is one of a series of similar events the whole or any part of which—

(a) it was at the commencement of this section the practice of a broadcasting authority to broadcast ; and

(b) but for the acquisition of rights to include the whole or any part of events in that series in licensed services, it would still be the practice of that authority to broadcast;

and for the purposes of this subsection anything broadcast by either of the broadcasting authorities shall be treated as broadcast by each of them.

(4) For the purposes of this section a programme is included in a licensed diffusion service on pay-per-view terms if any payments falling to be made by subscribers to that service will or may vary according as that programme is or is not actually received by them.

- (5) Neither subsection (1) nor (2) above shall apply in relation to the inclusion in such a service as is mentioned in that subsection of a programme which consists of or includes a record of the whole or any part of any such event as is so mentioned where the programme is so included more than 24 hours after the original recording was made.

Powers of Authority

15 Power to give directions

- (1) The Authority may give directions, which may be, to any degree, either general or specific and qualified or unqualified, with respect to—
- (a) the exclusion of any programme from a licensed service ;
 - (b) the classes and descriptions of advertisements and methods of advertising to be excluded, or to be excluded in particular circumstances, from licensed services; or
 - (c) the exclusion of a particular advertisement from licensed services, or its exclusion from such services in particular circumstances.
- (2) References in this section and section 16 below to programmes or advertisements do not include programmes or advertisements which are included in a licensed service by the reception and immediate re-transmission of broadcasts made by a broadcasting authority.

16 Power to require visual and sound records etc.

- (1) Where the Authority have served on a person authorised by a licence to provide a diffusion service a written notice applying this subsection to programmes specified or of a description specified in the notice, they may, within such period as—
- (a) begins with the inclusion in that service of any programme to which the notice relates ; and
 - (b) is of a length (not exceeding two months) specified in the notice,
- direct that person to produce to them for examination or reproduction a visual or sound record of any matter included in that programme.
- (2) If the Authority are satisfied that a person authorised by a licence to provide a diffusion service has failed to comply with any condition of that licence or with any direction given by the Authority, the Authority may serve a written notice on that person—
- (a) stating that the Authority are so satisfied ;
 - (b) stating the effect of subsection (3) below ; and
 - (c) specifying for the purposes of that subsection a period not exceeding twelve months ;
- and the Authority shall publish any notice under this subsection in such manner as they consider appropriate.
- (3) If the Authority are satisfied that, at any time during the period specified in a notice under subsection (2) above, the person concerned has failed to comply with any condition of the licence or any direction given by the Authority, the Authority may direct that person—

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- (a) to provide the Authority in advance with such scripts and particulars of the programmes to be included in the diffusion service as may be specified in the direction; and
 - (b) in respect of such of those programmes as will consist of or include recorded matter, to produce to the Authority in advance for examination or reproduction such visual or sound records of that matter as may be so specified ;
- and a direction under this subsection shall have effect for such period, not exceeding six months, as may be specified in the direction.
- (4) Nothing done under or in pursuance of a notice or direction given under this section shall—
- (a) constitute an infringement of the copyright in any work, sound recording, cinematograph film or television or sound broadcast; or
 - (b) constitute an offence under any of the provisions of the Performers' Protection Acts 1958 to 1972.
- (5) Expressions used in this section which are also used in the 1956 Act have the same meanings as in that Act.

17 Power to revoke licences

- (1) Every licence authorising a person to provide a licensable service shall contain all such provisions as the Authority consider requisite or expedient to ensure that—
- (a) if, in view of any failure by that person to comply with any condition of the licence or any direction given by the Authority, the Authority consider it necessary to do so in the public interest; or
 - (b) where the licence authorises the provision of a diffusion service, if the Authority consider it necessary to do so for the purpose of complying with section 8 above; or
 - (c) where that person is a body corporate, 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 granting of the licence which, if it had occurred before the granting of the licence, would have induced the Authority to refrain from granting the licence,
- the Authority may by notice in writing to that person, taking effect forthwith or on a date specified in the notice, revoke the licence.
- (2) Before revoking a licence under a provision included in the licence in pursuance of subsection (1) above, the Authority shall—
- (a) give the person concerned a reasonable opportunity of making representations with respect to the matter; and
 - (b) consult with the licensing authorities for the purposes of Part II of the 1984 Act.

Other provisions with respect to Authority

18 Finances of Authority

- (1) It shall be the duty of the Authority so to conduct their affairs as to secure that their revenues become at the earliest possible date, and continue thereafter, at least sufficient to enable them to meet their obligations and to discharge their functions under this Part.

- (2) Any excess of the Authority's revenues for any financial year over the sums required by them for that year for meeting their obligations and discharging their functions under this Part shall be applied by the Authority in such manner as the Secretary of State, with the approval of the Treasury and after consultation with the chairman (or in his absence the deputy chairman) of the Authority, may direct.
- (3) A direction under subsection (2) above may require the whole or any part of any excess of the revenues of the Authority to be paid into the Consolidated Fund.

19 Advances to Authority

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

20 Accounts and audit

- (1) The Authority shall keep proper accounts and proper records in relation to the accounts, and shall prepare in respect of each financial year a statement of accounts in such form as the Secretary of State with the approval of the Treasury may direct, being a form which shall conform with the best commercial standards.
- (2) The accounts of the Authority shall be audited by auditors to be appointed by the Authority with the approval of the Secretary of State.
- (3) A person shall not be qualified to be appointed as an auditor in pursuance of subsection (2) above unless he is a member of one or more of the following bodies—
 - the Institute of Chartered Accountants in England and Wales;
 - the Institute of Chartered Accountants of Scotland ;
 - the Association of Certified Accountants ;
 - the Institute of Chartered Accountants in Ireland ;
 - any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 by the Secretary of State,
 but a Scottish firm may be so appointed if each of the partners in the firm is qualified to be so appointed.
- (4) The Authority shall at all reasonable times upon demand made by the Secretary of State or by any persons authorised by him in that behalf—
 - (a) afford to him or them full liberty to examine the accounts of the Authority ;
 - and

- (b) furnish him or them with all forecasts, estimates, information and documents which he or they may require with respect to the financial transactions and engagements of the Authority.

21 Annual reports

- (1) As soon as may be after the end of every financial year, the Authority shall prepare a general report of their proceedings during that year, and transmit it to the Secretary of State who shall consider it and lay copies of it before each House of Parliament.
- (2) The report shall have attached to it the statement of accounts for the year and a copy of any report made by the auditor on that statement, and shall include such information (including information relating to the financial position of the Authority) as the Secretary of State may from time to time direct
- (3) The report shall also include an account of the way in which the Authority have discharged their duty under section 10(1)(d) above and a general account of—
 - (a) any complaints received by the Authority about the discharge of their duties under sections 10 and 11 above; and
 - (b) the action taken by the Authority in relation to those complaints.

Copyright

22 Copyright in cable programmes

After section 14 of the 1956 Act there shall be inserted the following section—

“14A Copyright in cable programmes.

- (1) Copyright shall subsist, subject to the provisions of this Act, in every cable programme which is included in a cable programme service provided by a qualified person in the United Kingdom or in any other country to which this section extends.
- (2) Copyright shall not subsist in a cable programme by virtue of this section if the programme is included in the cable programme service by the reception and immediate re-transmission of a television broadcast or a sound broadcast.
- (3) Subject to the provisions of this Act, a person providing a cable programme service shall be entitled to any copyright subsisting in a cable programme included in that service and any such copy right shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the cable programme is so included, and shall then expire.
- (4) In so far as a cable programme is a repetition (whether the first or any subsequent repetition) of a cable programme previously included as mentioned in subsection (1) of this section—
 - (a) copyright shall not subsist therein by virtue of this section if it is so included after the end of the period of fifty years from the end of the calendar year in which it was previously so included ; and
 - (b) if it is so included before the end of that period any copyright subsisting therein by virtue of this section shall expire at the end of that period.

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

- (5) The acts restricted by the copyright in a cable programme are—
- (a) in so far as it consists of visual images, making, otherwise than for private purposes, a cinematograph film of it or a copy of such a film ;
 - (b) in so far as it consists of sounds, making, otherwise than for private purposes, a sound recording of it or a record embodying such a recording;
 - (c) causing it, in so far as it consists of visual images, to be seen in public, or, in so far as it consists of sounds, to be heard in public, if it is seen or heard by a paying audience;
 - (d) broadcasting it or including it in a cable programme service.
- (6) The restrictions imposed by virtue of the last preceding subsection in relation to a cable programme shall apply whether the act in question is done by the reception of the programme or by making use of any record, print, negative, tape or other article on which the programme has been recorded.
- (7) In relation to copyright in cable programmes, in so far as they consist of visual images, the restrictions imposed by virtue of subsection (5) of this section shall apply to any sequence of images sufficient to be seen as a moving picture ; and accordingly, for the purpose of establishing an infringement of such copyright, it shall not be necessary to prove that the act in question extended to more than such a sequence of images.
- (8) For the purposes of subsection (5) of this section a cinematograph film or a copy thereof, or a sound recording or a record embodying a recording, shall be taken to be made otherwise than for private purposes if it is made for the purposes of the doing by any person of any of the following acts, that is to say.—
- (a) the sale or letting for hire of any copy of the film, or, as the case may be, of any record embodying the recording;
 - (b) broadcasting the film or recording or including it in a cable programme service ;
 - (c) causing the film or recording to be seen or heard in public.
- (9) For the purposes of paragraph (c) of subsection (5) of this section, a cable programme shall be taken to be seen or heard by a paying audience if it is seen or heard by persons who either—
- (a) have been admitted for payment to the place where the programme is to be seen or heard, or have been admitted for payment to a place of which that place forms part, or
 - (b) have been admitted to the place where the programme is to be seen or heard in circumstances where goods or services are supplied there at prices which exceed the prices usually charged at that place and are partly attributable to the facilities afforded for seeing or hearing the programme ;

Provided that for the purposes of paragraph (a) of this subsection no account shall be taken—

- (i) of persons admitted to the place in question as residents or inmates therein, or
- (ii) of persons admitted to that place as members of a club or society, where payment is only for membership of the club or society and the provision of facilities for seeing or hearing

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cable programmes is only incidental to the main purposes of the club or society.

(10) The copyright in a cable programme is not infringed by anything done in relation to the programme for the purposes of a judicial proceeding.

(11) In this Act—

'cable programme' means a programme which is included, after the commencement of section 22 of the Cable and Broadcasting Act 1984, in a cable programme service;

'cable programme service' means a cable programme service within the meaning of the said Act of 1984 or a service provided outside the United Kingdom which would be such a service if subsection (7) of section 2 of that Act and references in subsection (1) of that section to the United Kingdom were omitted;

'programme', in relation to a cable programme service, includes any item included in that service.

(12) The foregoing provisions of this section shall have effect as if references in those provisions and in section 12(9) of this Act to sounds included references to signals serving for the impartation of matter otherwise than in the form of sounds or visual images."

23 Inclusion of broadcasts in cable programmes

(1) At the end of paragraph (d) of subsection (4) and paragraph (b) of subsection (7) of section 14 of the 1956 Act (copyright in television and sound broadcasts) there shall be added the words " or including it in a cable programme ".

(2) After subsection (8) of that section there shall be inserted the following subsection—

“(8A) The copyright in a television broadcast or sound broadcast is not infringed by any person who, by the reception and immediate re-transmission of the broadcast, includes a programme in a cable programme service—

(a) if the programme is so included in pursuance of a requirement imposed under subsection (1) of section 13 of the Cable and Broadcasting Act 1984; or

(b) where the broadcast is made otherwise than in a DBS service (as defined in subsection (6) of that section) or an additional teletext service (as so defined), if and to the extent that it is made for reception in the area in which the cable programme service is provided.”

(3) After section 27A of that Act there shall be inserted the following section—

“27B Exercise of jurisdiction of tribunal in relation to inclusion of broadcasts in cable programmes.

(1) On a reference to the tribunal under this Part of this Act relating to licences to broadcast works or sound recordings for reception in any area, the tribunal shall exercise its powers under this Part of this Act so as to secure that the charges payable for the licences adequately reflect the extent to which the works or recordings will be included, in pursuance of requirements imposed under section 13(1) of the Cable and Broadcasting Act 1984, in cable programme services provided in areas parts of which fall outside that area.

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

- (2) The preceding subsection shall have effect, with the necessary modifications, in relation to applications under this Part of this Act as it has effect in relation to references thereunder.”
- (4) For subsection (3) of section 40 of that Act (broadcast of sound recordings and cinematograph films and diffusion of broadcast programmes) there shall be substituted the following subsections—
- “(3) Where a television broadcast or sound broadcast is made by the Corporation or the Authority and the broad* cast is an authorised broadcast, then, subject to subsection (3A) below, any person who, by the reception and immediate re-transmission of the broadcast, includes a programme in a cable programme service, being a programme comprising a literary, dramatic or musical work, or an adaptation of such a work, or an artistic work, or a sound recording or cinematograph film, shall be in the like position, in any proceedings for infringement of the copyright (if any) in the work, recording or film, as if he had been the holder of a licence granted by the owner of that copyright to include the work, adaptation, recording or film in any programme so included in that service.
- (3A) Subsection (3) above applies only—
- (a) if the programme is included in the service in pursuance of a requirement imposed under section 13(1) of the Cable and Broadcasting Act 1984; or
- (b) if and to the extent that the broadcast is made for reception in the area in which the service is provided.”

24 Inclusion of sound recordings and cinematograph films in cable programmes

- (1) At the end of paragraph (c) of section 12(5) of the 1956 Act (copyright in sound recordings) there shall be added the words " or including it in a cable programme. "
- (2) In section 13(5) of that Act (copyright in cinematograph films) for paragraph (d) there shall be substituted the following paragraph—
- “(d) including the film in a cable programme.”
- (3) After section 40 of that Act there shall be inserted the following section—

“40A Inclusion of sound recordings and cinematograph films in cable programmes.

- (1) Where a cable programme is sent and a person, by the reception of that programme, causes a sound recording to be heard in public, he does not thereby infringe the copyright (if any) in that recording under section 12 of this Act.
- (2) Where a cable programme is sent and the programme is an authorised programme, any person who, by the reception of the programme, causes a cinematograph film to be seen or heard in public shall be in the like position, in any proceedings for infringement of copyright (if any) in the film under section 13 of this Act, as if he had been the holder of a licence granted by the owner of that copyright to cause the film to be seen or heard in public by the reception of the programme.

- (3) If, in the circumstances mentioned in the last preceding subsection, a person causing a cinematograph film to be seen or heard infringes the copyright in the film by reason that the cable programme was not an authorised programme—
- (a) no proceedings shall be brought against that person under this Act in respect of his infringement of that copyright, but
 - (b) it shall be taken into account in assessing damages in any proceedings against the person sending the programme, in so far as that copyright was infringed by him in sending the programme.
- (4) For the purposes of this section, a cable programme shall be taken, in relation to a cinematograph film, to be an authorised programme if, but only if, it is sent by, or with the licence of, the owner of the copyright in the film.”

Obscenity

25 Obscene programmes

- (1) Subject to the following provisions of this section, if—
- (a) the inclusion of a programme in a cable programme service involves the publication of an obscene article; or
 - (b) a programme included in such a service is such that, if any matter included in it were recorded matter, the inclusion of the programme would involve the publication of such an article,
- the person providing that service shall be guilty of an offence.
- (2) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding three years or both.
- (3) Subsection (1) above shall not apply in relation to a programme which is included in a cable programme service by the reception and immediate re-transmission of a broadcast made by a broadcasting authority.
- (4) Proceedings for an offence under this section shall not be commenced more than two years after the commission of the offence.
- (5) Proceedings for an offence under this section shall not be instituted—
- (a) in England and Wales, except by or with the consent of the Director of Public Prosecutions ;
 - (b) in Northern Ireland, except by or with the consent of the Director of Public Prosecutions for Northern Ireland.
- (6) A person shall not be proceeded against for an offence at common law—
- (a) in respect of a programme included in a cable programme service or anything said or done in the course of such a programme, where it is of the essence of the common law offence that the programme or, as the case may be, what was said or done was obscene, indecent, offensive, disgusting or injurious to morality; or
 - (b) in respect of an agreement to cause a programme to be included in a cable programme service or to cause anything to be said or done in course of such a

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

programme so included, where the common law offence consists of conspiring to corrupt public morals or to do any act contrary to public morals or decency.

- (7) A person shall not be convicted of an offence under this section if he proves that he did not know and had no reason to suspect that the programme in question would be such that its inclusion in a cable programme service would make him liable to be convicted of an offence under this section.
- (8) A person shall not be convicted of an offence under this section if he proves that the inclusion in a cable programme service of the programme in question was justified as being for the public good on the ground that it was in the interests of drama, opera, ballet or any other art, or of literature or learning.
- (9) It is hereby declared that the opinion of experts as to the artistic, literary or other merits of a programme may be admitted in any proceedings under this section either to establish or negative the said ground.
- (10) In this section expressions used in the Obscene Publications Act 1959 have the same meanings as in that Act.
- (11) This section does not extend to Scotland.

26 Obscene programmes in Scotland

- (1) Section 51 of the Civic Government (Scotland) Act 1982 (offences in respect of obscene material) shall be amended as follows—
 - (a) in subsection 6(a) for the words from " a programme transmitted " to " Secretary of State " there shall be substituted the words " or any such broadcast which is received and immediately re-transmitted by a cable programme service ";
 - (b) in the said subsection (8) at the end of the definition of "material" there shall be added "and any matter included in a programme transmitted as part of a cable programme service " ; and
 - (c) in the said subsection (8), after the words " the reference to publishing includes a reference to " there shall be inserted the word " showing, ".
- (2) This section extends to Scotland only.

Miscellaneous

27 Incitement to racial hatred

- (1) Subject to the following provisions of this section, if a programme involving the use of threatening, abusive or insulting words is included in a cable programme service in a case where, having regard to the circumstances in which the programme is so included, hatred is likely to be stirred up against any racial group in the United Kingdom by the words in question, each of the persons mentioned in subsection (2) below shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or both;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or both.

- (2) The said persons are—
 - (a) the person providing the cable programme service;
 - (b) any person by whom the programme is produced or directed; and
 - (c) any person by whom the offending words are used.
- (3) In any proceedings for an offence under this section alleged to have been committed by a person falling within subsection (2)(a) or (b) above, it shall be a defence for the accused to prove—
 - (a) that he did not know and had no reasonable cause to suspect that the programme would involve the use of the offending words ; and
 - (b) that, having regard to the circumstances in which the programme was included in the cable programme service, it was not reasonably practicable for him to secure the removal of those words before the programme was so included.
- (4) In any proceedings for an offence under this section alleged to have been committed by a person falling within subsection (2)(b) above, it shall be a defence for the accused to prove that he did not know and had no reasonable cause to suspect—
 - (a) that the programme would be included in a cable programme service; or
 - (b) that the circumstances in which the programme would be so included would be such that hatred would be likely to be stirred up against any racial group in the United Kingdom by the offending words.
- (5) In any proceedings for an offence under this section alleged to have been committed by a person falling within subsection (2)(c) above, it shall be a defence for the accused to prove that he did not know and had no reasonable cause to suspect—
 - (a) that a programme involving the use of the offending words would be included in a cable programme service ; or
 - (b) that the circumstances in which a programme involving the use of those words would be so included, or a programme so included would involve the use of those words, would be such that hatred would be likely to be stirred up against any racial group in the United Kingdom by those words.
- (6) Subsection (1) above does not apply in relation to a programme which is included in a cable programme service by the reception and immediate re-transmission of broadcasts made by a broadcasting authority.
- (7) Subsection (1) above does not apply in relation to a programme in so far as it contains—
 - (a) a fair and accurate report of proceedings publicly heard before any court or tribunal exercising judicial authority, being a report which is published contemporaneously with those proceedings or, if it is not reasonably practicable or would be unlawful to publish a report of them contemporaneously, is published as soon as publication is reasonably practicable and (if previously unlawful) lawful; or
 - (b) a fair and accurate report of proceedings in Parliament.
- (8) Proceedings for an offence under this section shall not be instituted—
 - (a) in England and Wales, except by or with the consent of the Attorney General;
 - (b) in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland.

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

- (9) In this section " racial group " means a group of persons defined by reference to colour, race, nationality or ethnic or national origins, and in this definition " nationality " includes citizenship.
- (10) In this section and section 28 below " words " includes pictures, visual images, gestures and other methods of signifying meaning.

28 Amendment of law of defamation

- (1) For the purposes of the law of libel and slander (including the law of criminal libel so far as it relates to the publication of defamatory matter) the publication of words in the course of a programme included in a cable programme service shall be treated as publication in permanent form.
- (2) Subsection (1) above shall apply for the purposes of section 3 of each of the Defamation Acts (slander of title etc.) as it applies for the purposes of the law of libel and slander.
- (3) Section 7 of each of those Acts (qualified privilege of newspapers) shall apply in relation to reports or matters included in a cable programme service which is or does not require to be licensed, and in relation to any inclusion in such a service of any such report or matter, as it applies in relation to reports and matters published in a newspaper and to publication in a newspaper; and subsection (2) of that section shall have effect, in relation to any such inclusion, as if for the words " in the newspaper in which " there were substituted the words in the matter in which ".
- (4) In this section " the Defamation Acts " means the Defamation Act 1952 and the Defamation Act (Northern Ireland) 1955.
- (5) Subsections (1) and (2) above do not extend to Scotland.

29 Complaints of unjust or unfair treatment etc.

The Broadcasting Complaints Commission shall also have the function of considering and adjudicating upon complaints of—

- (a) unjust or unfair treatment in programmes actually included in a licensed service after the commencement of this section otherwise than by the reception and immediate re-transmission of broadcasts made by a broadcasting authority; or
- (b) unwarranted infringement of privacy in, or in connection with the obtaining of material included in, programmes actually so included;

and Part III of the 1981 Act (which relates to that Commission) shall accordingly have effect with the amendments made by Schedule 2 to this Act.

30 Contributions towards costs of Broadcasting Complaints Commission

- (1) The Secretary of State shall, for the financial year which includes the commencement of this section and each subsequent financial year, notify to the Authority the total sum which he considers to be the appropriate contribution of persons providing licensed services towards the expenses of the Broadcasting Complaints Commission.
- (2) The Authority shall do all that they can to secure that persons providing licensed services make to the Authority in respect of every financial year payments representing

what appear to the Authority to be the appropriate contributions of those persons towards meeting the sum notified to the Authority for that year under subsection (1) above.

- (3) The payments made to the Authority by virtue of subsection (2) above shall not form part of the revenue of the Authority and, when received by the Authority, shall be paid to the Secretary of State.
- (4) All sums received by the Secretary of State under subsection (3) above shall be paid into the Consolidated Fund.

31 Certain apparatus to be deemed to be apparatus for wireless telegraphy

- (1) Where a service to which this section applies which is provided in any area includes, by the reception and immediate re-transmission of the broadcasts, the programmes included in any television or sound broadcasting service provided by a broadcasting authority for reception in that area, any apparatus which, for the purpose of enabling any person to receive any of the programmes included in the service to which this section applies, is connected (within the meaning of the 1984 Act) to the telecommunication system by means of which that service is provided shall be deemed for the purposes of the Wireless Telegraphy Act 1949 to be apparatus for wireless telegraphy.
- (2) This section applies to any cable programme service and any service which would be such a service if subsection (7) of section 2 above were omitted.

Supplemental

32 Entry and search of premises

- (1) If a justice of the peace is satisfied by information on oath—
 - (a) that there is reasonable ground for suspecting that an offence under section 3 above has been or is being committed on any premises specified in the information ; and
 - (b) that evidence of the commission of the offence is to be found on those premises,he may grant a search warrant conferring power on any person or persons authorised in that behalf by the Authority and named in the warrant to enter and search the premises specified in the information at any time within one month from the date of the warrant.
- (2) A person who intentionally obstructs a person in the exercise of powers conferred on him under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) A person who discloses, otherwise than for the purposes of any legal proceedings or of a report of any such proceedings, any information obtained by means of an exercise of powers conferred by this section, shall be guilty of an offence and liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

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

- (4) In the application of this section to Scotland, for the reference to a justice of the peace there shall be substituted a reference to the sheriff and for any reference to information on oath there shall be substituted a reference to evidence on oath.
- (5) In the application of this section to Northern Ireland, for the reference to a justice of the peace there shall be substituted a reference to a resident magistrate and for any reference to information on oath there shall be substituted a reference to complaint on oath.

33 Scripts as evidence

- (1) Where a programme included in a cable programme service was based on a script, then, in any proceedings for a relevant offence alleged to have been committed in respect of that programme—
 - (a) an actual script on which that programme was based shall be evidence of what was included in the programme and of the manner in which the programme or any part of it was performed ; and
 - (b) if such a script is given in evidence on behalf of any party to the proceedings then, except in so far as the contrary is shown, whether by evidence given on behalf of the same or any other party, the programme shall be taken to have been performed in accordance with that script.
- (2) In this section and section 34 below—
 - " relevant offence" means an offence under section 27 above or—
 - (a) in relation to England and Wales and Northern Ireland, an offence under section 25 above; or
 - (b) in relation to Scotland, an offence under section 51 of the Civic Government (Scotland) Act 1982;
 - " script", in relation to a programme, means the text of the programme (whether expressed in words or in musical or other notation) together with any directions for its performance, whether contained in a single document or not.

34 Power to make copies of scripts and records

- (1) If a police officer of or above the rank of superintendent has reasonable grounds for suspecting—
 - (a) that a relevant offence has been committed by any person in respect of a programme included in a cable programme service; or
 - (b) that a programme is to be so included and that a relevant offence is likely to be committed by any person in respect of that programme,
 he may make an order in writing under this section relating to that person and that programme.
- (2) Every order made under this section shall be signed by the person by whom it is made, shall name the person to whom it relates and shall describe the programme to which it relates in a manner sufficient to enable that programme to be identified.
- (3) Where an order under this section has been made, any police officer, on production if so required of the order may require the person named in the order to produce, if such a thing exists—

- (a) an actual script on which the programme was or, as the case may be, will be based ; or
- (b) a visual or sound record of any matter which was or, as the case may be, will be included in the programme,

and if such a script or record is produced to him, may require the person so named to afford him an opportunity of causing a copy thereof to be made.

- (4) Any person who without reasonable excuse fails to comply with a requirement under subsection (3) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) Where, in the case of a programme based on a script, a copy of an actual script on which that programme was based has been made by or on behalf of a police officer by virtue of an order under this section relating to that programme, section 33 above shall apply in relation to that copy as it applies in relation to an actual script on which the programme was based.
- (6) In the application of this section to Scotland, for the reference to a police officer of or above the rank of superintendent having reasonable grounds there shall be substituted a reference to the procurator fiscal being satisfied, on receiving a report from a police officer, that there are reasonable grounds.

35 Availability of visual and sound records

- (1) The Authority shall do all that they can to secure that, if an order is made under section 34 above in relation to a person providing a licensed service and a programme included in that service, that person will be able to comply with a requirement under subsection (3)(b) of that section made within 14 days of the inclusion of that programme.
- (2) Nothing done under or in pursuance of a condition included in a licence by virtue of this section shall—
 - (a) constitute an infringement of the copyright in any work, sound recording, cinematograph film or television or sound broadcast; or
 - (b) constitute an offence under any of the provisions of the Performers' Protection Acts 1958 to 1972.
- (3) Expressions used in this section which are also used in the 1956 Act have the same meanings as in that Act.

36 Interpretation of Part I

- (1) In this Part—
 - “ the Authority ” means the Cable Authority;
 - “ broadcasting authority ” means the BBC or the IBA ;
 - “ diffusion service ” has the meaning given by section 2(3) above;
 - “ licence ” means a licence under section 4 above and “ licensed ” shall be construed accordingly;
 - “ licensable service ” has the meaning given by section 2(2) above;
 - “ local authority ”—
 - (a) in relation to England and Wales, means any of the following, that is to say, the council of a county, district or London borough, the Greater

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London Council, the Common Council of the City of London and the Council of the Isles of Scilly;

(b) in relation to Scotland, means a regional, islands or district council; and

(c) in relation to Northern Ireland, means a district council;

" national", in relation to the United Kingdom, has the meaning given by section 20(7) of the 1981 Act;

" prescribed diffusion service " has the meaning given by section 2(3) above;

" restricted service " has the meaning given by section 2(3) above.

- (2) For the purposes of this Part section 63(3) of the 1981 Act (meaning of " advertising agent") shall have effect as if the reference to the selection and purchase of advertising space or time for persons wishing to advertise included a reference to the sale of advertising space or time to such persons.