



Jersey

BROADCASTING ACT 1990 (JERSEY) (No. 2)
ORDER 1991

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APPENDIX



Jersey

BROADCASTING ACT 1990 (JERSEY) (No. 2) ORDER 1991

Jersey Order in Council 22/1991**THE BROADCASTING ACT 1990 (JERSEY) (No. 2) ORDER 1991**

(Registered on the 6th day of September 1991)

At the Court at Buckingham Palace

24th day of July 1991

PRESENT**The Queen's Most Excellent Majesty in Council**

HER MAJESTY, in exercise of the powers conferred upon Her by sections 174 and 204(6) of The Broadcasting Act 1990 is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows –

1. This Order may be cited as the Broadcasting Act 1990 (Jersey) (No. 2) Order 1991 and shall come into force on 1st August 1991.

2. In this Order “Jersey” means the Bailiwick of Jersey.

3.– (1) The following provisions of the Broadcasting Act 1990 shall extend, with the modifications specified in the Schedule to this Order, to Jersey –

(a) in Part I (independent television services), sections 1 to 13, 23 to 35, 37 to 45, 48 to 55, 65 and 67 to 71;

- (b) Part III (independent radio services), except Chapter III;
- (c) Part V (Broadcasting Complaints Commission), except section 149);
- (d) Part VI (Broadcasting Standards Council);
- (e) Part VIII (provisions relating to wireless telegraphy), except section 174;
- (f) in Part X (miscellaneous and general), sections 177, 178, 181, 182, 185, 186, 195 to 197, 199, 201 and 203; and
- (g) Schedules 1 to 3, 5, 7, 8, 13, 14, 16 and 21.

(2) For the purpose of construing those provisions as so extended as part of the law of Jersey, unless a contrary intention appears –

- (a) any reference to an enactment which extends to Jersey shall be construed as a reference to that enactment as it has effect in Jersey, and
- (b) any reference to a licensable programme service, to a licensable sound programme service or to a local delivery service shall be construed as a reference only to a service of the kind in question which is provided in the United Kingdom under the Broadcasting Act 1990 as it has effect in the United Kingdom.

G.I. DE DENEY

Clerk of the Privy Council.

*SCHEDULE***(Article 3)****Modifications with which provisions of the Broadcasting Act 1990 extend to Jersey**

- 1.** In Section 2 (function of Commission) –
 - (a) in subsection (1)(a) and (b) after the words “United Kingdom” insert “or the Bailiwick of Jersey”;
 - (b) in subsection (2)(a) and (5) after the words “United Kingdom” insert “and the Bailiwick of Jersey”; and
 - (c) omit subsection (3).
- 2.** In section 3 (general provisions about licences), in subsection (8) after “1984” insert “or Article 5 of the Telecommunications (Jersey) Law 1972”.
- 3.** In section 8 (advertisements) –
 - (a) in subsection (2)(a) after the words “government department” insert “or the States of Jersey”; and
 - (b) for subsection (4) substitute –

“(4) Subsection (2) above has effects as if any regulations under section 8(4) of the Broadcasting Act 1990 for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey.”.
- 4.** In section 9 (control of advertisements) –
 - (a) in subsection (4)(a) after the words “Secretary of State” insert “and the States of Jersey Broadcasting Committee”; and
 - (b) in subsection (4)(b) for the word “he” substitute “the Secretary of State”.
- 5.** In section 10 (government control over licensed services), omit subsection (6).
- 6.** In section 13 (prohibition on providing television services without a licence) –
 - (a) for subsection (2) substitute –

“(2) Subsection (1) above has effect as if any order under section 13(2) of the Broadcasting Act 1990 for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey.”;
 - (b) in subsection (3) for the words after “liable” substitute “to a fine”;
 - (c) in subsection (4) for the words after “instituted” substitute “except by or with the consent of Her Majesty’s Attorney General for Jersey”;

(d) in subsection (5) for the words “the Crown” substitute “Her Majesty’s Attorney General for Jersey”; and

(e) omit subsection (6).

7. In section 24 (provision of Channel 4), in subsection (3) for the words “England, Scotland and Northern Ireland” substitute “England, Scotland, Northern Ireland and the Bailiwick of Jersey”.

8. In section 26 (revenue deficits of Corporation) –

(a) for subsection (10) substitute –

“(10) Subsections (2) and (4) above have effect as if any order under section 26(10) of the Broadcasting Act 1990 for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey.”; and

(b) omit subsection (11).

9. In section 28 (Channel 5), subsections (1) and (2) after the words “United Kingdom” insert “and the Bailiwick of Jersey”.

10. In section 29 (application of certain provisions to Channel 5), in subsection (2)(a) after the words “United Kingdom” insert “and the Bailiwick of Jersey”.

11. In section 34 (schools programmes), in subsection (2)(c) after the words “United Kingdom” insert “and the Bailiwick of Jersey”.

12. In section 39 (networking arrangements), in subsection (1) after the words “United Kingdom” insert “and the Bailiwick of Jersey”.

13. In section 43 (satellite services), in subsection (4) –

(a) after the definition of “allocated frequency” insert –

“ “the United Kingdom” includes the Bailiwick of Jersey;” and

(b) for the definition of “prescribed country” substitute –

“ “prescribed country” means any country specified in an order made for the purposes of section 43(4) of the Broadcasting Act 1990 for the time being in force in the United Kingdom.”.

14. In section 45 (licensing of non-domestic satellite services) –

(a) for subsection (8) substitute –

“(8) Subsection (6) above has effect as if any order under section 45(8) of the Broadcasting Act 1990 for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey.”; and

(b) omit subsection (9).

15. In section 48 (additional services), in subsection (6) for the words after “paragraphs (a) to (d) substitute “of Article 2(1) of the Telecommunications (Jersey) Law, 1972”.

16. In section 51 (procedure for awarding licences), in subsection (7) for the words “Director General of Telecommunications” substitute “States of Jersey Telecommunications Board”.

17. In section 53 (duration of licences, etc.), in subsection (7)(a) after the word “Commission” insert “for the benefit of the States of Jersey”.

18. In section 65 (assignment of frequencies), omit subsection (3).

19. In section 68 (receipts of Commission), after subsection (1)(c) insert –

“(d) if the licence is for the provision of a service for the Bailiwick of Jersey, be paid to the Treasurer of the States of Jersey and credited to the annual income of the States; or

(e) if the licence is for the provision of a service for an area consisting of –

(i) the Bailiwick of Jersey and the whole or part of the United Kingdom, or

(ii) the Bailiwick of Jersey and the Bailiwick of Guernsey, or

(iii) both those Bailiwicks and the whole or part of the United Kingdom, as respects such proportion of the amount as the Commission consider appropriate, be paid and credited as mentioned in paragraph (d) above.”.

20. In section 71 (interpretation of Part I), in subsection (1) omit the definition of “S4C”.

21. In section 84 (function of Radio Authority) –

(a) in subsection (1) after the words “United Kingdom”, wherever occurring, insert “or the Bailiwick of Jersey”;

(b) in subsection (2)(a)(i) and (ii) and where first occurring in (b)(ii), after the words “United Kingdom” insert “and the Bailiwick of Jersey”; and

(c) in subsection (2)(a)(iii) and (b)(i), in the second place in which they occur in (b)(ii), and in subsection (3), after the words “United Kingdom” insert “or the Bailiwick of Jersey”.

22. In section 85 (licensing functions) –

(a) in subsection (2) after the words “United Kingdom” insert “and the Bailiwick of Jersey”;

(b) omit subsection (4);

(c) for subsection (5) substitute –

“(5) Subsection (2)(a) above and section 98(1)(b)(iii) below have effect as if any order under Section 85(5) of the Broadcasting Act 1990 for the time being in force and in the United Kingdom had extended to the Bailiwick of Jersey.”; and

(d) omit subsection (7).

23. In section 86 (licences under Part III), in subsection (9) after “1984” insert “or Article 5 of the Telecommunications (Jersey) Law 1972”.

24. In section 92 (advertisements) –

(a) in subsection (2) after the words “government department” insert “or the States of Jersey”; and

(b) for subsection (4) substitute –

“(4) Subsection (2) above has effect as if any regulations under section 92(4) of the Broadcasting Act 1990 for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey.”.

25. In section 93 (control of advertisements) –

(a) in subsection (4)(a) after the words “Secretary of State” insert “and the States of Jersey Broadcasting Committee”; and

(b) in subsection (4)(b) for the word “he” substitute “the Secretary of State”.

26. In section 94 (government control) omit subsection (6).

27. In section 97 (prohibition on unlicensed radio services) –

(a) for subsection (2) substitute –

“(2) Subsection (1) above has effect as if any order under section 97(2) of the Broadcasting Act 1990 for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey.”;

(b) in subsection (3) for the words after “liable” substitute “to a fine”;

(c) in subsection (4) for the words after “instituted”, substitute “except by or with the consent of Her Majesty’s Attorney General for Jersey”;

(d) in subsection (5) for the words “the Crown” substitute “Her Majesty’s Attorney General for Jersey”; and

(e) omit subsection (6).

28. In section 98 (applications for national licences), in subsections (1) and (2) after the words “United Kingdom” insert “and the Bailiwick of Jersey”.

29. In section 104 (applications for other licences), in subsection (1) after the words “United Kingdom” insert “or the Bailiwick of Jersey”.

30. In section 105 (special requirements relating to grant of local licences), in paragraph (d) after the word “locality” insert “and the States of Jersey Broadcasting Committee”.

31. In section 110 (financial penalty, etc.), for subsection (7) substitute –

“(7) Subsection (3) above has effect as if any order under section 110(7) of the Broadcasting Act 1990 for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey.”.

32. In section 114 (additional services), in subsection (6) for the words after “paragraphs (a) to (d)” substitute “Article 2(1) of the Telecommunications (Jersey) Law 1972”.

33. In section 117 (procedure), in subsection (7) for the words “Director General of Telecommunications” substitute “States of Jersey Telecommunications Board”.

34. In section 122 (receipts of Authority), after subsection (1)(c) insert –

“(d) if the licence is for the provision of a service for any area, locality, institution or event in the Bailiwick of Jersey, be paid to the Treasurer of the States of Jersey and credited to the annual income of the States; or

(e) if the licence is for the provision of a service for an area consisting of –

(i) the Bailiwick of Jersey and the whole or part of the United Kingdom, or

(ii) the Bailiwick of Jersey and the Bailiwick of Guernsey, or

(iii) both those Bailiwicks and the whole or part of the United Kingdom,

as respects such proportion of the amount as the Authority consider appropriate, be paid and credited as mentioned in paragraph (d) above.”.

35. In section 143 (function of BCC), omit subsection (2)(b).

36. In section 144 (complaints), in subsection (4)(b) and (c) after the words “United Kingdom” insert “or the Bailiwick of Jersey”.

37. In section 150 (interpretation of Part V), in the definition of broadcasting body” omit the words “or the Welsh Authority”.

38. In section 152 (preparation of code), omit subsection (2)(b).

39. In section 153 (monitoring of standards), in subsection (4) after the words “United Kingdom” insert “and the Bailiwick of Jersey”.

40. In section 154 (complaints relating to broadcasting standards), in subsection (5)(a) and (b) after the words “United Kingdom” insert “or the Bailiwick of Jersey”.

41. In section 172 (amendment of Wireless Telegraphy Act 1949(a), in the subsection (3) substituted by subsection (4) for section 14(3) of the 1949 Act for the words Secretary of State substitute “Crown for the benefit of the Crown revenues in the Bailiwick of Jersey”.

42. In section 177 (unacceptable foreign satellite services) –

- (a) omit subsections (1) to (5); and
 - (b) in subsection (6) omit the words “this section and”, and after the words “the United Kingdom” –
 - (i) where first occurring, insert “and the Bailiwick of Jersey”, and
 - (ii) in the second place in which they occur, insert “or the Bailiwick of Jersey”.
- 43.** In section 178 (offence of supporting proscribed foreign satellite service) –
- (a) in subsection (1) for the words “for the purposes of this section by virtue of an order under section 177” substitute “in the United Kingdom for the purposes of section 178 of the Broadcasting Act 1990 by virtue of an order under section 177 of that Act”; and
 - (b) in subsection (2) for the words “United Kingdom” substitute “Bailiwick of Jersey”; and
 - (c) in subsection (5) for the words after “liable” substitute “to a fine”.
- 44.** In section 181 (apparatus deemed to be for wireless telegraphy), in subsection (3)(a) and (b) after the words “United Kingdom” insert “or the Bailiwick of Jersey”.
- 45.** In section 182 (events not to be shown on pay-per-view terms) –
- (a) in subsection (3)(a) for the words after “list” substitute “for the time being having effect in the United Kingdom for the purposes of section 182 of the Broadcasting Act 1990”; and
 - (b) in subsection (7) for the words “England, Scotland, Wales or Northern Ireland” substitute “England, Scotland, Wales, Northern Ireland or the Bailiwick of Jersey”.
- 46.** In section 196 (entry and search of premises) –
- (a) in subsection (1) for the words “a justice of the peace” substitute “the Bailiff” and after the words “to enter and search” insert “with officers of police (whether or not named in the warrant)”;
 - (b) in subsection (2) after the words “subsection (1)” insert “officers of police” means members of the Honorary Police or of the States of Jersey Police Force, and”;
 - (c) in subsection (3) for the words after “liable” substitute “to a fine”;
 - (d) in subsection (4) for the words after “liable” substitute “to a fine”; and
 - (e) omit subsections (5) and (6).
- 47.** In section 197 (restriction on disclosure of information), in subsection (6) for the words after “liable” substitute “to a fine”.
- 48.** In section 199 (notices), in subsection (4) –

- (a) for the words “section 7 of the Interpretation Act 1978” substitute “section 12 of the Interpretation (Jersey) Law 1954”; and
- (b) for the words “United Kingdom”, wherever occurring, substitute “Bailiwick of Jersey”.

49. In section 201 (programme services) –

- (a) in subsection (1)(c)(i) and (ii) after the words “United Kingdom” insert “or the Bailiwick of Jersey”; and
- (b) in subsection (2)(b) for the words “Telecommunications Act 1984” substitute “Telecommunications (Jersey) Law 1972”.

50. In Schedule 1 (Independent Television Commission) omit paragraphs 2 to 9 and 12 to 16.

51. In Schedule 2 (restrictions on the holding of licences) –

- (a) in Part I omit paragraph 4;
- (b) in Part II, in paragraph 3(1)(a) after the words “local authority” insert “or the States of Jersey”;
- (c) in Part III –

- (i) after paragraph 1(4) insert –

“(5) This Part has effect as if any order under paragraph 2(2) or (3), 4, 5(3), 6(8) or (10) or 10 of Part III of Schedule 2 to the Broadcasting Act 1990 for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey.”.

- (ii) omit paragraphs 2(2) and (3), 4, 5(3), 6(8) and (10) and 10, and

- (iii) after paragraph 6(7) insert –

“(7A) As respects participation by the holder of a licence to provide for an area which includes the Bailiwick of Jersey –

- (a) a regional Channel 3 service, or
- (b) a local radio service.

in a body corporate which is the holder of a licence to provide for an area which is to a significant extent the same as that area a service falling within the other of those two categories, the States of Jersey Broadcasting Committee may by order vary the percentage for the time being specified in sub-paragraph (7) above.”;

- (d) in Part IV –

- (i) in paragraph 1(1) and (2) after the words “United Kingdom”, wherever occurring, insert “and the Bailiwick of Jersey”;

(ii) after paragraph 1(5) insert –

“(6) This Part has effect as if any order under paragraph 2(5) or 3(5) of Part IV of Schedule 2 to the Broadcasting Act 1990 for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey.”;

(iii) omit paragraph 2(5);

(iv) after paragraph 2(6) insert –

“(7) As respects participation by the proprietor of a local newspaper in a body corporate which is the holder of a licence to provide –

(a) a regional Channel 3 service for an area which includes the Bailiwick of Jersey, or

(b) a relevant local radio service,

the States of Jersey Broadcasting Committee may by order vary the percentage for the time being specified in sub-paragraph (1) or, as the case may be, sub-paragraph (4) above.”;

(v) omit paragraph 3(5), and

(vi) after paragraph 3(6) insert –

“(7) As respects participation by the holder of a licence to provide –

(a) a regional Channel 3 service for an area which includes the Bailiwick of Jersey; or

(b) a relevant local radio service,

in a body corporate which runs a local newspaper, the States of Jersey Broadcasting Committee may by order vary the percentage for the time being specified in sub-paragraph (1) or, as the case may be, sub-paragraph (4) above.”; and

(e) omit Part V.

52. In Schedule 3 (Channel Four Television Corporation) omit paragraphs 2 to 9, 12 and 13.

53. In Schedule 7 (qualifying revenue) –

(a) in Part I, in paragraph 2(2) omit the words after “arbitration”; and

(b) in Part II, in paragraph 2(2) omit the words after “arbitration”.

54. In Schedule 8 (Radio Authority) omit paragraphs 2 to 9 and 12 to 16.

55. In Schedule 13 (Broadcasting Complaints Commission) omit paragraphs 2 to 9 and 12.

56. In Schedule 14 (Broadcasting Standards Council) omit paragraphs 2 to 10 and 13.

57. In Schedule 16 (amendments to Marine, &c. Broadcasting (Offences) Act 1967(a)

(a) for paragraph 1(2) substitute –

“(2) In subsection (1)(a), for “external waters or in tidal waters in the Bailiwick of Jersey” substitute “any waters to which this section applies.”;

(b) in the subsection (3) inserted by paragraph 1(3) after section 2(2) of the 1967 Act for the words “United Kingdom” substitute “Bailiwick of Jersey”;

(c) in the section 2A inserted by paragraph 2 after section 2 of the 1967 Act –

(i) in subsection (1)(a) for the words after “prescribed” substitute “for the purposes of section 2A of the Marine, &c.. Broadcasting Act 1967 by any order for the time being in force in relation to the United Kingdom”,

(ii) in subsection (1)(b) for the words “United Kingdom” substitute “Bailiwick of Jersey”,

(iii) in subsection (4) after the words “United Kingdom” insert “and the Bailiwick of Jersey”, and

(iv) omit subsection (5);

(d) in the section 3A inserted by paragraph 4 after section 3 of the 1967 Act, in subsection (1) for the words, “United Kingdom” substitute “Bailiwick of Jersey”;

(e) omit paragraph 7;

(f) in the section 7A inserted by paragraphs 8 after section 7 of the 1967 Act –

(i) for subsection (1)(b) substitute –

“(b) officers of police;”,

(ii) for subsection (1)(d) substitute –

“(d) officers of customs and excise; and”, and

(iii) in subsection (2)(a) for the words “United Kingdom”, where first occurring , and in subsection (6) substitute “Bailiwick of Jersey”; and

(g) after paragraph 8 insert –

9. In section 9(1) (interpretation) insert the following definition –

“officer of police” means a member of the Honorary Police or of the States of Jersey Police Force.

58. In Schedule 21 (repeals) omit all entries except those relating to Wireless Telegraphy Act 1949(b), and the Wireless Telegraphy (Blind Persons) Act 1955(c).

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ELIZABETH II**1990 CHAPTER 42**

AN ACT to make new provision with respect to the provision and regulation of independent television and sound programme services and of other services provided on television or radio frequencies; to make provision with respect to the provision and regulation of local delivery services; to amend in other respects the law relating to broadcasting and the provision of television and sound programme services and to make provision with respect to the supply and use of information about programmes; to make provision with respect to the transfer of the property, rights and liabilities of the Independent Broadcasting Authority and the Cable Authority and the dissolution of those bodies; to make new provision relating to the Broadcasting Complaints Commission; to provide for the establishment and functions of a Broadcasting Standards Council; to amend the Wireless Telegraphy Acts 1949 to 1967 in the Marine, &c., Broadcasting (Offences) Act 1967; to revoke a class licence granted under the Telecommunications Act 1984 to run broadcast relay systems; and for connected purposes.

[1st November 1990]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows² –

*PART I***INDEPENDENT TELEVISION SERVICES****CHAPTER I****The Independent Television Commission**

1.– (1) There shall be a commission to be called the Independent Television Commission (in this Part referred to as “the Commission”).

(2) The Commission shall consist of –

- (a) a chairman and a deputy chairman appointed by the Secretary of State; and
- (b) such number of other members appointed by the Secretary of State, not being less than eight nor more than ten, as he may from time to time determine.

(3) Schedule 1 to this Act shall have effect with respect to the Commission.

² Deletions and words in square brackets indicate adaptations and modifications made by the Broadcasting Act 1990 (Jersey) (No. 2) Order 1991.

Regulation by Commission of provision of television services

2.— (1) It shall be the function of the Commission to regulate, in accordance with this Part, the provision of the following services, namely –

- (a) television programme services which are provided from places in the United Kingdom [or the Bailiwick of Jersey] by persons other than the BBC and the Welsh Authority, and
- (b) additional services which are provided from places in the United Kingdom [or the Bailiwick of Jersey],

and to regulate, in accordance with Part II, the provision of local delivery services (within the meaning of that Part) which are so provided.

(2) It shall be the duty of the Commission –

- (a) to discharge their functions under this Part and Part II as respects the licensing of the services referred to in subsection (1) in the matter which they consider is best calculated –
 - (i) to ensure that a wide range of such services is available throughout the United Kingdom [and the Bailiwick of Jersey], and
 - (ii) to ensure fair and effective competition in the provision of such services and services connected with them; and
- (b) to discharge their functions under this Part as respects the licensing of television programme services in the manner which they consider is best calculated to ensure the provision of such services which (taken as a whole) are of high quality and offer a wide range of programmes calculated to appear to a variety of tastes and interests.

(3) * * * * *

(4) In this Part –

“additional service” has the meaning given by section 48(1); and

“television programme service” means –

- (a) a television broadcasting service (as defined by subsection (5));
- (b) a non-domestic satellite service (as defined by section 43(2)); or
- (c) a licensable programme service (as defined by section 46(1)).

(5) In this Part “television broadcasting service” means (subject to subsection (6)) a service consisting in the broadcasting of television programmes for general reception in, or in any area in, the United Kingdom [and the Bailiwick of Jersey], including a domestic satellite service (as defined by section 43(1)).

(6) Subsection (5) does not apply to any teletext service or any other service in the case of which the visual images broadcast in the service consist wholly or mainly of non-

representational images, that is to say visual images which are neither still pictures nor comprised within sequences of visual images capable of being seen as moving pictures.

Licences under Part I

3.– (1) Any licence granted by the Commission under this Part shall be in writing and (subject to the provisions of this Part) shall continue in force for such period as is provided, in relation to a licence of the kind in question, by the relevant provision of Chapter II, III, IV or V of this Part.

(2) A licence may be so granted for the provision of such a service as is specified in the licence or for the provision of a service of such a description as is so specified.

(3) The Commission –

- (a) shall not grant a licence to any person unless they are satisfied that he is a fit and proper person to hold it; and
- (b) shall do all that they can to secure that, if they cease to be so satisfied in the case of any person holding a licence, that person does not remain the holder of the licence;

and nothing in this Part shall be construed as affecting the operation of this subsection or of section 5(1) or (2)(b) or (c).

(4) The Commission may vary a licence by a notice served on the licence holder if –

- (a) in the case of a variation of the period for which the licence is to continue in force, the licence holder consents; or
- (b) in the case of any other variation, the licence holder has been given a reasonable opportunity of making representations to the Commission about the variation.

(5) Paragraph (a) of subsection (4) does not affect the operation of section 41(1)(b); and that subsection shall not authorise the variation of any conditions included in a licence in pursuance of section 19(1) or 52(1) or in pursuance of any other provision of this Part which applies section 19(1).

(6) A licence granted to any person under this Part shall not be transferable to any other person without the previous consent in writing of the Commission.

(7) Without prejudice to the generality of subsection (6), the Commission shall not give their consent for the purposes of that subsection unless they are satisfied that any such other person would be in a position to comply with all the conditions included in the licence which would have effect during the period for which it is to be in force.

(8) The holding by any person of a licence to provide any service shall not relieve him of any requirement to hold a licence under section 1 of the Wireless Telegraphy Act 1949³ or section 7 of the Telecommunications Act 1984 [or Article 5 of the Telecommunications (Jersey) Law 1972]⁴ in connexion with the provision of that service.

³ Tome VIII, page 466.

⁴ Volume 1970-1972, page 398.

General licence conditions**4.— (1)** A licence may include –

- (a) such conditions as appear to the Commission to be appropriate having regard to any duties which are or may be imposed on them, or on the licence holder, by or under this Act;
- (b) conditions requiring the payment by the licence holder to the Commission (whether on the grant of the licence or at such times thereafter as may be determined by or under the licence, or both) of a fee or fees of an amount or amounts so determined;
- (c) conditions requiring the licence holder to provide the Commission, in such manner and at such times as they may reasonably require, with such information as they may require for the purpose of exercising the functions assigned to them by or under this Act;
- (d) conditions providing for such incidental and supplemental matters as appear to the Commission to be appropriate.

(2) A licence may in particular include conditions requiring the licence holder –

- (a) to comply with any direction given by the Commission as to such matters as are specified in the licence or are of a description so specified; or
- (b) (except to the extent that the Commission 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.

(3) The fees required to be paid to the Commission by virtue of subsection (1)(b) shall be in accordance with such tariff as may from time to time be fixed by the Commission; and the amount of any fee which is to be so paid by the holder of a licence of a particular class or description shall be such as to represent what appears to the Commission to be the appropriate contribution of the holder of such a licence towards meeting the sums which the Commission regard as necessary in order to discharge their duty under paragraph 12(1) of Schedule 1 to this Act.

(4) A tariff fixed under subsection (3) may specify different fees in relation to different cases or circumstances; and the Commission shall publish every such tariff in such manner as they consider appropriate.

(5) Where the holder of any licence –

- (a) is required by virtue of any condition imposed under this Part to provide the Commission with any information, and
- (b) in purported compliance with that condition provides them with information which is false in a material particular,

he shall be taken for the purposes of sections 41 and 42 to have failed to comply with that condition.

(6) Nothing in this Act which authorises or requires the inclusion in a licence of conditions relating to any particular matter or having effect for any particular purpose shall be taken as derogating from the generality of subsection (1).

Restrictions on the holding of licences

5.– (1) The Commission shall do all that they can to secure –

- (a) that a person does not become or remain the holder of a licence if he is a person who is a disqualified person in relation to that licence by virtue of Part II of Schedule 2 to this Act; and
- (b) that any requirements imposed by or under Part III to V of that Schedule are complied with by or in relation to persons holding licences in relation to which those requirements apply.

(2) The Commission may accordingly –

- (a) require any applicant for a licence to provide them with such information as they may reasonably require for the purpose of determining –
 - (i) whether he is such a disqualified person as is mentioned in subsection (1)(a),
 - (ii) whether any such requirements are mentioned in subsection (1)(b) would preclude them from granting a licence to him, and
 - (iii) if so, what steps would be required to be taken by or in relation to him in order for any such requirements to be complied with;
 - (b) revoke the award of a licence to a body where a relevant change takes place after the award, but before the grant, of the licence;
 - (c) make the grant of a licence to any person conditional on the taking of any specified steps that appear to them to be required to be taken as mentioned in paragraph (a)(iii);
 - (d) impose conditions in any licence enabling them to require the licence holder, if a body corporate, to give to them advance notice of proposals affecting –
 - (i) shareholdings in the body, or
 - (ii) the directors of the body,
 where such proposals are known to the body;
 - (e) impose conditions in any licence enabling them to give the licence holder directions requiring him to take, or arrange for the taking of, any specified steps appearing to them to be required to be taken in order for any such requirements as are mentioned in subsection (1)(b) to be complied with.
- (3) Where the Commission –
- (a) revoke the award of any licence in pursuance of subsection (2)(b), or

- (b) determine that any condition imposed by them in relation to any licence in pursuance of subsection (2)(c) has not been satisfied,

any provisions of this Part relating to the awarding of licences of the kind in question shall (subject to subsection (4)) have effect as if the person to whom the licence was awarded or granted had not made an application for it.

(4) Those provisions shall not so have effect if the Commission decide that it would be desirable to publish a fresh notice under this Part in respect of the grant of a licence, or (as the case may be) a further licence, to provide the service in question.

(5) Every licence shall include such conditions as the Commission consider necessary or expedient to ensure that where –

- (a) the holder of the licence is a body, and
- (b) a relevant change takes place after the grant of the licence,

the Commission may revoke the licence by notice served on the holder of the licence and taking effect forthwith or on a date specified in the notice.

(6) The Commission shall not serve any such notice on the licence holder unless they have given him a reasonable opportunity of making representations to them about the matters complained of.

(7) In this section “relevant change”, in relation to a body to which a licence has been awarded or granted, means –

- (a) any change affecting the nature or characteristics of the body, or
- (b) any change in the persons having control over or interests in the body,

being (in either case) a change which is such that, if it fell to the Commission to determine whether to award the licence to the body in the new circumstances of the case, they would be induced by the change to refrain from so awarding it.

General requirements as to licensed services

6.– (1) The Commission shall do all that they can to secure that every licensed service complies with the following requirements, namely –

- (a) that nothing is included in its programmes which offends against good taste or decency or is likely to encourage or incite to crime or lead to disorder or to be offensive to public feeling;
- (b) that any news given (in whatever form) in its programmes is presented with due accuracy and impartiality;
- (c) that due impartiality is preserved on the part of the person providing the service as respects matters of political or industrial controversy or relating to current public policy;

- (d) that due responsibility is exercised with respect to the content of any of its programmes which are religious programmes, and that in particular any such programmes do not involve –
 - (i) any improper exploitation of any susceptibilities of those watching the programmes, or
 - (ii) any abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination; and
 - (e) that its 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, persons watching the programmes without their being aware, or fully aware, of what has occurred.
- (2) In applying subsection (1)(c) a series of programmes may be considered as a whole.
- (3) The Commission shall –
- (a) draw up, and from time to time review, a code giving guidance as to the rules to be observed in connexion with the application of subsection (1)(c) in relation to licensed services; and
 - (b) do all that they can to secure that the provisions of the code are observed in the provision of licensed services;
- and the Commission may make different provision in the code for different cases or circumstances.
- (4) Without prejudice to the generality of subsection (1), the Commission shall do all that they can to secure that there are excluded from the programmes included in a licensed service all expressions of the views and opinions of the persons providing the service on matters (other than the provision of programme services) which are of political or industrial controversy or relate to current public policy.
- (5) The rules specified in the code referred to in subsection (3) shall, in particular, take account of the following matters –
- (a) that due impartiality should be preserved on the part of the person providing a licensed service as respects major matters falling within subsection (1)(c) as well as matters falling within that provision taken as a whole; and
 - (b) the need to determine what constitutes a series of programmes for the purpose of subsection (2).
- (6) The rules so specified shall, in addition, indicate to such extent as the Commission consider appropriate –
- (a) what due impartiality does and does not require, either generally or in relation to particular circumstances;
 - (b) the ways in which due impartiality may be achieved in connexion with programmes of particular descriptions;

- (c) the period within which a programme should be included in a licensed service if its inclusion is intended to secure that due impartiality is achieved for the purposes of subsection (1)(c) in connexion with that programme and any programme previously included in that service taken together; and
- (d) in relation to any inclusion in a licensed service of a series of programmes which is of a description specified in the rules –
 - (i) that the dates and times of the other programmes comprised in the series should be announced at the time when the first programme comprised is included in that service, or
 - (ii) if that is not practicable, that advance notice should be given by other means of subsequent programmes so comprised which include material intended to secure, or assist in securing, that due impartiality is achieved in connexion with the series as a whole;

and those rules shall, in particular, indicate that due impartiality does not require absolute neutrality on every issue or detachment from fundamental democratic principles.

(7) The Commission shall publish the code drawn up under subsection (3), and every revision of it, in such manner as they consider appropriate.

(8) Nothing in this section or in sections 7 to 12 has effect in relation to any licensed service which is an additional service other than the teletext service referred to in section 49(2).

General code for programmes

7 – (1) The Commission shall draw up, and from time to time review, a code giving guidance –

- (a) as to the rules to be observed with respect to the showing of violence, or the inclusion of sounds suggestive of violence, in programmes included in licensed services, particularly when large numbers of children and young persons may be expected to be watching the programmes;
- (b) as to the rules to be observed with respect to the inclusion in such programmes of appeals for donations; and
- (c) as to such other matters concerning standards and practice for such programmes as the Commission may consider suitable for inclusion in the code;

and the Commission 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), the Commission shall have special regard to programmes included in licensed services in circumstances such that large numbers of children and young persons may be expected to be watching the programmes.

(3) The Commission shall, in drawing up or revising the code under this section, take account of such of the international obligations of the United Kingdom as the Secretary of State may notify to them for the purposes of this subsection.

(4) The Commission shall publish the code drawn up under this section, and every revision of it, in such manner as they consider appropriate.

General provisions as to advertisements

8.– (1) The Commission shall do all that they can to secure that the rules specified in subsection (2) are complied with in relation to licensed services.

(2) Those rules are as follows –

(a) a licensed service must not include –

- (i) any advertisement which is inserted by or on behalf of any body whose objects are wholly or mainly of a political nature,
- (ii) any advertisement which is directed towards any political end, or
- (iii) any advertisement which has any relation to any industrial dispute (other than an advertisement of a public service nature inserted by, or on behalf of, a government department); [or the States of Jersey]

(b) in the acceptance of advertisements for inclusion in a licensed service there must be no unreasonable discrimination either against or in favour of any particular advertiser; and

(c) a licensed service must not, without the previous approval of the Commission, include a programme which is sponsored by any person whose business consists, wholly or mainly, in the manufacture or supply of a product, or in the provision of a service, which the licence holder is prohibited from advertising by virtue of any provision of section 9.

(3) Nothing in subsection (2) shall be construed as prohibiting the inclusion in a licensed service of any party political broadcast which complies with the rules (so far as applicable) made by the Commission for the purposes of section 36.

[(4) Subsection (2) above has effect as if any regulations under section 8(4) of the Broadcasting Act 1990 for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey.]

(5) The Commission shall not act as an advertising agent.

Control of advertisements

9.– (1) It shall be the duty of the Commission –

(a) after the appropriate consultation, to draw up, and from time to time review, a code –

- (i) governing standards and practice in advertising and in the sponsoring of programmes, and
- (ii) prescribing the advertisements and methods of advertising or sponsorship to be prohibited, or to be 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;

and the Commission may make different provision in the code for different kinds of licensed services.

- (2) In subsection (1) “the appropriate consultation” means consultation with –

- (a) the Radio Authority;
- (b) every person who is the holder of a licence under this Part;
- (c) such bodies or persons appearing to the Commission to represent each of the following, namely –
 - (i) viewers,
 - (ii) advertisers, and
 - (iii) professional organisations qualified to give advice in relation to the advertising of particular products,
 as the Commission think fit; and
- (d) such other bodies or persons who are concerned with standards of conduct in advertising as the Commission think fit.

(3) The Commission shall publish the code drawn up under this section, and every revision of it, in such manner as they consider appropriate.

- (4) The Commission shall –

- (a) from time to time consult the Secretary of State [and the States of Jersey Broadcasting Committee¹] as to the classes and descriptions of advertisements which must not be included in licensed services and the methods of advertising or sponsorship which must not be employed in, or in connexion with, the provision of such services; and
- (b) carry out any directions which [the Secretary of State] may give to them in respect of such matters.

(5) The Commission may, in the discharge of a general responsibility with respect to advertisements and methods of advertising and sponsorship, impose requirements as to advertisements or methods of advertising or sponsorship which go beyond the requirements imposed by the code.

(6) The methods of control exercisable by the Commission for the purpose of securing that the provisions of the code are complied with, and for the purpose of securing compliance with requirements imposed under subsection (5) which go beyond the requirements of the code, shall include a power to give directions to the holder of a licence –

¹ by R&O.9471 and R&O.120/2002, now the Economic Development Committee

(a) with respect to the classes and descriptions of advertisements and methods of advertising or sponsorship to be excluded, or to be excluded in particular circumstances, or

(b) with respect to the exclusion of a particular advertisement, or its exclusion in particular circumstances.

(7) The Commission may give directions to persons holding any class of licences with respect to the times when advertisements are to be allowed.

(8) Directions under this section may be, to any degree, either general or specific and qualified or unqualified; and directions under subsection (7) may, in particular, relate to –

(a) the maximum amount of time to be given to advertisements in any hour or other period,

(b) the minimum interval which must elapse between any two periods given to advertisements and the number of such periods to be allowed in any programme or in any hour or day,

(b) the exclusion of advertisements from a specified part of a licensed service,

and may make different provision for different parts of the day, different days of the week, different types of programmes or for other differing circumstances.

(9) The Commission shall –

(a) in drawing up or revising the code, or

(b) in giving any directions under subsection (7),

take account of such of the international obligations of the United Kingdom as the Secretary of State may notify to them for the purposes of this subsection.

Government control over licensed services

10.– (1) If it appears to him to be necessary or expedient to do so in connexion with his functions as such, the Secretary of State or any other Minister of the Crown may at any time by notice require the Commission to direct the holders of any licences specified in the notice to publish in their licensed services, at such times as may be specified in the notice, such announcement as is so specified, with or without visual images of any picture, scene or object mentioned in the announcement; and it shall be the duty of the Commission to comply with the notice.

(2) Where the holder of a licence publishes any announcement in pursuance of a direction under subsection (1), he may announce that he is doing so in pursuance of such a direction.

(3) The Secretary of State may at any time by notice require the Commission to direct the holders of any licences specified in the notice refrain from including in the programmes included in their licensed services any matter or classes of matter specified in the notice; and it shall be the duty of the Commission to comply with the notice.

- (4) Where the Commission –
 - (a) have given the holder of any licence a direction in accordance with a notice under subsection (3), or
 - (b) in consequence of the revocation by the Secretary of State of such a notice, have revoked such a direction,

or where such a notice has expired, the holder of the licence in question may publish in the licensed service an announcement of the giving or revocation of the direction or of the expiration of the notice, as the case may be.

(5) The powers conferred by this section are in addition to any power specifically conferred on the Secretary of State by any other provision of this Act.

- (6) * * * * *

Monitoring by Commission of programmes included in licensed services

11.– (1) For the purpose of maintaining supervision over the programmes included in licensed services the Commission may make and use recordings of those programmes or any part of them.

- (2) A licence shall include conditions requiring the licence holder –
 - (a) to retain, for a period not exceeding 90 days, a recording of every programme included in the licensed service;
 - (b) at the request of the Commission, to produce to them any such recording for examination or reproduction;
 - (c) at the request of the Commission, to produce to them any script or transcript of a programme included in the licensed service which he is able to produce to them.

(3) Nothing in this Part shall be construed as requiring the Commission, in the discharge of their duties under this Part as respects licensed services and the programmes included in them, to view such programmes in advance of their being included in such services.

Audience research

12.– (1) The Commission shall make arrangements –

- (a) for ascertaining –
 - (i) the state of public opinion concerning programmes included in licensed services, and
 - (ii) any effects of such programmes on the attitudes or behaviour of persons who watch them; and
- (b) for the purpose of assisting them to perform their functions under Chapter II in connexion with the programmes to be included in the various services licensed thereunder, for ascertaining the types of programme that members of the public would like to be included in licensed services.

- (2) Those arrangements shall –
- (a) secure that, so far as is reasonably practicable, any research undertaken in pursuance of the arrangements is undertaken by persons who are neither members nor employees of the Commission; and
 - (b) include provision for full consideration by the Commission of the results of any such research.

Prohibition on providing television services without a licence

13.– (1) Subject to subsection (2), any person who provides any service falling within section 2(1)(a) or (b) without being authorised to do so by or under a licence under this Part shall be guilty of an offence.

[(2) Subsection (1) above has effect as if any order under section 13(2) of the Broadcasting Act 1990 for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey.]

- (3) A person guilty of an offence under this section shall be liable [to a fine] –

(a) * * * * *

(b) * * * * *

(4) No proceedings in respect of an offence under this section shall be instituted [except by or with the consent of Her Majesty's Attorney General for Jersey].

(5) Without prejudice to subsection (3), compliance with this section shall be enforceable by civil proceedings by * * [Her Majesty's Attorney General for Jersey].

(6) * * * * *

CHAPTER II

TELEVISION BROADCASTING ON CHANNELS 3, 4 AND 5

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The Channel Four Television Corporation

23.– (1) There shall be a corporation to be called the Channel Four Television Corporation (in this Part referred to as “the Corporation”).

(2) The Corporation shall consist of –

- (a) a chairman and a deputy chairman appointed by the Commission; and
- (b) such number of other members, not being less than eleven nor more than thirteen, as the Commission may from time to time determine.

(3) The other members referred to in subsection (2)(b) shall consist of –

- (a) persons appointed by the Commission; and
- (b) ex-officio members of the Corporation;

and the total number of members appointed by the Commission under subsection (2)(a) and paragraph (a) above shall exceed the number of ex-officio members.

(4) Any appointment made by the Commission under subsection (2)(a) or (3)(a) shall require the approval of the Secretary of State.

(5) For the purposes of subsection (3) the following persons shall be ex-officio members of the Corporation, namely –

- (a) the chief executive of the Corporation; and
 - (b) such other employees of the Corporation as may for the time being be nominated by the chief executive and the chairman of the Corporation acting jointly.
- (6) Schedule 3 to this Act shall have effect with respect to the Corporation.

Channel 4 to be provided by Corporation as licensed service

24.– (1) The function of the Corporation shall be to secure the continued provision (subject to and in accordance with the provisions of this Part) of the television broadcasting service known as Channel 4.

(2) All the shares in the body corporate referred to in section 12(2) of the 1981 Act (activities to be carried on by subsidiary of Independent Broadcasting Authority) shall vest in the Corporation on 1st January 1993.

(3) Channel 4 shall be provided by the Corporation under a licence granted to them by the Commission, and shall be so provided for so much of [England, Scotland, Northern Ireland and the Bailiwick of Jersey] as may from time to time be reasonably practicable.

(4) The licence to be granted to the Corporation by the Commission in pursuance of subsection (3) shall continue in force for a period of ten years beginning with 1st January 1993, and may be renewed by the Commission on one or more occasions for a period of ten years beginning with the date of renewal.

Conditions to be included in Channel 4 licence

25.– (1) The licence granted to the Corporation in pursuance of section 24(3) shall include such conditions as appear to the Commission to be appropriate for securing not only that Channel 4 complies with the requirements specified in subsection(2) but also –

- (a) that Channel 4 programmes contain a suitable proportion of matter calculated to appeal to tastes and interests not generally catered for by Channel 3, and
- (b) that innovation and experiment in the form and content of those programmes are encouraged,

and generally that Channel 4 is given a distinctive character of its own.

(2) The requirements referred to in subsection (1) are –

- (a) that Channel 4 is provided as a public service for disseminating information, education and entertainment;
- (b) that Channel 4 programmes maintain –
 - (i) a high general standard in all respects (and, in particular, in respect of their content and quality), and
 - (ii) a wide range in their subject matter, having regard both to the programmes as a whole and also to the days of the week on which, and the times of the day at which, the programmes are broadcast;
- (c) (without prejudice to so much of paragraph (a) as relates to the dissemination of education) that a suitable proportion of Channel 4 programmes are of an educational nature;
- (d) that a sufficient amount of time is given in Channel 4 programmes to news programmes and current affairs programmes which are of high quality;
- (e) that a proper proportion of the matter included in Channel 4 programmes is of European origin; and
- (f) that in each year not less than the prescribed percentage of the total amount of time allocated to the broadcasting of qualifying programmes on Channel 4 is allocated to the broadcasting of a range and diversity of independent productions.

(3) In applying subsection (2)(e) the Commission shall have regard to such of the international obligations of the United Kingdom as the Secretary of State may notify to them for the purposes of this subsection.

(4) In subsection (2)(f) –

- (a) “qualifying programmes” and “independent productions” have the same meaning as in section 16(2)(h) and “the prescribed percentage” means the percentage for the time being specified in section 16(2)(h); and

- (b) the reference to a range of independent productions is a reference to a range of such productions in terms of cost of acquisition as well as in terms of the types of programme involved.

(5) The licence referred to in subsection (1) shall also include conditions requiring the Corporation not to be involved in the making of programmes to be broadcast on Channel 4 except to such extent as the Commission may allow.

- (6) In this section “programme” does not include an advertisement.

Revenue deficits of Corporation to be funded by Channel 3 licensees

26.– (1) The Commission shall, before the beginning of the year 1993 and each subsequent year –

- (a) estimate the amount of the Corporation’s qualifying revenue for that year;
- (b) estimate the amount of the total television revenues for that year; and
- (c) estimate the Corporation’s prescribed minimum income for that year;

and the Commission may, on one or more occasions, revise any estimate made by them under this subsection.

- (2) For the purposes of this section –

- (a) the Corporation’s prescribed minimum income for any year shall be 14 per cent of the total television revenues for that year; and
- (b) “total television revenues” means, in relation to any year, the aggregate of the qualifying revenues for that year of the following, namely –
 - (i) all holders of Channel 3 or Channel 5 licences;
 - (ii) the Welsh Authority; and
 - (iii) the Corporation itself.

- (3) If, in the case of any year, the aggregate of the following amounts, namely –

- (a) the amount of the Corporation’s qualifying revenue for that year as estimated by the Commission under subsection (1), and
- (b) any amount which, at the beginning of that year, is for the time being standing to the credit of any such reserve of fund as is mentioned in section 27(3),

is less than the amount of the Corporation’s prescribed minimum income for that year as estimated by the Commission under subsection (1), then (subject to subsection 4)) the amount of the difference shall be raised by the Commission by means of a levy imposed on all persons who are for the time being holders of Channel 3 licences.

(4) The aggregate amount payable by virtue of any levy under subsection (3) shall not exceed two per cent of the amount estimated by the Commission for the year in question under subsection (1)(b); and the amount to be paid by each of the persons subject to the levy shall be

such proportion of that aggregate amount as is determined by the Commission in relation to him (and different proportions may be so determined in relation to different persons).

(5) Every Channel 3 licence shall include conditions –

- (a) requiring the holder of the licence to pay to the Commission, by monthly instalments, any amount which he is liable to pay by virtue of subsections (3) and (4);
- (b) authorising the Commission to adjust the instalments payable by the holder of the licence to take account of any revised estimate made by them under subsection (1); and
- (c) providing for the adjustment of any overpayment or underpayment.

(6) Any amount received by the Commission by virtue of subsection (5)(a) shall be transmitted by them to the Corporation.

(7) Where, in respect of any year –

- (a) the Commission have imposed a levy under subsection (3), and
- (b) the aggregate amount transmitted by them to the Corporation under subsection (6) exceeds the relevant amount,

the Commission shall notify the Corporation of that fact; and the Corporation shall, as soon as reasonably practicable after receiving such a notification, repay to the Commission the amount of that excess.

(8) In subsection (7) “the relevant amount” means the amount by which the aggregate of the following amounts, namely –

- (a) the Corporation’s qualifying revenue for the year in question, and
- (b) any such amount as is mentioned in subsection (3)(b),

is less than the Corporation’s prescribed minimum income for that year.

(9) Section 19(2) to (6) shall have effect, with any necessary modifications, for the purpose of enabling the Commission to estimate or determine a person’s qualifying revenue for any year for the purposes of this section.

[(10) Subsections (2) and (4) above have effect as if any order under section 26(10) of the Broadcasting Act 1990 for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey.]

(11) * * * * *

Application of excess revenues of Corporation

27.– (1) Where the qualifying revenue of the Corporation for any year exceeds the Corporation’s prescribed minimum income for that year, the Corporation shall –

- (a) pay one half of the excess to the Commission; and

- (b) apply the other half in accordance with subsection (3).

(2) Where the Commission receive any amount under subsection (1)(a) in respect of any year, they shall distribute that amount (“the relevant amount”) between the holders of Channel 3 licences in such a way that each of them receives such proportion of the relevant amount as corresponds to the proportion of the aggregate amount referred to in subsection (4) of section 26 which he would, in the opinion of the Commission have been required to pay if a levy had been imposed for that year under subsection (3) of that section.

- (3) Where subsection (1)(b) has effect in relation to any amount –

- (a) half of that amount shall be carried by the Corporation to the credit of a reserve fund established by them under this subsection, and
- (b) the other half may be applied by the Corporation towards meeting current expenditure incurred by them in connexion with the provision of Channel 4, but to the extent that it is not so applied shall be carried to the credit of that fund;

and (subject to the following provisions of this section) the management and application of that fund shall be as the Corporation may determine.

(4) Subject to subsection (5), no part of that fund shall be applied otherwise than for the purposes of Channel 4; and no direction may be given by the Secretary of State under that subsection with respect to the application of any amount for the time being standing to the credit of that fund which has been taken into account by the Commission for the purposes of section 26(3)(b) or (8)(b).

(5) The Secretary of State may, with the approval of the Treasury, give to the Corporation such directions as he thinks fit with respect to the management and application of that fund (including directions requiring the whole or part of it to be paid into the Consolidated Fund); and the Corporation shall comply with any such directions.

(6) In subsection (1) above the reference to the Corporation’s prescribed minimum income for any year shall be construed in accordance with section 26(2); and subsections (2) to (6) of section 19 shall have effect for determining the Corporation’s qualifying revenue for any year for the purposes of subsection (1) above as they have effect for determining a person’s qualifying revenue for any accounting period of his for the purposes of subsection (1)(c) of that section.

Channel 5

28.– (1) The Commission shall do all that they can to secure the provision of a television broadcasting service for any such minimum area of the United Kingdom [and the Bailiwick of Jersey] as may be determined by them in accordance with subsection (2); and any such service shall be known as Channel 5.

(2) In determining the minimum area of the United Kingdom [and the Bailiwick of Jersey] for which Channel 5 is to be provided the Commission shall have regard to the following consideration, namely that the service should, so far as is reasonably practicable, make the most effective use of the frequencies on which it is to be provided.

(3) If the Commission so determine, Channel 5 shall be provided under a particular licence only between such times of the day or on such days of the week (or both) as they may determine.

(4) Where the Commission have granted a licence to provide Channel 5, they may, if it appears to them to be appropriate to do so in view of any lack of facilities available for transmitting the service, dispense with any requirement to provide the service for such part of the area referred to in subsection (2) as they may determine; and any such dispensation shall have effect for such period as they may determine.

Application to Channel 5 of provisions relating to Channel 3

29.– (1) Subject to subsections (2) and (3), sections 15 to 21 shall apply in relation to a Channel 5 licence as they apply in relation to a regional Channel 3 licence.

(2) In its application in relation to a Channel 5 licence –

- (a) section 15(1)(b)(i) shall be read as referring to any such minimum area of the United Kingdom [and the Bailiwick of Jersey] as is determined by the Commission in accordance with section 28(2); and
- (b) section 16(2) shall (except where subsection (3) below applies) have effect with the omission of paragraphs (c) and (d).

(3) Where the Commission make a determination under section 28(3), section 16(2) shall, in its application in relation to each Channel 5 licence, have effect to such extent as they may determine to be appropriate having regard to the nature of the service to be provided under that licence.

Initial Channel 5 licensee required to retune equipment susceptible to interference

30.– (1) A Channel 5 licence which is in force at the commencement of the provision of Channel 5 shall include conditions –

- (a) requiring the holder of the licence to make arrangements for any relevant equipment to be retuned or otherwise modified –
 - (i) at the request of the person by whom the equipment is kept (being a request made before such date as is specified in the conditions), and
 - (ii) without charge to that person,
 so far as is necessary to prevent the equipment from suffering interference caused by the transmission of Channel 5;
- (b) requiring all work falling to be carried out under the arrangements –
 - (i) to be carried out in a proper manner, and
 - (ii) to be completed within such period as is specified in the conditions; and
- (c) enabling the Commission to determine whether work carried out under the arrangements is carried out in a proper manner.

(2) Any such Channel 5 licence shall also include conditions requiring the holder of the licence to publicise, in such manner as may be approved by the Commission, information with respect to –

- (a) the likelihood of different kinds of equipment suffering interference caused by the transmission of Channel 5;
- (b) the arrangements which the holder of the licence is required to make by virtue of conditions imposed in pursuance of subsection (1); and
- (c) the kinds of equipment in relation to which those arrangements are to be so made.

(3) The holder of a Channel 5 licence shall not be required, by virtue of conditions imposed in pursuance of subsection (1), to make any such arrangements as are mentioned in that subsection in relation to any relevant equipment –

- (a) unless the equipment –
 - (i) is, on the date of the making of such a request as is referred to in paragraph (a)(i) of that subsection, kept by the person in question wholly or mainly for domestic purposes, and
 - (ii) was so kept by that person on the commencement date (if that date occurred before the date mentioned in sub-paragraph (i) above); or
- (b) if the equipment would not be liable to suffer interference caused by the transmission of Channel 5 but for the installation at the place where the equipment is kept of any apparatus for enabling that service to be received there;

and, where any relevant equipment has been retuned or otherwise modified in accordance with any such conditions, the holder of such a licence shall not be required by virtue of any such conditions to make arrangements on any subsequent occasion for the retuning or other modification of that equipment.

(4) Any dispute as to when the commencement date occurred in the case of any relevant equipment shall be determined by the Commission.

(5) Where –

- (a) in accordance with section 28(3), more than one Channel 5 licence is in force at the same time, and
- (b) each of the licences includes such conditions as are mentioned in subsections (1) and (2),

the holders of the licences shall each comply with those conditions to such extent as the Commission may determine in relation to him.

(6) Where the holder of a Channel 5 licence is required, by virtue of conditions imposed in pursuance of subsection (1), to make any such arrangements as are mentioned in that subsection in relation to any relevant equipment, those conditions shall be taken as requiring him in addition to make arrangements for any television set connected to that equipment to be retuned –

- (a) at the request of the person by whom the equipment is kept, and
- (b) without charge to that person,

so far as is necessary to enable it to be used in conjunction with the equipment (as retuned or otherwise modified); and subsections (1)(b) and (c) and (2)(b) shall have effect in relation to those arrangements as they have effect in relation to any such arrangements as are mentioned in subsection (1)(a).

- (7) In this section –

“the commencement date”, in relation to any relevant equipment, means the date when Channel 5 began to be provided for reception in an area which includes the place where the equipment is kept on the date of the making of such a request as is referred to in subsection (1)(a)(i); and

“relevant equipment” means any equipment which is capable of transmitting self-generated electromagnetic signals for reception by a television set connected to it and which is liable, if used without being retuned or otherwise modified to suffer interference caused by the transmission of Channel 5.

Provision of news on Channels 3 and 5

31.– (1) A Channel 3 or Channel 5 licence shall include conditions requiring the licence holder –

- (a) to broadcast in the licensed service news programmes of high quality dealing with national and international matters; and
- (b) to broadcast such programmes in that service at intervals throughout the period for which the service is provided, and in particular (except in the case of a national Channel 3 licence) at peak viewing times.

(2) A regional Channel 3 licence shall, in addition, include conditions requiring the news programmes broadcast by the licence holder in compliance with conditions imposed in pursuance of subsection (1) to be programmes provided by a nominated news provider which are –

- (a) presented live, and
- (b) broadcast simultaneously with the broadcasts of news programmes provided by the same nominated news provider which are made by other holders of regional Channel 3 licences in compliance with conditions so imposed.

(3) In subsection (2) “nominated news provider” means a body corporate for the time being nominated for the purposes of that subsection under section 32.

Nomination of bodies to provide news for regional Channel 3 services

32.– (1) With a view to enabling them to nominate bodies corporate as nominated news providers for the purposes of section 31(2), the Commission shall invite bodies corporate appearing to them to be qualified for nomination to make applications to be so nominated; and any such invitations shall be issued at a time that is, in their opinion, appropriate for securing

that at least one such body is so nominated by the time the first notice is published by them under section 15(1).

(2) Where a body corporate –

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

the Commission shall so nominate that body unless they are satisfied that to do so would be likely, in view of the number of bodies already so nominated, to be prejudicial to the provision of high quality news programmes for broadcasting in regional Channel 3 services (taken as a whole).

(3) Subject to subsections (4) and (5), any nomination made by the Commission under this section shall remain in force for a period of ten years, and at the end of that period may be renewed by the Commission for a further period of ten years.

(4) Where the Commission have refused to nominate a body corporate under this section on the grounds that they are satisfied as mentioned in subsection (2), the Commission shall from time to time thereafter, at such intervals as they may determine, review the performance as nominated news providers of all of the bodies for the time being nominated under this section; and if on any such review they are satisfied, in the case of such body so nominated as they may determine, that another body corporate which –

- (a) is not a nominated news provider, but
- (b) appears to them to be qualified for nomination,

would offer a better service than the first-mentioned body as respects the provision of high quality news programmes for broadcasting in regional Channel 3 services, they shall (subject to subsection (6)) by notice terminate that body's nomination, and shall nominate the other body under this section in its place.

(5) If at any time the Commission –

- (a) are for any reason dissatisfied in the case of any nominated news provider with the performance of that body as a nominated news provider, and
- (b) are satisfied that to terminate that body's nomination would not be prejudicial to the provision of high quality news programmes for broadcasting in regional Channel 3 services (taken as a whole),

they shall (subject to subsection (6)) by notice terminate that body's nomination.

(6) The Commission shall not terminate a body's nomination under subsection (4) unless they have given the body a reasonable opportunity of making representations to them about the proposed termination of its nomination; and they shall not terminate a body's nomination under subsection (5) unless they have given the body a reasonable opportunity of making representations to them about the matters complained of.

(7) Before nominating, or terminating the nomination of, any body under this section the Commission shall consult every person who is the holder of a licence to provide a regional Channel 3 service.

(8) Any instrument by which a body is nominated under this section shall include conditions –

- (a) imposing limits on the extent to which persons of any specified class or description may be participants in the nominated news provider;
- (b) requiring that a body to provide the Commission with such information as they may reasonably require for the purpose of determining whether any of those limits has been exceeded; and
- (c) enabling the Commission to terminate that body's nomination if satisfied that any of those limits has been exceeded;

and any such instrument may provide for any of those limits to apply only after the expiry of a specified period.

(9) The limits imposed in pursuance of subsection (8) shall secure –

- (a) that no person is a participant with more than a 20 per cent interest in the nominated news provider; and
- (b) that any participants in the nominated news provider who are holders of licences to provide regional Channel 3 service, when taken together –
 - (i) hold or are beneficially entitled to less than 50 per cent of the shares in that body; and
 - (ii) possess less than 50 per cent of the voting power in it.

(10) Any limit imposed in accordance with subsection (9)(a) shall have effect in relation to a particular participant as if he and every person connected with him were one person; and for this purpose the following persons shall be treated as connected with a particular participant, namely –

- (a) a person who controls the participant;
- (b) an associate of the participant or of a person falling within paragraph (a); and
- (c) a body which is controlled by the participant or by any associate of the participant.

(11) Subject to the provisions of subsections (9) and (10), the limits imposed in pursuance of subsection (8) shall be such as the Commission may determine.

(12) A body corporate shall be disqualified for being nominated under this section if, by virtue of any provision in Part II of Schedule 2 to this Act, it would be a disqualified person in relation to any description of licence granted by the Commission; and any reference in this section to a body corporate appearing to the Commission to be qualified for nomination is a reference to a body corporate appearing to them to be both –

- (a) effectively equipped and adequately financed to provide high quality news programmes for broadcasting in regional Channel 3 services; and
- (b) not disqualified for being nominated under this section by virtue of this subsection.

(13) In this section –

- (a) references to a nominated news provider are references to a body corporate for the time being nominated under this section; and
- (b) references to nomination under this section are references to nomination under this section for the purposes of section 31(2);

and subsections (8) to (10) shall be construed in accordance with Part I of Schedule 2 to this Act.

Conditions requiring holder of Channel 3 or Channel 5 licence to deliver promised service

33.– (1) Any Channel 3 or Channel 5 licence shall include such conditions as appear to the Commission to be appropriate for securing –

- (a) that the service provided under the licence accords with the proposals submitted by the licence holder under subsection (3)(b) of section 15; and
- (b) the implementation of the proposals submitted by him under subsection (3)(c) and (d), or (as the case may) subsection (3)(c) to (e), of that section.

(2) In subsection (1) the reference to section 15 is, in relation to a Channel 5 licence, a reference to that section as applied by section 29.

(3) Any conditions imposed in pursuance of subsection (1) may be varied by the Commission with the consent of the licence holder (and section 3(4)(b) shall accordingly not apply to any such variation).

Schools programmes

34.– (1) The Commission shall do all that they can to secure that a suitable proportion of the programmes which are included in Channel 3 services and Channels 4 and 5 (taken as a whole) are schools programmes.

(2) Accordingly, any Channel 3 licence or licence to provide Channel 4 or 5 may include –

- (a) conditions requiring the licence holder to produce, or finance the production of, schools programmes;
- (b) conditions requiring the licence holder to acquire schools programmes provided by other persons;
- (c) conditions requiring the licence holder to ensure that schools programmes included in the licenced service –
 - (i) are of high quality, and

- (ii) are suitable to meet the needs of schools in the area or areas in the United Kingdom [and the Bailiwick of Jersey] for which the service is provided;
 - (d) conditions specifying the minimum number of hours in term time or within normal school hours that are to be allocated to the broadcasting of schools programmes in the licensed service;
 - (e) conditions requiring the licence holder to provide such material for use in connexion with the schools programmes broadcast by him as may be necessary to secure that effective use is made of those programmes in schools; and
 - (f) conditions requiring the licence holder from time to time to consult such bodies or other persons who are concerned with, or have an interest in, schools or the production of schools programmes as the Commission think fit.
- (3) In this section “schools programmes” means programmes which are intended for use in schools.

Subtitling for the deaf

35.– (1) A Channel 3 or Channel 5 licence shall include –

- (a) conditions –
 - (i) specifying the relevant minimum number of hours in a week for the purposes of this section, and
 - (ii) requiring programmes with subtitling to be broadcast in the licensed service during not less than that number of hours in each week; and
- (b) conditions requiring the holder of the licence to attain such technical standards relating to the provision of subtitling as are specified in the conditions.

(2) Subject to subsections (3) and (4), the relevant minimum number of hours in a week for the purposes of this section is –

- (a) in relation to Channel 3 services –
 - (i) for the year which includes the commencement of this section, such number of hours in a week as the Commission shall determine in order to achieve an increase of at least 10 per cent, over the average number of hours in a week during which programmes with subtitling were, during the year immediately preceding that year, broadcast on ITV (as defined by section 10(2) of the 1981 Act); and
 - (ii) for each successive year, such number of hours in a week as the Commission shall determine, being a number greater than that for the previous year; and
- (b) in relation to Channel 5 –
 - (i) for the year which includes the commencement of the provision of Channel 5, such number of hours in a week as the Commission shall determine in order to secure that the proportion of the programmes broadcast on Channel 5 in a

week which is represented by programmes with subtitling is the same as that achieved in relation to Channel 3 services by virtue of paragraph (a)(i); and

- (ii) for each successive year, such number of hours in a week as the Commission shall determine, being a number greater than that for the previous year.

(3) the Commission shall make such determinations under subsection (2) as are appropriate to secure that, subject to subsection (4), the relevant minimum number of hours in a week for the purposes of this section represents –

- (a) in the case of Channel 3 services –

- (i) for the year 1998, 50 per cent of the average number of hours in a week during which programmes were, during the year 1997, broadcast on Channel 3; and
- (ii) for the year 1999 and each successive year, the greatest number of hours in a week that appears to the Commission to be reasonably practicable; and

- (b) in the case of Channel 5 –

- (i) for the year which includes the fifth anniversary of the date of the commencement of the provision of Channel 5, 50 per cent of the average number of hours in a week during which programmes were, during the year preceding that year, broadcast on Channel 5; and
- (ii) for the year following that year and each successive year, the greatest number of hours in a week that appears to the Commission to be reasonably practicable.

- (4) In the case of –

- (a) a Channel 3 service provided as mentioned in section 14(4) or (5), or
- (b) a Channel 5 service provided as mentioned in section 28(3), the relevant minimum number of hours in a week for the purposes of this section shall for any year be such number of hours in a week as the Commission shall determine, being such proportion of the number of hours in a week determined by the Commission for that year under subsection (2)(a) or (b) (as the case may be) as appears to them to be appropriate.

(5) As soon as the Commission have made any determination under this section (other than under subsection (2)(a)(i) or (b)(i)) –

- (a) they shall notify the holder of every licence to which the determination relates of the determination; and
- (b) every such licence shall have effect as if for the number for the time being specified in the conditions included in the licence in pursuance of subsection (1)(a)(i) there were substituted the new number determined by the Commission.

- (6) where any week falls –

- (a) partly within one year to which subsection (2)(a) or (b) applies, and

- (b) partly within another such year,

that week shall be treated for the purposes of this section as falling wholly within the earlier of those years.

(7) The holder of a Channel 3 or Channel 5 licence shall not impose charges for providing subtitling in respect of any programme broadcast in his licensed service.

- (8) In this section –

“on Channel 3” means in Channel 3 services taken as a whole;

“on Channel 5” means in the television broadcasting service referred to in section 28(1), taken as a whole;

“subtitling” means subtitling for the deaf, whether provided by means of a teletext service or otherwise.

36. * * * * *

Announcements of programme schedules

37.– (1) Any Channel 3 licence or licence to provide Channel 4 may include conditions requiring the licence holder to include in the licensed service such announcements concerning relevant programme schedules as the Commission may determine.

- (2) In this section “relevant programme schedules” means –

- (a) in relation to a Channel 3 licence, programme schedules for programmes to be broadcast on Channel 4 and where any part of the area for which the licensed service is to be provided is in Wales, programme schedules for programmes to be broadcast on S4C; and
- (b) in relation to the licence to provide Channel 4, programme schedules for programmes to be included in any Channel 3 service.

Promotion of equal opportunities in relation to employment by licence holder

38.– (1) Any Channel 3 licence or licence to provide Channel 4 or Channel 5 shall include conditions requiring the licence holder –

- (a) to make arrangements for promoting, in relation to employment by him, equality of opportunity between men and women and between persons of different racial groups; and
- (b) to review those arrangements from time to time.

(2) In subsection (1) “racial group” has the same meaning as in the Race Relations Act 1976.

Networking arrangements between holders of regional Channel 3 licences

39.– (1) This section has effect with respect to the making of arrangements which –

- (a) apply to all the holders of regional Channel 3 licences, and
- (b) provide for programmes made, commissioned or acquired by or on behalf of one or more of the holders of such licences to be available for broadcasting in all regional Channel 3 services,

being arrangements made for the purpose of enabling regional Channel 3 services (taken as a whole) to be a nationwide system of such services which is able to compete effectively with other television programme services provided in the United Kingdom [and the Bailiwick of Jersey]; and any such arrangements are referred to in this section as “networking arrangements”.

(2) Any application for a regional Channel 3 licence shall, in addition to being accompanied by any such proposals as are mentioned in section 15(3)(b) to (e), be accompanied by the applicant’s proposals for participating in networking arrangements made under this section; and –

- (a) where a person has duly made such an application, the Commission –
 - (i) shall, as soon as reasonably practicable after the closing date for applications for the licence, send details of his proposals for participating in such arrangements to the Director General of Fair Trading, and
 - (ii) (without prejudice to the operation of section 16(1)) shall not proceed to consider whether to award him the licence as mentioned in that provision unless it appears to the Commission that any such proposals are satisfactory; and
- (b) section 33 shall apply to any such proposals as it applies to the proposals submitted by the applicant under section 15(3)(c) to (e).

(3) The Commission may publish, in such manner as they consider appropriate, general guidance to applicants for a regional Channel 3 licence as to the kinds of proposals which they would consider satisfactory for the purposes of subsection (2)(a); but before doing so the Commission –

- (a) shall consult the Director General of Fair Trading, and
- (b) if he requests them to make any change in the guidance, shall incorporate the change in the guidance.

(4) Each regional Channel 3 licence shall include conditions requiring the licence holder to do all that he can to secure –

- (a) (in the case of a licence granted before the relevant date) that, by that date, networking arrangements have been made which –
 - (i) have been entered into by all the holders of regional Channel 3 licences, and
 - (ii) have been approved by the Commission; and
- (b) (in any case) that, so long as he provides his licensed service, there are in force networking arrangements which have been so entered into and approved (unless there are for the time being in force any arrangements made by the Commission under subsection (5)).

(5) If –

- (a) no such arrangements as are mentioned in subsection (4)(a) are made by the relevant date, or
- (b) any such arrangements are so made but cease to be in force at any time before 1st January 1995,

the Commission may themselves draw up such networking arrangements as they consider appropriate; and, if they do so –

- (i) they shall notify all the holders of the regional Channel 3 licences of those arrangements, and
- (ii) those arrangements shall (subject to subsection (6)) come into force on a date determined by the Commission;

and each regional Channel 3 licence shall include conditions requiring the licence holder to give effect to any arrangements made by the Commission under this subsection as for the time being in force.

(6) No arrangements made by the Commission under subsection (5) shall come into force at any time after 31st December 1994.

(7) Where –

- (a) any such arrangements have come into force in accordance with subsection (6), but
- (b) any networking arrangements are subsequently –
 - (i) entered into by all the holders of regional Channel 3 licences, and
 - (ii) approved by the Commission,

the arrangements referred to in paragraph (a) shall cease to have effect on the coming into force of the arrangements referred to in paragraph (b).

(8) Where any arrangements have been approved by the Commission under subsection (4) or (7)(b), no modification of those arrangements shall be made by the holders of regional Channel 3 licences unless it too has been so approved.

(9) Where any arrangements have been made by the Commission under subsection (5), they may (whether before or after the date specified in subsection (6)) make such modification of those arrangements as they consider appropriate; and if they do so –

- (a) they shall notify all the holders of regional Channel 3 licences of the modification, and
- (b) the modification shall come into force on a date determined by the Commission.

(10) Without prejudice to the generality of their power to refuse to approve any arrangements or modification under subsection (4), (7)(b) or (8), the Commission shall refuse to do so if they are not satisfied that the arrangements in question, or (as the case may be) those

arrangements as proposed to be modified, would be appropriate for the purpose mentioned in subsection (1).

(11) Where the Commission have –

- (a) approved any arrangements or modifications under subsection (4), (7)(b) or (8), or
- (b) given with respect to any arrangements or modification the notification required by subsection (5)(i) or (9)(a),

they shall, as soon as reasonably practicable after giving their approval or (as the case may be) that notification –

- (i) publish details of the arrangements or modification in such manner as they consider appropriate, and
- (ii) comply with the appropriate requirement specified in subsection (12)(a) or (b).

(12) The appropriate requirement referred to in paragraph (ii) of subsection (11) is –

- (a) in the case of any such arrangements as are referred to in paragraph (a) or (b) of that subsection, to refer those arrangements to the Director General of Fair Trading, and
- (b) in the case of any such modification as is so referred to, to inform him of that modification;

and Schedule 4 to this Act shall have effect with respect to any reference made under paragraph (a) above and matters arising out of any such reference, including the subsequent modification of the arrangements to which it relates.

(13) In this section “the relevant date” means the date which the Commission determine to be that by which any such arrangements as are mentioned in subsection (4) would need to have been made by the holders of regional Channel 3 licences in order for the arrangements to be fully in operation at the time when those persons begin to provide their licensed services.

Power to direct licensee to broadcast correction or apology or not to repeat programme

40.– (1) If the Commission are satisfied –

- (a) that the holder of a Channel 3 or Channel 5 licence has failed to comply with any condition of the licence, and
- (b) that that failure can be appropriately remedied by the inclusion in the licensed service of a correction or apology (or both) under this subsection,

they may (subject to subsection (2)) direct the licence holder to include in the licensed service a correction or apology (or both) in such form, and at such time or times, as they may determine.

(2) The Commission shall not give any person a direction under subsection (1) unless they have given him a reasonable opportunity of making representations to them about matters complained of.

(3) Where the holder of a licence includes a correction or apology in the licensed service in pursuance of a direction under subsection (1), he may announce that he is doing so in pursuance of such a direction.

(4) If the Commission are satisfied that the inclusion by the holder of a Channel 3 or Channel 5 licence of any programme in the licensed service involved a failure by him to comply with any condition of the licence, they may direct him not to include that programme in that service on any future occasion.

(5) This section shall apply in relation to Channel 4 as if any reference to a Channel 3 licence were a reference to the licence to provide Channel 4.

Power to impose financial penalty or shorten licence period

41.– (1) If the Commission are satisfied that the holder of a Channel 3 or Channel 5 licence has failed to comply with any condition of the licence or with any direction given by the Commission under or by virtue of any provision of this Part, they may (subject to the following provisions of this section) serve on him –

- (a) a notice requiring him to pay, within a specified period, a specified financial penalty to the Commission; or
- (b) a notice reducing the period for which the licence is to be in force by a specified period not exceeding two years.

(2) The amount of any financial penalty imposed on any person in pursuance of subsection (1)(a) –

- (a) shall, if such a penalty has not previously been so imposed on that person any period for which his licence has been in force (“the relevant period”), not exceed three per cent of the qualifying revenue for his last complete accounting period (as determined in accordance with section 19(2) to (6)); and
- (b) shall, in any other case, not exceed five per cent of the qualifying revenue for that accounting period (as so determined);

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

(3) The Commission shall not serve on any person such a notice as is mentioned in subsection (1)(a) or (b) unless they have given him a reasonable opportunity of making representations to them about the matters complained of.

(4) Where a licence is due to expire on a particular date by virtue of a notice served on any person under subsection (1)(b), the Commission may, on the application of that person, revoke that notice by a further notice served on him at any time before that date, if they are satisfied that, since the date of the earlier notice, his conduct in relation to the operation of the licensed service has been such as to justify the revocation of that notice.

(5) It is hereby declared that any exercise by the Commission of their powers under subsection (1) of this section in respect of any failure to comply with any condition of a licence

shall not preclude any exercise by them of their powers under section 40 in respect of that failure.

- (6) This section shall apply in relation to Channel 4 as if –
 - (a) any reference to a Channel 3 licence were a reference to the licence to provide Channel 4; and
 - (b) subsection (1)(b) were omitted.

Power to revoke Channel 3 or 5 licence

42.– (1) If the Commission are satisfied –

- (a) that the holder of a Channel 3 or Channel 5 licence is failing to comply with any condition of the licence or with any direction given by them under or by virtue of any provision of this Part, and
- (b) that that failure is such that, if not remedied, it would justify the revocation of the licence,

they shall (subject to subsection (8)) serve on the holder of the licence a notice under subsection (2).

- (2) A notice under this subsection is a notice –
 - (a) stating that the Commission are satisfied as mentioned in subsection (1);
 - (b) specifying the respects in which, in their opinion, the licence holder is failing to comply with any such condition or direction as is there mentioned; and
 - (c) stating that, unless the licence holder takes, within such period as is specified in the notice, such steps to remedy the failure as are so specified, the Commission will revoke his licence under subsection (3).

(3) If at the end of the period specified in a notice under subsection (2) the Commission are satisfied –

- (a) that the person on whom the notice was served has failed to take the steps specified in it, and
- (b) that it is necessary in the public interest to revoke his licence,

they shall (subject to subsection (8)) serve on that person a notice revoking his licence.

(4) If the Commission are satisfied in the case of any Channel 3 or Channel 5 licence –

- (a) that the holder of the licence has ceased to provide the licensed service before the end of the period for which the licence is to continue in force, and
- (b) that it is appropriate for them to do so,

they shall (subject to subsection (8)) serve on him a notice revoking his licence.

(5) If the Commission are satisfied –

- (a) that the holder of a Channel 3 or Channel 5 licence provided them, in connexion with his application for the licence, with information which was false in a material particular, or
- (b) that, in connexion with his application for the licence, the holder of such a licence withheld any material information with the intention of causing them to be misled,

they may (subject to subsection (8)) serve on him a notice revoking his licence.

(6) Subject to subsection (7), any notice served under subsection (3), (4) or (5) shall take effect as from the time when it is served on the licence holder.

(7) If it appears to the Commission to be appropriate to do so for the purpose of preserving continuity in the provision of the service in question, they may provide in any such notice for it to take effect as from a date specified in it.

(8) The Commission shall not serve any notice on a person under this section unless they have given him a reasonable opportunity of making representations to them about the matters complained of.

CHAPTER III

SATELLITE TELEVISION SERVICES

Domestic and non-domestic satellite services

43.– (1) In this Part “domestic satellite service” means a television broadcasting service where the television programmes included in the service are transmitted by satellite from a place in the United Kingdom –

- (a) on an allocated frequency, and
- (b) for general reception in the United Kingdom.

(2) In this Part “non-domestic satellite service” means –

- (a) a service which consists in the transmission of television programmes by satellite –
 - (i) otherwise than on an allocated frequency, and
 - (ii) for general reception in the United Kingdom or in any prescribed country (or both),

where the programmes are transmitted from a place in the United Kingdom; or

- (b) a service which consists in the transmission of television programmes by satellite –
 - (i) from a place which is neither in the United Kingdom nor in any prescribed country, but
 - (ii) for such reception as is mentioned in paragraph (a)(ii), if and to the extent that the programmes included in it consist of material provided by a person in the

United Kingdom who is in a position to determine what is to be included in the service (so far as it consists of programme material provided by him).

(3) For the purposes of this Part non-domestic satellite services shall be regarded as provided by the following persons –

- (a) a service falling within subsection (2)(a) –
 - (i) shall, if and to the extent of that the programmes included in it consist of material provided by a person in the United Kingdom who is in a position to determine what is to be included in the service (so far as it consists of programme material provided by him), be regarded as provided by that person (whether the programmes are transmitted by him or not), but
 - (ii) shall otherwise be regarded as provided by the person by whom the programmes are transmitted; and
- (b) a service falling within subsection (2)(b) shall be regarded as provided by the person by whom the programme material in question is provided as mentioned in that provision.

(4) In this section –

“allocated frequency” means a frequency allocated to the United Kingdom for broadcasting by satellite [“the United Kingdom” includes the Bailiwick of Jersey];

[“prescribed country” means any country specified in an order made for the purposes of section 43(4) of the Broadcasting Act 1990 for the time being in force in the United Kingdom.]

Licensing etc. of domestic satellite services

44.– (1) The Commission may grant such licences to provide domestic satellite services as they may determine.

(2) Without prejudice to the generality of section 3(2), a licence to provide a domestic satellite service may authorise the provision of a service which to any extent consists in the simultaneous transmission of different programmes on different frequencies.

(3) Subject to subsection (4), the following provisions, namely –

- (a) sections 15 to 20,
- (b) section 33, and
- (c) sections 38 and 40 to 42,

shall apply in relation to a licence to provide a domestic satellite service as they apply in relation to a licence to provide a Channel 3 service.

(4) In its application in relation to a licence to provide a domestic satellite service –

- (a) section 15(1) shall have effect with the omission of paragraph (b);

- (b) section 16 shall have effect as if the licence were a licence to provide a regional Channel 3 licence, but with the omission of paragraphs (a) to (f) of subsection (2);
- (c) section 18 shall have effect with the omission of subsections (3) to (5); and
- (d) section 20 shall have effect –
 - (i) with the substitution in subsection (1) of “fifteen years” for “ten years” in both places where those words occur, and
 - (ii) with the omission of subsection (4)(b).

Licensing etc. of non-domestic satellite services

45.– (1) An application for a licence to provide a non-domestic satellite service shall –

- (a) be made in such manner as the Commission may determine; and
- (b) be accompanied by such fee (if any) as they may determine.

(2) Where such an application is duly made to the Commission, they may only refuse to grant the licence applied for if it appears to them that the service which would be provided under the licence would not comply with the requirements of section 6(1).

(3) Section 44(2) shall apply to a licence to provide a non-domestic satellite service as it applies to a licence to provide a domestic satellite service.

(4) Any licence granted by the Commission to provide a non-domestic satellite service shall (subject to the provisions of this Part) continue in force for a period of ten years.

(5) Subject to subsections (6) and (7), sections 40 to 42 shall apply in relation to such a licence as they apply in relation to a licence to provide a Channel 3 service.

(6) In its application in relation to a licence to provide a non-domestic satellite service, section 41 shall have effect with the omission of subsection (2); and the maximum amount which the holder of such a licence may be required to pay by way of a financial penalty imposed in pursuance of subsection (1)(a) of that section shall instead be £50,000.

(7) Section 42 shall apply in relation to such a licence with the omission of subsection (7).

[(8) Subsection (6) above has effect as if any order under section 45(8) of the Broadcasting Act 1990 for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey.]

(9) * * * * *

CHAPTER IV

LICENSABLE PROGRAMME SERVICES

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CHAPTER V

ADDITIONAL SERVICES PROVIDED ON TELEVISION BROADCASTING
FREQUENCIES**Additional services**

48.– (1) In this Part “additional services” means any service which consists in the sending of telecommunication signals for transmission by wireless telegraphy by means of the use of the spare capacity within the signals carrying any television broadcasting service provided –

- (a) on any frequency assigned under section 65(1) (other than a frequency which, in pursuance of section 73(2), is assigned by the Commission to a local delivery service within the meaning of Part II), or
- (b) on any other allocated frequency notified to the Commission by the Secretary of State.

(2) for the purposes of this Part the spare capacity within the signals carrying any such broadcasting service shall be taken to be –

- (a) where the service is provided on a frequency falling within subsection (1)(a) above, any part of those signals which is not required for the purposes of the provision of that service and is determined by the Commission to be available for the provision of additional services;
- (b) where the service is provided on a frequency notified to the Commission under subsection (1)(b) above, such part of those signals as the Secretary of State may specify when making the notification;

and references in this Part to spare capacity shall be construed accordingly.

(3) The Commission shall, when determining under subsection (2)(a) the extent and nature of the spare capacity available for the provision of additional services in the case of any frequency, have regard –

- (a) if it is a frequency on which a Channel 3 service or Channel 5 is provided, to the obligations of the person providing that service as respects the provision of subtitling in accordance with conditions imposed in pursuance of section 35;
- (b) if it is a frequency on which Channel 4 is provided, to the need for subtitling to be provided in connexion with programmes on Channel 4; and
- (c) if it is a frequency falling within either of paragraphs (a) and (b), to any need of the person providing the service in question to be able to use part of the signals carrying it for providing services (other than subtitling) which are ancillary to programmes included in the service and directly related to their contents.

(4) A person holding a licence to provide a Channel 3 service or Channel 4 or 5 shall be taken for the purposes of this Part to be authorised by his licence –

- (a) to provide subtitling as mentioned in subsection (3)(a) or (b); and

(b) to provide any such services as are mentioned in subsection (3)(c).

(5) The Secretary of State may, when making any notification under subsection (1)(b), specify a date beyond which the frequency in question is not to be used for the provision of additional services; and any such notification shall accordingly cease to have effect on that date.

(6) In this section –

“allocated frequency” means a frequency allocated to the United Kingdom for the provision of television broadcasting services;

“subtitling” means subtitling for the deaf provided by means of a teletext service; and

“telecommunication signals” means anything falling within paragraphs (a) to (d) [of Article 2(1) of the Telecommunications (Jersey) Law 1972]⁵.

Licensing of additional services

49.– (1) Subject to subsection (2), the Commission shall do all that they can to secure that, in the case of each of the following frequencies, namely –

- (a) any frequencies falling within section 48(1)(a) on which television broadcasting services are provided, and
- (b) any frequencies notified to the Commission under section 48(1)(b),

all of the spare capacity available for the provision of additional services on that frequency is used for the provision of such services under additional services licences granted by the Commission in accordance with this section.

(2) The Commission shall do all that they can to secure, in relation to the combined spare capacity available for the provision of additional services on frequencies of which Channel 3 services and Channel 4 are respectively provided, that a single teletext service is provided on that spare capacity; but any such service shall be provided only on so much of that spare capacity as the Secretary of State may approve.

(3) In relation to so much of any such service as is provided for reception wholly or mainly in Wales, references in subsection (2) to any such combined spare capacity as is there mentioned shall be construed as reference to the spare capacity available for the provision of additional services on frequencies on which S4C is provided; and the Secretary of State shall exercise his powers under section 48(1)(b) and (2)(b) in such manner as he considers appropriate to take account of this subsection.

(4) An additional services licence may relate to the use of spare capacity within more than one frequency; and two or more additional services licences may relate to the use of spare capacity within the same frequency where it is to be used at different times, or in different areas, in the case of each of those licences.

(5) An additional services licence may include provisions enabling the licence holder, subject to and in accordance with such conditions as the Commission may impose, to authorise

⁵ Volume 1970-1972, page 395.

any person to whom this subsection applies to provide any additional service on the spare capacity allocated by the licence.

(6) Subsection (5) applies to any person who is not a disqualified person in relation to an additional services licence by virtue of Part II of Schedule 2 to this Act.

(7) Any conditions included in an additional services licence shall apply in relation to the provision of additional services by a person authorised as mentioned in subsection (5) as they apply in relation to the provision of such services by the licence holder; and any failure by such a person to comply with any such conditions shall be treated for the purposes of this Part as a failure on the part of the licence holder to comply with those conditions.

(8) Every licence under this Part to provide a television broadcasting service shall include such conditions as appear to the Commission to be appropriate for securing that the licence holder grants –

- (a) to any person who holds a licence to provide additional services on the frequency on which that broadcasting service is provided, and
- (b) to any person who is authorised by any such person as mentioned in subsection (5) to provide additional services on that frequency,

access to facilities reasonably required by that person for the purposes of, or in connexion with, the provision of any such additional services.

(9) Any person who grants to any other person access to facilities in accordance with conditions imposed under subsection (8) may require that other person to pay a reasonable charge in respect thereof; and any dispute as to the amount of any such charge shall be determined by the Commission.

(10) In this Part “additional services licence” means a licence to provide additional services.

Applications for additional services licences

50.– (1) Where the Commission propose to grant a licence to provide additional services they shall publish, in such manner as they consider appropriate, a notice –

- (a) stating that they propose to grant such a licence;
- (b) specifying –
 - (i) the television broadcasting service or services on whose frequency or frequencies the services are to be provided, and
 - (ii) (subject to the approval of the Secretary of State) the extent and nature of the spare capacity which is to be allocated by the licence;
- (c) inviting applications for the licence and specifying the closing date for such applications; and
- (d) specifying –
 - (i) the fee payable on any application made in pursuance of the notice, and

- (ii) the percentage of qualifying revenue for each accounting period that would be payable by an applicant in pursuance of section 52(1)(c) if he were granted the licence.
- (2) The Commission may, if they think fit, specify under subsection (1)(d)(ii) –
 - (a) different percentages in relation to different accounting periods falling within the period for which the licence would be in force;
 - (b) a nil percentage in relation to any accounting period so falling.
- (3) Any application made in pursuance of a notice under this section must be in writing and accompanied by –
 - (a) the fee specified in the notice under subsection (1)(d)(i);
 - (b) a technical plan indicating –
 - (i) the nature of any additional services which the applicant proposes to provide, and
 - (ii) so far as known to the applicant, the nature of any additional services which any other person proposes to provide in accordance with section 49(5);
 - (c) the applicant's cash bid in respect of the licence; and
 - (d) such information as the Commission may reasonably require as to the applicant's present financial position and his projected financial position during the period for which the licence would be in force.
- (4) At any time after receiving such an application and before determining it the Commission may require the applicant to furnish additional information under subsection (3)(b) or (d).
- (5) Any information to be furnished to the Commission under this section shall, if they so require, be in such form or verified in such manner as they may specify.
- (6) The Commission shall, as soon as reasonably practicable after the date specified in a notice under this section as the closing date for applications, publish in such manner as they consider appropriate –
 - (a) the name of every person who has made an application to them in pursuance of the notice;
 - (b) particulars of the technical plan submitted by him under subsection (3)(b); and
 - (c) such other information connected with his application as the Commission consider appropriate.
- (7) The provisions of this section and sections 51 and 53 shall, in relation to the teletext service referred to in section 49(2), have effect subject to the provisions of Schedule 5 to this Act.

**Procedure to be followed by Commission in connexion with consideration of applications
for and awarding of, licences**

51.— (1) Where a person has made an application for an additional services licence in accordance with section 50, the Commission shall not proceed to consider whether to award him the licence on the basis of his cash bid in accordance with subsections (3) and (4) below unless it appears to them —

- (a) that the technical plan submitted under section 50(3)(b) is, so far as it involves the use of any telecommunication system, acceptable to the relevant licensing authorities; and
- (b) that the services proposed to be provided under the licence would be capable of being maintained throughout the period for which the licence would be in force;

and any reference to an applicant in section 17 (as applied by subsection (3) below) is accordingly a reference to an applicant in whose case it appears to the Commission that the requirements of paragraphs (a) and (b) above are satisfied.

(2) Before forming any view as to whether the requirement specified in subsection (1)(a) is satisfied in the case of an applicant the Commission shall consult the relevant licensing authorities.

(3) Subject to subsection (4), section 17 shall apply in relation to an additional services licence as it applies in relation to a Channel 3 licence.

(4) In the application of section 17 in relation to an additional services licence —

- (a) the provisions of subsection (4) down to the end of paragraph (b) shall be omitted;
- (b) in subsection (7)(a), the reference to section 19(1) shall be construed as a reference to section 52(1); and
- (c) subsection (12) shall have effect with the substitution of the following paragraph for paragraph (b) —

“(b) the name of every other applicant in whose case it appeared to the Commission that the requirement specified in section 51(1)(a) was satisfied;”.

(5) If at any time after an additional services licence has been granted to any person but before the licence has come into force —

- (a) that person indicates to the Commission that none of the services in question will be provided once the licence has come into force, or
- (b) the Commission for any other reason have reasonable grounds for believing that none of those services will be so provided,

then, subject to subsection (6) —

- (i) the Commission shall serve on him a notice revoking the licence as from the time the notice is served on him, and

- (ii) section 17 (as applied by subsection (3) above) shall, subject to section 17(14), have effect as if he had not made an application for the licence.

(6) Subsection (5) shall not apply in the case of any person by virtue of paragraph (b) of that subsection unless the Commission have served on him a notice stating their grounds for believing that none of the services in question will be provided once his licence has come into force; and they shall not serve such a notice on him unless they have given him a reasonable opportunity of making representations to them about the matters complained of.

(7) In this section “the relevant licensing authorities” means the Secretary of State and the [States of Jersey Telecommunications Board.]

Additional payments to be made in respect of additional services licences

52.– (1) An additional services licence shall include conditions requiring the licence holder to pay to the Commission (in addition to any fees required to be so paid by virtue of section 4(1)(b)) –

- (a) in respect of the first complete calendar year falling within the period for which the licence is in force, the amount specified in his cash bid;
- (b) in respect of each subsequent year falling wholly or partly within that period, the amount so specified as increased by the appropriate percentage; and
- (c) in respect of each accounting period of his falling within the period referred to in paragraph (a), an amount representing such percentage of the qualifying revenue for that accounting period as was specified in relation to the licence under section 50(1)(d)(ii).

(2) For the purposes of subsection (1)(c) the qualifying revenue for any accounting period of the licence holder shall consist of all amounts which are received or to be received by him or by any connected person and are referable to the right under this licence to use, or to authorise any other person to use, in that period the spare capacity allocated by the licence.

(3) An additional services licence may include conditions –

- (a) enabling the Commission to estimate before the beginning of an accounting period the amount due for that period by virtue of subsection (1)(c); and
- (b) requiring the licence holder to pay the estimated amount by monthly instalments throughout that period.

(4) Such a licence may in particular include conditions –

- (a) authorising the Commission to revise any estimate on one or more occasions, and to adjust the instalments payable by the licence holder to take account of the revised estimate;
- (b) providing for the adjustment of any overpayment or underpayment.

(5) Where –

- (a) the first complete accounting period of the licence holder falling within the period referred to in subsection (1)(a) (“the licence period”) does not begin at the same time as that period, or
- (b) the last complete accounting period of his falling within the licence period does not end at the same time as that period,

any reference in subsection (1)(c) to an accounting period of his shall include a reference to such part of the accounting period preceding that first complete accounting period, or (as the case may be) following that last complete accounting period, as falls within the licence period; and other references to accounting periods in this Part shall be construed accordingly.

Duration of licences, and renewal of licences for provision of services on assigned frequencies

53.– (1) A licence for the provision of additional services on a frequency notified to the Commission under section 48(1)(b) shall not continue in force beyond such date as may be specified by the Secretary of State in relation to that frequency under section 48(5); and a licence for the provision of such services on a frequency assigned under section 65(1) –

- (a) shall, subject to the provisions of this Part, continue in force for a period of ten years, and
- (b) may (subject to the following provisions of this section) be renewed on one or more occasions for a period of ten years beginning with the date of renewal.

(2) An application for the renewal of a licence under subsection (1) may be made by the licence holder not earlier than four years before the date on which it would otherwise cease to be in force and not later than the relevant date.

(3) In its application to a licence for the provision of additional services on a frequency used for the broadcasting of a domestic satellite service –

- (a) subsection (1) shall have effect with the substitution of “fifteen years” for “ten years” in both places where those words occur; and
- (b) subsection (2) shall have effect with the substitution of “five years” for “four years”.

(4) Where an application is made for the renewal of a licence under subsection (1) before the relevant date, the Commission may postpone the consideration of it by them for as long as they think appropriate having regard to subsection (9).

(5) Where an application for the renewal of an additional services licence has been duly made to the Commission, they may only (subject to subsection (6)) refuse the application if –

- (a) they are not satisfied that any additional service specified in the technical plan submitted under section 50(3)(b) would, if the licence were renewed, be provided as proposed in that plan, or

- (b) they propose to grant a fresh additional services licence for the provision of any additional service which would differ in any material respect from any such service authorised to be provided under the applicant's licence, or
- (c) they propose to determine that all or part of the spare capacity allocated by the licence is to cease to be available for the provision of additional services in order that it may be used by any relevant person for the purpose of enhancing the technical quality of his television broadcasting service;

and in paragraph (c) "relevant person" means the person providing a television broadcasting service on whose frequency the licensed service has been provided.

(6) Section 17(5) to (7) shall apply in relation to an applicant for the renewal of an additional services licence as those provisions apply in relation to such applicant as is mentioned in section 17(5), but as if –

- (a) any reference to the awarding of a Channel 3 licence to the applicant were a reference to the renewal of the applicant's licence under this section; and
 - (b) in section 17(7), the reference to section 19(1) were a reference to section 52(1).
- (7) On the grant of any such application the Commission –
- (a) shall determine an amount which is to be payable to the Commission [for the benefit of the States of Jersey] by the licence holder in respect of the first complete calendar year falling within the period for which the licence is to be renewed; and
 - (b) may specify a different percentage from that specified under section 50(1)(d)(ii) as the percentage of qualifying revenue for each accounting period of his that will be payable by the applicant in pursuance of section 52(1)(c) during the period for which the licence is to be renewed;

and the Commission may specify under paragraph (b) either of the things mentioned in section 50(2).

(8) The amount determined by the Commission under subsection (7)(a) in connexion with the renewal of a licence shall be such amount as would, in their opinion, be payable to them by virtue of section 52(1)(a) if they were granting a fresh licence to provide the additional services in question.

(9) Where the Commission have granted a person's application under this section they shall formally renew his licence not later than the relevant date or, if that is not reasonably practicable, as soon after that date as reasonably practicable; and they shall not so renew his licence unless they have notified him of –

- (a) the amount determined by them under subsection (7)(a), and
- (b) any percentage specified by them under subsection (7)(b),

and he has, within such period as is specified in that notification, notified them that he consents to the licence being renewed on those terms.

(10) Where an additional services licence is renewed under this section –

- (a) any conditions included in it in pursuance of section 52 shall have effect during the period for which the licence has been renewed –
 - (i) as if the amount determined by the Commission under subsection (7)(a) above where an amount specified in a cash bid submitted by the licence holder, and
 - (ii) subject to any determination made under subsection (7)(b) above; and
- (b) (subject to paragraph (a)) that section shall have effect in relation to the period for which the licence has been renewed as it has effect in relation to the period for which an additional services licence is originally in force.

(11) In this section “the relevant date”, in relation to an additional services licence, means the date which the Commission determine to be that by which they would need to publish a notice under section 50 if they were to grant, as from the date on which that licence would expire if not renewed, a fresh licence to provide the additional services formerly provided under that licence.

Additional services not to interfere with other transmissions

54.– (1) An additional services licence may include such conditions as the Commission consider appropriate for securing that the provision of any additional service under the licence does not cause any interference with –

- (a) the television broadcasting service or services on whose frequency or frequencies it is provided, or
- (b) any other wireless telegraphy transmissions.

(2) Before imposing any conditions in pursuance of subsection (1) the Commission shall consult the relevant licensing authorities (within the meaning of section 51).

Enforcement of additional services licences

55.– (1) If the Commission are satisfied that the holder of an additional services licence has failed to comply with any condition of the licence or with any direction given by the Commission under or by virtue of any provision of this Part, they may (subject to subsection (3)) serve on him a notice requiring him to pay, within a specified period, a specified financial penalty to the Commission.

(2) The amount of any financial penalty imposed on any person in pursuance of subsection (1) –

- (a) shall, if such a penalty has not previously been so imposed on that person during the period for which his licence has been in force (“the relevant period”), not exceed three per cent of the period qualifying revenue for his last complete accounting period falling with the relevant period (as determined in accordance with section 52(2)); and
- (b) shall, in any other case, not exceed five per cent of the qualifying revenue for that accounting period (as so determined);

and, in relation to a person whose first complete accounting period falling within the relevant period has not yet ended, paragraphs (a) and (b) above shall be construed as referring to three,

or (as the case may be) five per cent of the amount which the Commission estimate to be the qualifying revenue for that accounting period (as so determined).

(3) The Commission shall not serve on any person a notice under subsection (1) unless they have given him a reasonable opportunity of making representations to them about the matters complained of.

(4) Section 42 shall apply in relation to an additional services licence as it applies in relation to a licence to provide a Channel 3 service, but with the omission of subsection (7).

CHAPTER VI

TELEVISION BROADCASTING BY WELSH AUTHORITY

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CHAPTER VII

SUPPLEMENTAL

Assignment of frequencies by Secretary of State

65.— (1) The Secretary of State may by notice assign to the Commission, for the purpose of the provision of services falling to be licensed by them under this Part of Part II, such frequencies as he may determine; and any frequency so assigned shall be taken to be so assigned for the purpose only of being used for the provision of one or more of those services.

(2) Any frequency assigned by the Secretary of State under subsection (1) may be so assigned for use only in such area or areas as may be specified by the Secretary of State when making the assignment.

(3) * * * * *

(4) The Secretary of State may by notice revoke the assignment under subsection (1) or (3) of any frequency specified in the notice, and (in the case of a frequency assigned to the Commission) may do so whether or not the frequency is for the time being one on which there is being provided a service licensed under this Part or Part II.

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Computation of qualifying revenue

67. Part I of Schedule 7 (which contains provisions relating to the computation of qualifying revenue for the purposes of this Part and Part II) shall have effect.

Certain receipts of Commission to be paid into Consolidated Fund

68.– (1) Where, in respect of any licence granted under this Part of Part II, the Commission receive any of the amounts specified in subsection (2), that amount shall not form part of the revenues of the commission but shall –

- (a) if the licence is for the provision of a service for any area in Great Britain, be paid into the Consolidated Fund of the United Kingdom;
- (b) if the licence is for the provision of a service for Northern Ireland, be paid into the Consolidated Fund of Northern Ireland; or
- (c) if the licence is for the provision of a service for the whole or part of Great Britain and for the whole or part of Northern Ireland, be paid into both of those Funds in such proportions as the Commission consider appropriate;
- [(d) if the licence is for the provision of a service for the Bailiwick of Jersey, be paid to the Treasurer of the States of Jersey and credited to the annual income of the State; or
- (e) if the licence is for the provision of a service for an area consisting of –
 - (i) the Bailiwick of Jersey and the whole or part of the United Kingdom, or
 - (ii) the Bailiwick of Jersey and the Bailiwick of Guernsey, or
 - (iii) both those Bailiwicks and the whole or part of the United Kingdom, as respects such proportion of the amount as the Commission consider appropriate, be paid and credited as mentioned in paragraph (d) above.]

(2) The amounts referred to in subsection (1) are –

- (a) any amount payable to the Commission by virtue of section 19(1), 52(1) or 77(1);
- (b) any amount payable to them by virtue of section 18(3); and
- (c) any amount payable to them by virtue of section 41(1)(a) or 55(1).

(3) Any reference in subsection (2)(a), (b) or (c) to any provision of this Part includes a reference to that provision as applied by any other provision of this Part or Part II.

(4) Subsection (1) shall not be construed as applying to any amount which is required by the Commission for the making of an adjustment in respect of an overpayment made by any person.

(5) Any amount payable by any person to the Commission under or by virtue of this Part or Part II shall be recoverable by them as a debt due to them from that person; and, where

any amount is so payable by a person as the holder of a licence granted under this Part or Part II, his liability to pay it shall not be affected by his licence ceasing (for any reason) to be in force.

(6) The Commission shall, in respect of each financial year, prepare an account showing –

- (a) all such amounts falling within subsection (1) as have been received by them, and
- (b) the sums paid into the Consolidated Funds of the United Kingdom and Northern Ireland respectively under that subsection in respect of those amounts,

and shall send that account to the Comptroller and Auditor General not later than the end of the month of November following the financial year to which it relates; and the Comptroller and Auditor General shall examine, certify and report on the account and lay copies of it, together with his report, before each House of Parliament.

Frequency planning and research and development

69.– (1) The Commission may make arrangements for such work relating to frequency planning to be carried out as they consider appropriate in connexion with the discharge of their functions.

(2) Any such work shall be directed towards securing that the frequencies assigned to the Commission under this Act are used as efficiently as is reasonably practicable.

(3) The Commission may –

- (a) make arrangements for such research and development work to be carried out as they consider appropriate in connexion with the discharge of their functions;
- (b) promote the carrying out by other persons of research and development work relating to television broadcasting.

(4) The Commission shall consult the persons holding licences under this Part or Part II as to the arrangements to be made by the Commission in pursuance of subsection (3)(a)

(5) The Commission shall secure that, so far as is reasonably practicable –

- (a) any work carried out under arrangements made in pursuance of subsection (1) or (3) is carried out under the supervision of the Commission, by persons who are neither members nor employees of the Commission; and
- (b) any work carried out under arrangements made in pursuance of subsection (3)(a) is to a substantial extent financed by persons other than the Commission.

Representation by Commission of Government and other interests in connexion with broadcasting matters

70. The functions of the Commission shall include representing, at the request of the Secretary of State –

- (a) Her Majesty's Government in the United Kingdom, and
- (b) persons providing television programme services,

on bodies concerned with the regulation (whether nationally or internationally) or matters relating to television broadcasting.

Interpretation of Part I

71.— (1) In this Part (unless the context otherwise requires) —

“the 1981 Act” means the Broadcasting Act 1981;

“additional service” and “additional services licence” have the meaning given by section 48(1) and section 49(10) respectively;

“the appropriate percentage”, in relation to any year, has the meaning given by section 19(10);

“cash bid”, in relation to a licence, has the meaning given by section 15(7);

“Channel 3” means the system of television broadcasting services established by the Commission under section 14, and “a Channel 3 licence” means a licence to provide one of the services comprised within that system;

“Channel 4” means the television broadcasting service referred to in section 24(1), and “on Channel 4” means in that service;

“Channel 5” means the television broadcasting service referred to in section 28(1), and “a Channel 5” licence means a licence to provide that service;

“the Commission” means the Independent Television Commission established by section 1;

“the Corporation” means the Channel Four Television Corporation established by section 23;

“domestic satellite service” has the meaning given by section 43(1);

“licence” means a licence under this Part, and “licensed” shall be construed accordingly;

“licensable programme service” has the meaning given by section 46(1);

“national Channel 3 service” has the meaning given by section 14(6), and “a national Channel 3 licence” means a licence to provide a national Channel 3 service;

“non-domestic satellite service” has the meaning given by section 43(2);

“regional Channel 3 service” has the meaning given by section 14(6), and “a regional Channel 3 licence” means a licence to provide a regional Channel 3 service;

“S4C” * * * * *

“spare capacity” shall be construed in accordance with section 48(2);

“television broadcasting service” has the meaning given by section 2(5);

“television programme service” has the meaning given by section 2(4).

(2) Where the person who is for the time being the holder of any licence (“the present licence holder”) is not the person to whom the licence was originally granted, any reference in this Part (however expressed) to the holder of the licence shall be construed, in relation to any time falling before the date when the present licence holder became the holder of it, as including a reference to a person who was previously the holder of the licence.

PART II

LOCAL DELIVERY SERVICES

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PART III

INDEPENDENT RADIO SERVICES

CHAPTER I

REGULATION BY AUTHORITY OF INDEPENDENT RADIO SERVICES GENERALLY

The Radio Authority

83.— (1) There shall be an authority to be called the Radio Authority (in this Part referred to as “the Authority”).

(2) The Authority shall consist of –

(a) a chairman and a deputy chairman appointed by the Secretary of State; and

- (b) such number of other members appointed by the Secretary of State, not being less than four nor more than ten, as he may from time to time determine.
- (3) Schedule 8 to this Act shall have effect with respect to the Authority.

Regulation by Authority of independent radio services

84.– (1) It shall be the function of the Authority to regulate, in accordance with this Part, the provision of the following services, namely –

- (a) sound broadcasting services to which this section applies and which are provided from places in the United Kingdom [or the Bailiwick of Jersey];
- (b) licensable sound programme services (as defined by section 112(1)) which are provided from places in the United Kingdom [or the Bailiwick of Jersey] by persons other than the BBC; and
- (c) additional services (as defined by section 114(1)) which are provided from places in the United Kingdom [or the Bailiwick of Jersey];

and in this Part “independent radio service” means a service falling within paragraph (a), (b) or (c) above.

- (2) This section applies to –

- (a) any sound broadcasting service which is provided, on a frequency or frequencies assigned to the Authority under subsection (4) –
 - (i) for any such minimum area of the United Kingdom [and the Bailiwick of Jersey] as the Authority may determine in accordance with section 98(2) (a “national service”), or
 - (ii) for a particular area or locality in the United Kingdom [and the Bailiwick of Jersey] (a “local service”), or
 - (iii) for a particular establishment or other defined location, or a particular event, in the United Kingdom [or the Bailiwick of Jersey] (a “restricted service”); and
- (b) any sound broadcasting service (other than one provided by the BBC) which consists –
 - (i) in the transmission of sound programmes by satellite from a place in the United Kingdom (or the Bailiwick of Jersey) for general reception there, or
 - (ii) in the transmission of such programmes by satellite from a place outside the United Kingdom [and the Bailiwick of Jersey] for general reception there, if and to the extent that the programmes included in the service consist of material provided by a person in the United Kingdom [or the Bailiwick of Jersey] who is in a position to determine what is to be included in the service (so far as it consists of programme material provided by him),

and any such service is referred to in this Part as a “satellite service”.

(3) For the purposes of this Part satellite services shall be regarded as provided by the following persons –

- (a) a service falling within subsection (2)(b)(i) –
 - (i) shall, if and to the extent that the programmes included in it consist of material provided by a person in the United Kingdom [or the Bailiwick of Jersey] who is in a position to determine what is to be included in the service (so far as it consists of programme material provided by him), be regarded as provided by that person (whether the programmes are transmitted by him or not), but
 - (ii) shall otherwise be regarded as provided by the persons by whom the programmes are transmitted; and
- (b) a service falling within subsection (2)(b)(ii) shall be regarded as provided by the person by whom the programme material in question is provided as mentioned in that provision.

(4) For the purposes of this Part the Secretary of State may by notice assign to the Authority such frequencies as he may determine; and any frequency so assigned shall be taken to be so assigned for the purpose only of being used for the provision of one or more independent radio services.

(5) Any frequency assigned by the Secretary of State under subsection (4) may be so assigned for use only in such area or areas as may be specified by the Secretary of State when making the assignment.

(6) The Secretary of State may by notice revoke the assignment under subsection (4) of any frequency specified in the notice, and may do so whether or not that frequency is for the time being one on which an independent radio service is being provided.

Licensing functions of Authority

85.– (1) Subject to subsection (2), the Authority may, in accordance with the following provisions of this Part, grant such licences to provide independent radio services as they may determine.

(2) The Authority shall do all that they can to secure the provision within the United Kingdom [and the Bailiwick of Jersey] of –

- (a) a diversity of national services each catering for tastes and interests different from those catered for by the others and of which –
 - (i) one is a service the greater part of which consists in the broadcasting of spoken material, and
 - (ii) another is a service which consists, wholly or mainly, in the broadcasting of music which, in the opinion of the Authority, is not pop music; and
- (b) a range and diversity of local services.

(3) It shall be the duty of the Authority to discharge their functions as respects the licensing of independent radio services in the manner which they consider is best calculated –

- (a) to facilitate the provision of licensed services which (taken as a whole) are of high quality and offer a wide range of programmes calculated to appeal to a variety of tastes and interests; and
- (b) to ensure fair and effective competition in the provision of such services and services connected with them.
- (4) * * * * *

[(5) Subsection (2)(a) above and section 98(1)(b)(iii) below have effect as if any order under section 85(5) of the Broadcasting Act 1990 for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey.]

(6) In subsection (2)(a)(ii) “pop music” includes rock music and other kinds of modern popular music which are characterised by a strong rhythmic element and a reliance on electronic amplification for their performance (whether or not, in the case of any particular piece of rock or other such music, the music in question enjoys a current popularity as measured by the number of recordings sold).

- (7) * * * * *

Licences under Part III

86.– (1) A licence shall be in writing and (subject to the provisions of this Part) shall continue in force for such period as may be specified in the licence.

(2) A licence may be granted by the Authority for the provision of such a service as is specified in the licence or for the provision of a service of such a description as is so specified; and (without prejudice to the generality of the preceding provision) a licence may be so granted for the provision of a service which to any extent consists in the simultaneous broadcasting of different programmes on different frequencies.

- (3) The following licences, namely –
 - (a) any licence to provide a national, local or satellite service,
 - (b) any licence to provide a licensable sound programme service, and
 - (c) any licence to provide additional services,

shall not continue in force for a period of more than eight years.

- (4) The Authority –
 - (a) shall not grant a licence to any person unless they are satisfied that he is a fit and proper person to hold it; and
 - (b) shall do all that they can to secure that, if they cease to be so satisfied in the case of any person holding a licence, that person does not remain the holder of the licence;

and nothing in this Part shall be construed as affecting the operation of this subsection or of section 88(1) or (2)(b) or (c) or 89(1).

- (5) The Authority may vary a licence by a notice served on the licence holder if –

- (a) in the case of a variation of the period for which the licence is to continue in force, the licence holder consents; or
- (b) in the case of any other variation, the licence holder has been given a reasonable opportunity of making representations to the Authority about the variation.

(6) Paragraph (a) of subsection (5) does not affect the operation of section 110(1)(b); and that subsection shall not authorise the variation of any conditions included in a licence in pursuance of section 102(1) or section 118(1).

(7) A licence granted to any person under this Part shall not be transferable to any other person without the previous consent in writing of the Authority.

(8) Without prejudice to the generality of subsection (7), the Authority shall not give their consent for the purposes of that subsection unless they are satisfied that any such other person would be in a position to comply with all of the conditions included in the licence which would have effect during the period for which it is to be in force.

(9) The holding of any person of a licence to provide any service shall not relieve him of any requirement to hold a licence under section 1 of the Wireless Telegraphy Act 1949⁶ or section 7 of the Telecommunications Act 1984 [or Article 5 of the Telecommunications (Jersey) Law 1972]⁷ in connexion with the provision of that service.

General licence conditions

87.– (1) A licence may include –

- (a) such conditions as appear to the Authority to be appropriate having regard to any duties which are or may be imposed on them, or on the licence holder, by or under this Act;
- (b) conditions enabling the Authority to supervise and enforce technical standards in connexion with the provision of the licensed service;
- (c) conditions requiring the payment by the licence holder to the Authority (whether on the grant of the licence or at such times thereafter as may be determined by or under the licence, or both) of a fee or fees of an amount or amounts so determined;
- (d) conditions requiring the licence holder to furnish the Authority, in such manner and at such times as they may reasonably require, with such information as they may require for the purpose of exercising the functions assigned to them by or under this Act;
- (e) conditions requiring the licence holder, if found by the Authority to be in breach of any condition of his licence, to reimburse to the Authority, in such circumstances as are specified in any conditions, any costs reasonably incurred by them in connexion with the breach of that condition;
- (f) conditions providing for such incidental and supplemental matters as appear to the Authority to be appropriate.

⁶ Tome VIII, page 172.

⁷ Volume 1970-1972, page 398.

- (2) A licence may in particular include –
- (a) conditions requiring the licence holder –
- (i) 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, or
 - (ii) (except to the extent that 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; and
- (b) conditions requiring the licence holder to permit –
- (i) any employee of, or person authorised by, the Authority, or
 - (ii) any officer of, or person authorised by, the Secretary of State,
- to enter any premises which are used in connexion with the broadcasting of the licensed service and to inspect, examine, operate or test any equipment on the premises which is used in that connexion.

(3) The fees required to be paid to the Authority by virtue of subsection (1)(c) shall be in accordance with such tariff as may from time to time be fixed by the Authority; and the amount of any fee which is to be so paid by the holder of a licence of a particular class or description shall be such as to represent what appears to the Authority to be the appropriate contribution of the holder of such a licence towards meeting the sums which the Authority regard as necessary in order to discharge their duty under paragraph 12(1) of Schedule 8.

(4) A tariff fixed under subsection (3) may specify different fees in relation to different cases or circumstances; and the Authority shall publish every such tariff in such manner as they consider appropriate.

- (5) Where the holder of any licence –
- (a) is required by virtue of any condition imposed under this Part to provide the Authority with any information, and
 - (b) in purported compliance with that condition provides them with any information which is false in a material particular,

he shall be taken for the purposes of section 110 and 111 to have failed to comply with that condition.

(6) Nothing in this Act which authorises or requires the inclusion in a licence of conditions relating to any particular matter or having effect for any particular purpose shall be taken as derogating from the generality of subsection (1).

Restrictions on the holding of licences

88.– (1) The Authority shall do all that they can to secure –

- (a) that a person does not become or remain the holder of a licence if he is a person who is a disqualified person in relation to that licence by virtue of Part II of Schedule 2 to this Act; and

- (b) that any requirements imposed by or under Parts III to V of that Schedule are complied with by or in relation to persons holding licences in relation to which those requirements apply.
- (2) The Authority may accordingly –
 - (a) require any applicant for a licence to provide them with such information as they may reasonably require for the purpose of determining –
 - (i) whether he is such a disqualified person as is mentioned in subsection (1)(a),
 - (ii) whether any such requirements as are mentioned in subsection (1)(b) would preclude them from granting a licence to him, and
 - (iii) if so, what steps would be required to be taken by or in relation to him in order for any such requirements to be complied with;
 - (b) revoke the award of a licence to a body where a relevant change takes place after the award, but before the grant, of the licence;
 - (c) make the grant of a licence to any person conditional on the taking of any specified steps that appear to them to be required to be taken as mentioned in paragraph (a)(iii);
 - (d) impose conditions in any licence enabling them to require the licence holder, if a body corporate, to give to them advance notice of proposals affecting –
 - (i) shareholdings in the body, or
 - (ii) the directors of the body,
 where such proposals are known to the body;
 - (e) impose conditions in any licence enabling them to give the licence holder directions requiring him to take, or arrange for the taking of, any specified steps appearing to them to be required to be taken in order for any such requirements as are mentioned in subsection (1)(b) to be complied with.
- (3) Where the Authority –
 - (a) revoke the award of any licence in pursuance of subsection (2)(b), or
 - (b) determine that any condition imposed by them in relation to any licence in pursuance of subsection (2)(c) has not been satisfied,

any provision of this Part relating to the awarding of licences of the kind in question shall (subject to subsection (4)) have effect as if the person to whom the licence was awarded or granted had not made an application for it.

(4) Those provisions shall not so have effect if the Authority decide that it would be desirable to publish a fresh notice under this Part in respect of the grant of a licence, or (as the case may be) a further licence, to provide the service in question.

(5) Every licence shall include such conditions as the Authority consider necessary or expedient to ensure that where –

- (a) the holder of the licence is a body, and
- (b) a relevant change takes place after the grant of the licence,

the Authority may revoke the licence by notice served on the holder of the licence and taking effect forthwith or on a date specified in the notice.

(6) The Authority shall not serve any such notice on the licence holder unless they have given him a reasonable opportunity of making representations to them about the matters complained of.

(7) In this section “relevant change”, in relation to a body to which a licence has been awarded or granted, means –

- (a) any change affecting the nature or characteristics of the body, or
- (b) any change in the persons having control over or interests in the body,

being (in either case) a change which is such that, if it fell to the Authority to determine whether to award the licence to the body in the new circumstances of the case, they would be induced by the change to refrain from so awarding it.

Disqualification for holding licence on grounds of conviction for transmitting offence

89.– (1) Subject to subsection (2), a person shall be disqualified for holding a licence under this Part if within the last five years he has been convicted of –

- (a) an offence under section 1 of the Wireless Telegraphy Act 1949⁸ (licensing of wireless telegraphy) which involved the making of any transmission by wireless telegraphy otherwise than under and in accordance with a licence under that section;
- (b) an offence under the Marine &c., Broadcasting (Offences) Act 1967⁹; or
- (c) an offence under section 97 below.

(2) Subsection (1)(a) and (b) do not apply to any offence committed before 1st January 1989.

(3) Every licence granted under this Part shall include conditions requiring the holder of the licence to do all that he can to ensure that no person who is disqualified for holding a licence by virtue of subsection (1) is concerned in the operation of any station for wireless telegraphy used in the provision of the licensed service.

General requirements as to licensed services

90.– (1) The Authority shall do all that they can to secure that every licensed service complies with the following requirements, namely –

⁸ Tome VIII, Volume 1, page 172.

⁹ Volume 1966-1967, page 732.

- (a) that nothing is included in its 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 any news given (in whatever form) in its programmes is presented with due accuracy and impartiality; and
 - (c) that its programmes do not include any technique which exploits the possibility of conveying a message to, or otherwise influencing the minds of, persons listening to the programmes without their being aware, or fully aware, of what has occurred.
- (2) The Authority shall, in the case of every licensed service which is a national, local, satellite or licensable sound programme service, do all that they can to secure that the service complies with the following additional requirements, namely –
- (a) the appropriate requirement specified in subsection (3);
 - (b) that (without prejudice to the generality of subsection (1)(b) or (3)(a)) there are excluded from its programmes all expressions of the views and opinions of the person providing the service on matters (other than sound broadcasting) which are of political or industrial controversy or relate to current public policy; and
 - (c) that due responsibility is exercised with respect to the content of any of its programmes which are religious programmes, and that in particular any such programmes do not involve –
 - (i) any improper exploitation of any susceptibilities of those listening to the programmes, or
 - (ii) any abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination.
- (3) The appropriate requirement referred to in subsection (2)(a) is –
- (a) where the licensed service is a national service, that due impartiality is preserved on the part of the person providing the service as respects matters of political or industrial controversy or relating to current public policy;
 - (b) where the licensed service is a local, satellite or licensable sound programme service, that undue prominence is not given in its programmes to the views and opinions of particular persons or bodies on such matters.
- (4) In applying subsection (3)(a) to a national service a series of programmes may be considered as a whole; and in applying subsection (3)(b) to a local, satellite or licensable sound programme service the programmes included in that service shall be taken as a whole.
- (5) The Authority shall –
- (a) draw up, and from time to time review, a code giving guidance –
 - (i) as to the rules to be observed in determining what constitutes a series of programmes for the purposes of subsection (4);

- (ii) as to the rules to be observed in other respect in connexion with the application of subsection (3)(a) in relation to a national service, and
- (iii) as to the rules to be observed in connexion with the application of subsection (3)(b) in relation to a local, satellite or licensable sound programme service; and
- (b) do all that they can to secure that the provisions of the code are observed in the provision of licensed services;

and the Authority may make different provision in the code for different cases or circumstances.

(6) The Authority shall publish the code drawn up under subsection (5), and every revision of it, in such manner as they consider appropriate.

(7) Nothing in this section or in sections 91 to 96 has effect in relation to any licensed service which is an additional service.

General code for programmes

91.– (1) The Authority shall draw up, and from time to time review, a code giving guidance –

- (a) as to the rules to be observed with respect to the inclusion in programmes of sounds suggestive of violence, particularly in circumstances such that large numbers of children and young persons may be expected to be listening to the programmes;
- (b) as to the rules to be observed with respect 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 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), the Authority shall have special regard to programmes included in licensed services in circumstances such that large numbers of children and young persons may be expected to be listening to the programmes.

(3) Before drawing up or revising the code under this section the Authority shall (to such extent as they consider it reasonably practicable to do so) consult every person who is the holder of a licence under this Part.

(4) The Authority shall publish the code drawn up under this section, and every revision of it, in such manner as they consider appropriate.

General provisions as to advertisements

92.– (1) The Authority shall do all that they can to secure that the rules specified in subsection (2) are complied with in relation to licensed services.

- (2) Those rules are as follows –
- (a) a licensed service must not include –
- (i) any advertisement which is inserted by or on behalf of any body whose objects are wholly or mainly of a political nature,
 - (ii) any advertisement which is directed towards any political end, or
 - (iii) any advertisement which has any relation to any industrial dispute (other than an advertisement of a public service nature inserted by or on behalf of a government department [or the States of Jersey]);
- (b) in the acceptance of advertisements for inclusion in a licensed service there must be not unreasonable discrimination either against or in favour of any particular advertiser; and
- (c) a licensed service must not, without the previous approval of the Authority, include a programme which is sponsored by any person whose business consists, wholly or mainly, in the manufacture or supply of a product, or in the provision of a service, which the licence holder is prohibited from advertising by virtue of any provision of section 93.

(3) Nothing in subsection (2) shall be construed as prohibiting the inclusion in a licensed service of any party political broadcast which complies with the rules (so far as applicable) made by the Authority for the purposes of section 107.

[(4) Subsection (2) above has effect as if any regulations under section 92(4) of the Broadcasting Act 1990 for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey.]

- (5) The Authority shall not act as an advertising agent.

Control of advertisements

93.– (1) It shall be the duty of the Authority –

- (a) after the appropriate consultation, to draw up, and from time to time review, a code –
- (i) governing standards and practice in advertising and in the sponsoring of programmes, and
 - (ii) prescribing the advertisements and methods of advertising or sponsorship to be prohibited, or to be 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;

and the Authority may make different provision in the code for different kinds of licensed services.

- (2) In subsection (1) “the appropriate consultation” means consultation with –

- (a) the Independent Television Commission,
- (b) such bodies or persons appearing to the Authority to represent each of the following, namely –
 - (i) listeners,
 - (ii) advertisers, and
 - (iii) professional organisations qualified to give advice in relation to the advertising of particular products,
 as the Authority think fit, and
- (c) such other bodies or persons who are concerned with standards of conduct in advertising as the Authority think fit,

and (to the extent that the Authority consider such consultation to be reasonably practicable) consultation with every person who is the holder of a licence under this Part.

(3) The Authority shall publish the code drawn up under this section, and every revision of it, in such manner as they consider appropriate.

- (4) The Authority shall –
 - (a) from time to time consult the Secretary of State [and the States of Jersey Broadcasting Committee] as to the classes and descriptions of advertisements which must not be included in licensed services and the methods of advertising or sponsorship which must not be employed in, or in connexion with, the provision of such services; and
 - (b) carry out any directions which [the Secretary of State] may give to them in respect of such matters.

(5) The Authority may, in the discharge of a general responsibility with respect to advertisements and methods of advertising and sponsorship, impose requirements as to advertisements or methods of advertising or sponsorship which go beyond the requirements imposed by the code.

(6) The methods of control exercisable by the Authority for the purpose of securing that the provisions of the code are complied with, and for the purpose of securing compliance with requirements imposed under subsection (5) which go beyond the requirements of the code, shall include a power to give directions to the holder of a licence –

- (a) with respect to the classes and descriptions of advertisements and methods of advertising or sponsorship to be excluded, or to be excluded in particular circumstances; or
- (b) with respect to the exclusion of a particular advertisement, or its exclusion in particular circumstances.

(7) Directions under this section may be, to any degree, either general or specific and qualified or unqualified.

(8) The Authority shall, in drawing up or revising the code, take account of such of the international obligations of the United Kingdom as the Secretary of State may notify to them for the purposes of this subsection.

Government control over licensed services

94.– (1) If it appears to him to be necessary or expedient to do so in connexion with his functions as such, the Secretary of State or any other Minister of the Crown may at any time by notice require the Authority to direct the holders of any licences specified in the notice to publish in their licensed services, at such times as may be specified in the notice, such announcement as is so specified; and it shall be the duty of the Authority to comply with the notice.

(2) Where the holder of a licence publishes any announcements in pursuance of a direction under subsection (1), he may announce that he is doing so in pursuance of such a direction.

(3) The Secretary of State may at any time by notice require the Authority to direct the holders of any licences specified in the notice to refrain from including in the programmes included in their licensed services any matter or classes of matter specified in the notice; and it shall be the duty of the Authority to comply with the notice.

(4) Where the Authority –

- (a) have given the holder of any licence a direction in accordance with a notice under subsection (3), or
- (b) in consequence of the revocation by the Secretary of State of such a notice, have revoked such a direction,

or where such a notice has expired, the holder of the licence in question may publish in the licensed service an announcement of the giving or revocation of the direction or of the expiration of the notice, as the case may be.

(5) The powers conferred by this section are in addition to any power specifically conferred on the Secretary of State by any other provision of this Act.

(6) * * * * *

Monitoring by Authority of programmes included in licensed services

95.– (1) For the purpose of maintaining supervision over the programmes included in licensed services the Authority may make and use recordings of those programmes or any part of them.

(2) A licence shall include conditions requiring the licence holder –

- (a) to retain, for a period not exceeding 42 days, a recording of every programme included in the licensed service;
- (b) at the request of the Authority, to produce to them any such recording for examination or reproduction;

- (c) at the request of the Authority, to produce to them any script or transcript of a programme included in the licensed service which he is able to produce to them.

(3) Nothing in this Part shall be construed as requiring the Authority, in the discharge of their duties under this Part as respects licensed services and programmes included in them, to listen to such programmes in advance of their being included in such services.

Audience research

96.– (1) The Authority shall make arrangements –

- (a) for ascertaining the state of public opinion concerning programmes included in licensed services; and
- (b) for the purpose of assisting them to perform their functions under Chapter II in connexion with the programmes to be included in national and local services for ascertaining the types of programme that members of the public would like to be included in licensed services.

(2) Those arrangements shall –

- (a) secure that, so far as is reasonably practicable, any research undertaken in pursuance of the arrangements is undertaken by persons who are neither members nor employees of the Authority; and
- (b) include provision for full consideration by the Authority of the results of any such research.

Prohibition on providing independent radio services without a licence

97.– (1) Subject to subsection (2), any person who provides any independent radio service without being authorised to do so by or under a licence under this Part shall be guilty of an offence.

[(2) Subsection (1) above has effect as if any order under section 97(2) of the Broadcasting Act 1990 for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey].

(3) A person guilty of an offence under this section shall be liable [to a fine].

(4) No proceedings in respect of an offence under this section shall be instituted [except by or with the consent of Her Majesty's Attorney General for Jersey].

(5) Without prejudice to subsection (3) above, compliance with this section shall be enforceable by civil proceedings by [Her Majesty's Attorney General for Jersey] for an injunction or interdict or for any other appropriate relief.

(6) * * * * *

CHAPTER II

SOUND BROADCASTING SERVICES

Applications for national licences

98.— (1) Where the Authority propose to grant a licence to provide a national service, they shall publish, in such manner as they consider appropriate, a notice –

- (a) stating that they propose to grant such a licence;
- (b) specifying –
 - (i) the period for which the licence is to be granted,
 - (ii) the minimum area of the United Kingdom [and the Bailiwick of Jersey] for which the service is to be provided,
 - (iii) if the service is to be one falling within section 85(2)(a)(i) and (ii), that the service is to be such a service, and
 - (iv) if there is any existing licensed national service, that the service is to be one which caters for tastes and interests different from those already catered for by any such service (as described in the notice);
- (c) inviting applications for the licence and specifying the closing date for such applications; and
- (d) specifying –
 - (i) the fee payable on any application made in pursuance of the notice, and
 - (ii) the percentage of qualifying revenue for each accounting period that would be payable by an applicant in pursuance of section 102(1)(c) if he were granted the licence.

(2) In determining the minimum area of the United Kingdom [and the Bailiwick of Jersey] for which a national service is to be provided the Authority shall have regard to the following considerations, namely –

- (a) that the service in question should, so far as is reasonably practicable, make the most effective use of the frequency or frequencies on which it is to be provided; but
- (b) that the area for which it is to be provided should not be so extensive that the costs of providing it would be likely to affect the ability of the person providing the service to maintain it.

(3) Any application made in pursuance of a notice under this section must be in writing and accompanied by –

- (a) the applicant's proposals for providing a service that would both –

- (i) comply with any requirement specified in the notice under subsection (1)(b)(iii) or (iv), and
- (ii) consist of a diversity of programmes calculated to appeal to a variety of tastes and interests;
- (b) the fee specified in the notice under subsection (1)(d)(i);
- (c) the applicant's proposals for training or retraining persons employed or to be employed by him in order to help fit them for employment in or in connexion with the making of programmes to be included in his proposed service;
- (d) the applicant's cash bid in respect of the licence;
- (e) such information as the Authority may reasonably require –
 - (i) as to the applicant's present financial position and his projected financial position during the period for which the licence would be in force, and
 - (ii) as to the arrangements which the applicant proposes to make for, and in connexion with, the transmission of his proposed service; and
- (f) such other information as the Authority may reasonably require for the purpose of considering the application.

(4) At any time after receiving such an application and before determining it the Authority may require the applicant to furnish additional information under any of paragraphs (a), (c), (e) and (f) of subsection (3).

(5) Any information to be furnished to the Authority under this section shall, if they so require, be in such form or verified in such manner as they may specify.

(6) The Authority shall, as soon as reasonably practicable after the date specified in a notice under this section as the closing date for applications, publish in such manner as they consider appropriate –

- (a) the name of every person who has made an application to them in pursuance of the notice;
- (b) the proposals submitted by him under subsection (3)(a); and
- (c) such other information connected with his application as the Authority consider appropriate.

(7) In this section “programme” does not include an advertisement.

(8) In this Part “cash bid”, in relation to a licence, means an offer to pay to the Authority a specified amount of money in respect of the first complete calendar year falling within the period for which the licence is in force (being an amount which, as increased by the appropriate percentage, is also to be payable in respect of subsequent years falling wholly or partly within that period).

Procedure to be followed by Authority in connexion with consideration of applications for national licences

99.– (1) Where a person has made an application for national licence in accordance with section 98, the Authority shall not proceed to consider whether to award him the licence on the basis of his cash bid in accordance with section 100 unless it appears to them –

- (a) that his proposed service would both –
 - (i) comply with any requirement specified under subsection (1)(b)(iii) or (iv) of section 98, and
 - (ii) consist of such a diversity of programmes as is mentioned in subsection (3)(a) of that section; and
- (b) that he would be able to maintain that service throughout the period for which the licence would be in force.

(2) Any reference to an applicant in section 100 (except in section 100(9)(b)) is accordingly a reference to an applicant on whose case it appears to the Authority that the requirements of subsection (1)(a) and (b) above are satisfied.

Award of national licence to person submitting highest cash bid

100.– (1) Subject to the following provisions of this section, the authority shall, after considering all the cash bids submitted by the applicants for a national licence, award the licence to the applicant who submitted the highest bid.

(2) Where two or more applicants for a particular licence have submitted cash bids specifying an identical amount which is higher than the amount of any other cash bid submitted in respect of the licence, then (unless they propose to exercise their power under subsection (3) in relation to the licence) the Authority shall invite those applicants to submit further cash bids in respect of that licence; and, in relation to any person who has submitted a further cash bid in pursuance of this subsection, any reference in this Part to his cash bid is a reference to that further bid.

(3) The Authority may disregard the requirement imposed by subsection (1) and award the licence to an applicant who has not submitted the highest bid if it appears to them that there are exceptional circumstances which make it appropriate for them to award the licence to that applicant; and where it appears to the Authority, in the context of the licence, that any circumstances are to be regarded as exceptional circumstances for the purposes of this subsection, those circumstances may be so regarded by them despite the fact that similar circumstances have been so regarded by them in the context of any other licence or licences.

(4) If it appears to the Authority, in the case of the applicant to whom (apart from this subsection) they would award the licence in accordance with the preceding provisions of this section, that there are grounds for suspecting that any relevant source of funds is such that it would not be in the public interest for the licence to be awarded to him –

- (a) they shall refer his application to the Secretary of State, together with –
 - (i) a copy of all documents submitted to them by the applicant, and
 - (ii) a summary of their deliberations on the application; and

- (b) they shall not award the licence to him unless the Secretary of State has given his approval.

(5) On such a reference the Secretary of State may only refuse to give his approval to the licence being awarded to the applicant in question if he is satisfied that any relevant source of funds is such that it would not be in the public interest for the licence to be so awarded.

(6) In subsections (4) and (5) “relevant source of funds”, in relation to an applicant, means any source of funds to which he might (directly or indirectly) have recourse for the purpose of –

- (a) paying any amounts payable by him by virtue of section 102(1), or
- (b) otherwise financing the provision of his proposed service.

(7) Where the Authority are, by virtue of subsection (4), precluded from awarding the licence to an applicant, the preceding provisions of this section shall (subject to subsection (11)) have effect as if that person had not made an application for the licence.

(8) Where the Authority have awarded a national licence to any person in accordance with this section, they shall, as soon as reasonably practicable after awarding the licence –

- (a) publish the matters specified in subsection (9) in such manner as they consider appropriate; and
 - (b) grant the licence to that person.
- (9) The matters referred to in subsection (8)(a) are –
- (a) the name of the person to whom the licence has been awarded and the amount of his cash bid;
 - (b) the name of every other applicant in whose case it appeared to the Authority that the requirement specified in section 99(1)(a) was satisfied;
 - (c) where the licence has, by virtue of subsection (3) above, been awarded to an applicant who has not submitted the highest cash bid, the Authority’s reasons for the licence having been so awarded; and
 - (d) such other information as the Authority consider appropriate.

(10) In a case where the licence has been awarded to any person by virtue of the operation of this section, in accordance with any provision of this Part, on the revocation of an earlier grant of the licence, subsection (9) shall have effect as if –

- (a) paragraph (b) were omitted; and
- (b) the matters specified in that subsection included an indication of the circumstances in which the licence has been awarded to that person.

(11) Subsections (1) to (6) shall not have effect as mentioned in subsection (7) if the Authority decide that it would be desirable to publish a fresh notice under section 98 in respect of the grant of the licence; and similarly where any of the following provisions of this Part provides, in connexion with the revocation of a licence, for this section to have effect as if the

former holder of the licence had not made an application for it, this section shall not so have effect if the Authority decide that it would be desirable to publish a fresh notice under this Part in respect of the grant of a further licence to provide the service in question.

Failure to begin providing licensed service and financial penalties on revocation of licence

101.– (1) If at any time after a national licence has been granted to any person but before the licence has come into force –

- (a) that person indicates to the Authority that he does not intend to provide the service in question, or
- (b) the Authority for any other reason have reasonable grounds for believing that that person will not provide that service once the licence has come into force,

then, subject to subsection (2) –

- (i) the Authority shall serve on him a notice revoking the licence as from the time the notice is served on him, and
- (ii) section 100 shall (subject to section 100(11)) have effect as if he had not made an application for the licence.

(2) Subsection (1) shall not apply in the case of any person by virtue of paragraph (b) of that subsection unless the Authority have served on him a notice stating their grounds for believing that he will not provide the service in question once his licence has come into force; and they shall not serve such a notice on him unless they have given him a reasonable opportunity of making representations to them about the matters complained of.

(3) Where the Authority revoke a national licence under this section or under any other provision of this Part, they shall serve on the licence holder a notice requiring him to pay to them, within a special period, a financial penalty of the prescribed amount.

(4) In subsection (3) “the prescribed amount” means –

- (a) where –
 - (i) the licence is revoked under this section, or
 - (ii) the first complete accounting period of the licence holder falling within the period for which the licence is in force has not yet ended,

seven per cent of the amount which the Authority estimate would have been the qualifying revenue of that accounting period (as determined in accordance with section 102(2) and (6)); and

- (b) in any other case, seven per cent of the qualifying revenue for the last complete accounting period of the licence holder so falling (as so determined).

(5) Any financial penalty payable to any body by virtue of subsection (3) shall, in addition to being recoverable from that body as provided by section 122(4), be recoverable by the Authority as a debt due to them from any person who controls that body.

Additional payments to be made in respect of national licences

102.– (1) A national licence shall include conditions requiring the licence holder to pay the Authority (in addition to any fees required to be so paid by virtue of section 87(1)(c)) –

- (a) in respect of the first complete calendar year falling within the period for which the licence is in force, the amount specified in his cash bid;
- (b) in respect of each subsequent year falling wholly or partly within that period, the amount so specified as increased by the appropriate percentage; and
- (c) in respect of each accounting period of his falling within the period referred to in paragraph (a), an amount representing such percentage of the qualifying revenue for that accounting period as was specified in relation to the licence under section 98(1)(d)(ii).

(2) For the purposes of subsection (1)(c) the qualifying revenue for any accounting period of the licence holder shall (subject to subsection (6)) consist of all payments received or to be received by him or by any connected person –

- (a) in consideration of the inclusion in the licensed service in that period of advertisements or other programmes, or
- (b) in respect of charges made in that period for the reception of programmes included in that service.

(3) If, in connexion with the inclusion of any advertisements or other programmes whose inclusion is paid for by payments falling within subsection (2), any payments are made to the licence holder or any connected person to meet any payments payable by the licence holder by virtue of subsection (1)(c), those payments shall be regarded as made in consideration of the inclusion of the programmes in question.

(4) In the case of an advertisement included under arrangements made between –

- (a) the licence holder or any connected person, and
- (b) a person acting as an advertising agent,

the amount of any receipt by the licence holder or any connected person that represents a payment by the advertiser from which the advertising agent has deducted any amount by way of commission shall, except in a case falling within subsection (5), be the amount of the payment by the advertiser after the deduction of the commission.

(5) If the amount deducted by way of commission as mentioned in subsection (4) exceeds 15 per cent of the payment by the advertiser, the amount of the receipt in question shall be taken to be the amount of the payment less 15 per cent.

(6) If, in any accounting period of the licence holder, the licence holder or any connected person derives, in relation to any programme to be included in the licensed service, any financial benefit (whether direct or indirect) from payments made by any person, by way of sponsorship, for the purpose of defraying or contributing towards costs incurred or to be incurred in connexion with that programme, the qualifying revenue for that accounting period

shall be taken for the purpose of subsection (1)(c) to include the amount of the financial benefit so derived by the licence holder of the connected person, as the case may be.

- (7) A national licence may include conditions –
 - (a) enabling the Authority to estimate before the beginning of an accounting period the amount due for that period by virtue of subsection (1)(c); and
 - (b) requiring the licence holder to pay the estimated amount by monthly instalments throughout that period.
- (8) Such a licence may in particular include conditions –
 - (a) authorising the Authority to revise any estimate on one or more occasions, and to adjust the instalments payable by the licence holder to take account of the revised estimate;
 - (b) providing for the adjustment of any overpayment or underpayment.
- (9) Where –
 - (a) the first complete accounting period of the licence holder falling within the period referred to in subsection (1)(a) (“the licence period”) does not begin at the same time as that period, or
 - (b) the last complete accounting period of his falling within the licence period does not end at the same time as that period,

any reference in subsection (1)(c) to an accounting period of his shall include a reference to such part of the accounting period preceding that first complete accounting period, or (as the case may be) following that last complete accounting period, as falls within the licence period; and other reference to accounting periods in this Part shall be construed accordingly.

(10) In this Part “the appropriate percentage”, in relation to any year (“the relevant year”), means the percentage which corresponds to the percentage increase between –

- (a) the retail prices index for the month of November in the year preceding the first complete calendar year falling within the period for which the licence in question is in force; and
- (b) the retail prices index for the month of November in the year preceding the relevant year;

and for this purpose “the retail prices index” means the general index of prices (for all items) published by the Central Statistical Office of the Chancellor of the Exchequer.

Restriction on changes in control over holder of national licence

103.– (1)Where –

- (a) any change in the persons having control over –
 - (i) a body to which a national licence has been awarded or transferred in accordance with this Part of this Act, or

- (ii) an associated programme provider, takes place within the relevant period, and
- (b) that change takes place without having been previously approved for the purposes of this section by the Authority,

then (subject to subsection (5)) the Authority may, if the licence has not yet been granted, refuse to grant it to the body referred to in paragraph (a)(i) above or, if it has already been granted, serve on that body a notice revoking it.

- (2) In subsection (1) –

“associated programme provider”, in relation to such a body as is mentioned in paragraph (a)(i) of that subsection, means any body which is connected with that body and appears to the Authority to be, or to be likely to be, involved to any extent in the provision of programmes for inclusion in the licensed service; and

“the relevant period”, in relation to a national licence, means the period beginning with the date of the award of the licence and ending on the first anniversary of the date of its coming into force;

and paragraph 3 in Part I of Schedule 2 to this Act shall have effect for the purposes of this subsection as if a body to which a national licence has been awarded but not yet granted were the holder of such a licence.

(3) The Authority shall refuse to approve for the purposes of this section such a change as is mentioned in subsection (1)(a) if it appears to them that the change would be prejudicial to the provision under the licence, by the body referred to in subsection (1)(a)(i), of a service which accords with the proposals submitted under section 98(3)(a) by that body (or, as the case may be, by the person to whom the licence was originally awarded).

(4) The Authority may refuse so to approve any such change if, in any circumstances not falling within subsection (3), they consider it appropriate to do so.

(5) The Authority shall not under subsection (1) refuse to grant a licence to, or serve a notice on, any body unless they have given it a reasonable opportunity of making representations to them about the matters complained of.

(6) Where under subsection (1) the Authority refuse to grant a licence to any body, section 100 shall (subject to section 100(11)) have effect as if that body had not made an application for the licence; and, where under that subsection they serve on any body a notice revoking its licence, subsections (6) and (7) of section 111 shall apply in relation to that notice as they apply in relation to a notice served under subsection (3) of that section.

Applications for other licences

104.– (1) Where the Authority propose to grant a licence to provide a local service, they shall publish, in such manner as they consider appropriate, a notice –

- (a) stating that they propose to grant such a licence;
- (b) specifying the area or locality in the United Kingdom [or the Bailiwick of Jersey] for which the service is to be provided;

- (c) inviting applications for the licence and specifying the closing date for applications; and
 - (d) stating the fee payable on any application made in pursuance of the notice.
- (2) Any application made in pursuance of a notice under subsection (1) must be in writing and accompanied by –
- (a) the fee specified in the notice under paragraph (d) of that subsection;
 - (b) the applicant's proposals for providing a service that would –
 - (i) cater for the tastes and interests of persons living in the area or locality for which it would be provided or for any particular tastes and interests of such persons, and
 - (ii) broaden the range of programmes available by way of local services to persons living in that area or locality;
 - (c) such information as the Authority may reasonably require –
 - (i) as to the applicant's present financial position and his projected financial position during the period for which the licence would be in force, and
 - (ii) as to the arrangements which the applicant proposes to make for, and in connexion with, the transmission of his proposed service; and
 - (d) such other information as the Authority may reasonably require for the purpose of considering the application.
- (3) At any time after receiving such an application and before determining it the Authority may require the applicant to furnish additional information under subsection (2)(b), (c) or (d).
- (4) The Authority shall, at the request of any person and on the payment by him of such sum (if any) as the Authority may reasonably require, make available for inspection by that person any information furnished under subsection (2)(b) by the applicants for a local licence.
- (5) Where the Authority propose, in the case of any local licence which is due to expire (otherwise than by virtue of section 110), to grant a further licence to provide the service in question, they shall, in accordance with subsection (1), publish a notice under that subsection relating to the proposed grant of the further licence to provide that service, unless it appears to them that to do so would not serve to broaden the range of programmes available by way of local service to persons living in the area or locality for which that service has been provided.
- (6) The following applications, namely –
- (a) an application to be granted a local licence in a case where, in accordance with subsection (5), no notice is to be published under subsection (1), or
 - (b) an application for a licence to provide a satellite or restricted service,
- shall be made in such manner as the Authority may determine, and shall be accompanied by such fee (if any) as the Authority may determine.

(7) In this section and sections 105 and 106 “programme” does not include an advertisement.

Special requirements relating to grant of local licences

105.– (1) Where the Authority have published a notice under section 104(1), they shall, in determining whether, or to whom, to grant the local licence in question, have regard to the following matters, namely –

- (a) the ability of each of the applicants for the licence to maintain, throughout the period for which the licence would be in force, the service which he proposes to provide;
- (b) the extent to which any such proposed service would cater for the tastes and interests of persons living in the area or locality for which the service would be provided, and, where it is proposed to cater for any particular tastes and interests of such persons, the extent to which the service would cater for those tastes and interests;
- (c) the extent to which any such proposed service would broaden the range of programmes available by way of local services to persons living in the area or locality for which it would be provided, and, in particular, the extent to which the service would cater for tastes and interests different from those already catered for by local services provided for that area or locality; and
- (d) the extent to which any application for the licence is supported by persons living in that area or locality [and the States of Jersey Broadcasting Committee]

Requirements as to character and coverage of national and local services

106.– (1) A national or local licence shall include such conditions as appear to the Authority to be appropriate for securing that the character of the licensed service, as proposed by the licence holder when making his application, is maintained during the period for which the licence is in force, except to the extent that the Authority consent to any departure on the grounds –

- (a) that it would not narrow the range of programmes available by way of independent radio services to persons living in the area or locality for which the service is licensed to be provided
- (b) that it would not substantially alter the character of the service.

(2) A national or local licence shall include conditions requiring the licence holder to secure that the licensed service serves so much of the area or locality for which it is licensed to be provided as is for the time being reasonably practicable.

(3) A national licence shall include conditions enabling the Authority, where it appears to them to be reasonably practicable for the licensed service to be provided for any additional area falling outside the minimum area determined by them in accordance with section 98(2), to require the licence holder to provide the licensed service for any such additional area.

(4) Subject to subsection (5), the Authority may, if they think fit, authorise the holder of a local licence, by means of a variation of his licence to that effect, to provide the licensed

service for any additional area or locality adjoining the area or locality for which that service has previously been licensed to be provided.

(5) The Authority shall only exercise the power conferred on them by subsection (4) if it appears to them that to do so would not result in a substantial increase in the area or locality for which the service in question is licensed to be provided.

(6) As soon as practicable after the Authority have exercised that power in relation to any service, they shall publish, in such manner as they consider appropriate, a notice –

- (a) stating that they have exercised that power in relation to that service;
- (b) giving details of the additional area or locality for which that service is licensed to be provided.

Party political broadcasts

107.– (1) A national licence shall include –

- (a) conditions requiring the licence holder to include party political broadcasts in the licensed service; and
- (b) conditions requiring the licence holder to observe such rules with respect to party political broadcasts as the Authority may determine.

(2) Without prejudice to the generality of paragraph (b) of subsection (1), the Authority may determine for the purposes of that subsection –

- (a) the political parties on whose behalf party political broadcasts may be made; and
- (b) in relation to any political party on whose behalf such broadcasts may be made, the length and frequency of such broadcasts.

(3) Any rules made by the Authority for the purposes of this section may make different provision for different cases or circumstances.

Promotion of equal opportunities in relation to employment by holder of national licence

108.– (1) A national licence shall include conditions requiring the licence holder –

- (a) to make arrangements for promoting, in relation to employment by him, equality of opportunity between men and women and between persons of different racial groups; and
- (b) to review those arrangements from time to time.

(2) In subsection (1) “racial group” has the same meaning as in the Race Relations Act 1976.

Power to require scripts etc. or broadcasting of correction or apology

109.– (1) If the Authority are satisfied that the holder of a licence granted under this Chapter has failed to comply with any condition of the licence or with any direction given by the Authority under or by virtue of any provision of this Part, they may serve on him a notice –

- (a) stating that the Authority are so satisfied as respects any specified condition or direction;
- (b) stating the effect of subsection (2); and
- (c) specifying for the purposes of that subsection a period not exceeding twelve months.

(2) If, at any time during the period specified in a notice under subsection (1), the Authority are satisfied that the licence holder has again failed to comply with any such condition or direction as is mentioned in that subsection (whether or not the same as the one specified in the notice), the Authority may direct him –

- (a) to provide the Authority in advance with such scripts and particulars of the programmes to be included in the licensed service as are specified in the direction; and
- (b) in relation to such of those programmes as will consist of or include recorded matter, to produce to the Authority in advance for examination or reproduction such recordings of that matter as are so specified;

and a direction under this subsection shall have effect for such period, not exceeding six months, as is specified in the direction.

(3) If the Authority are satisfied –

- (a) that the holder of a licence has failed to comply with any condition of the licence, and
- (b) that that failure can be appropriately remedied by the inclusion in the licensed service of a correction or apology (or both) under this subsection,

they may (subject to subsection (4)) direct the licence holder to include in the licensed service a correction or apology (or both) in such form, and at such time or times, as they may determine.

(4) The Authority shall not give any person a direction under subsection (3) unless they have given him a reasonable opportunity of making representations to the Authority about matters complained of.

(5) Where the holder of a licence includes a correction or apology in the licensed service in pursuance of a direction under subsection (3), he may announce that he is doing so in pursuance of such a direction.

Power to impose financial penalty or suspend or shorten licence period

110.– (1) If the Authority are satisfied that the holder of a licence granted under this Chapter has failed to comply with any condition of the licence or with any direction given by them under or by virtue of any provision of this Part, they may (subject to the following provisions of this section) serve on him –

- (a) a notice requiring him to pay, within a specified period, a specified financial penalty to the Authority;

- (b) a notice reducing the period for which the licence is to be in force by a specified period not exceeding two years; or
- (c) a notice suspending the licence for a specified period not exceeding six months.

(2) The amount of any financial penalty imposed in pursuance of subsection (1)(a) on the holder of a national licence –

- (a) shall, if such a penalty has not previously been imposed on that person during any period for which his licence has been in force (“the relevant period”), not exceed three per cent of the qualifying revenue for his last complete accounting period (as determined in accordance with section 102(2) to (6)); and
- (b) shall, in any other case, not exceed five per cent of the qualifying revenue for that accounting period (as so determined);

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

(3) The amount of any financial penalty imposed in pursuance of subsection (1)(a) on the holder of any other licence shall not exceed £50,000.

(4) The Authority shall not serve on any person such a notice as is mentioned in subsection (1)(a), (b) or (c) unless they have given him a reasonable opportunity of making representations to them about the matters complained of.

(5) Where a licence is due to expire on a particular date by virtue of a notice served on any person under subsection (1)(b), the Authority may, on the application of that person, revoke that notice by a further notice served on him at any time before that date, if they are satisfied that, since the date of the earlier notice, his conduct in relation to the operation of the licensed service has been such as to justify the revocation of that notice.

(6) It is hereby declared that any exercise by the Authority of their powers under subsection (1) of this section in respect of any failure to comply with any condition or direction shall not preclude any exercise by them of their powers under section 109 in respect of that failure.

[(7) Subsection (3) above has effect as if any order under section 110(7) of the Broadcasting Act 1990 for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey].

Power to revoke licences

111.– (1) If the Authority are satisfied –

- (a) that the holder of a licence granted under this Chapter is failing to comply with any condition of the licence or with any direction given by them under or by virtue of any provision of this Part, and
- (b) that that failure is such that, if not remedied, it would justify the revocation of the licence;

they shall (subject to subsection (8)) serve on the holder of the licence a notice under subsection (2).

(2) A notice under this subsection is a notice –

- (a) stating that the Authority are satisfied as mentioned in subsection (1);
- (b) specifying the respects in which, in their opinion, the licence holder is failing to comply with any such condition or direction as is there mentioned; and
- (c) stating that, unless the licence holder takes, within such period as is specified in the notice, such steps to remedy the failure as are so specified, the Authority will revoke his licence under subsection (3).

(3) If at the end of the period specified in a notice under subsection (2) the Authority are satisfied –

- (a) that the person on whom the notice was served has failed to take the steps specified in it, and
- (b) that it is necessary in the public interest to revoke his licence,

they shall (subject to subsection (8)) serve on him a notice revoking his licence.

(4) If the Authority are satisfied in the case of any national licence –

- (a) that the holder of the licence has ceased to provide the licensed service before the end of the period for which the licence is to continue in force, and
- (b) that it is appropriate for them to do so,

they shall (subject to subsection (8)) serve on him a notice revoking his licence.

(5) If the Authority are satisfied –

- (a) that the holder of a licence granted under this Chapter provided them, in connexion with his application for the licence, with information which was false in a material particular, or
- (b) that, in connexion with his application for the licence, the holder of such a licence withheld any material information with the intention of causing them to be misled,

they may (subject to subsection (8)) serve on him a notice revoking his licence.

(6) Subject to subsection (7), any notice served under subsection (3), (4) or (5) shall take effect as from the time when it is served on the licence holder.

(7) If it appears to the Authority to be appropriate to do so for the purpose of preserving continuity in the provision of the service in question, they may provide in any such notice for it to take effect as from a date specified in it.

(8) The Authority shall not serve any notice on a person under this section unless they have given him a reasonable opportunity of making representations to them about the matters complained of.

CHAPTER III

LICENSABLE SOUND PROGRAMME SERVICES

112. * * * * *

113. * * * * *

CHAPTER IV

ADDITIONAL SERVICES PROVIDED ON SOUND BROADCASTING FREQUENCIES

Additional services

114.– (1) In this Part “additional service” means any service which consists in the sending of telecommunication signals for transmission by wireless telegraphy by means of the use of the spare capacity within the signals carrying any sound broadcasting service provided –

- (a) on a frequency assigned under section 84(4), or
- (b) on any other allocated frequency notified to the Authority by the Secretary of State.

(2) For the purposes of this Part the spare capacity within the signals carrying any such broadcasting service shall be taken to be –

- (a) where the service is provided on a frequency assigned under section 84(4), any part of those signals which is not required for the purposes of the provision of that service and is determined by the Authority to be available for the provision of additional services;
- (b) where the service is provided on a frequency notified to the Authority under subsection (1)(b) above, such part of those signals as the Secretary of State may specify when making the notification;

and references in this Part to spare capacity shall be construed accordingly.

(3) The Authority shall, when determining under subsection (2)(a) the extent and nature of the spare capacity available for the provision of additional services in the case of any frequency on which a national service is provided, have regard to any need of the person providing that service to be able to use part of the signals carrying it for providing services which are ancillary to programmes included in the service.

(4) A person holding a national licence shall be taken for the purposes of this Part to be authorised by his licence to provide any such services as are mentioned in subsection (3).

(5) The Secretary of State may, when making any notification under subsection (1)(b), specify a date beyond which the frequency in question is not to be used for the provision of additional services; and any such notification shall accordingly cease to have effect on that date.

(6) In this section –

“allocated frequency” means a frequency allocated to the United Kingdom for the provision of sound broadcasting services;

“telecommunications signals” means anything falling within paragraphs (a) to (d) [of Article 2(1) of the Telecommunications (Jersey) Law 1972]¹⁰

Licensing of additional services

115.– (1) The Authority shall do all that they can to secure that, in the case of each of the following frequencies, namely –

- (a) any frequencies assigned under section 84(4) and used for the provision of a national service, and
- (b) any frequencies notified to the Authority under section 114(1)(b),

all of the spare capacity available for the provision of additional services on that frequency is used for the provision of such services under additional services licences granted by the Authority in accordance with this section.

(2) An additional services licence may relate to the use of spare capacity within more than one frequency; and two or more additional services licences may relate to the use of spare capacity within the same frequency where it is to be used at different times, or in different areas, in the case of each of those licences.

(3) An additional services licence may include provisions enabling the licence holder, subject to and in accordance with such conditions as the Authority may impose, to authorise any person to whom this subsection applies to provide any additional service on the spare capacity allocated by the licence.

(4) Subsection (3) applies to any person who is not a disqualified person in relation to an additional services licence by virtue of Part II of Schedule 2 to this Act.

(5) Any conditions included in an additional services licence shall apply in relation to the provision of additional services by a person authorised as mentioned in subsection (3) as they apply in relation to the provision of such services by the licence holder; and any failure by such a person to comply with any such conditions shall be treated for the purposes of this Part as a failure of the part of the licence holder to comply with those conditions.

(6) Every licence to provide a national service shall include such conditions as appear to the Authority to be appropriate for securing that the licence holder grants –

- (a) to any person who holds a licence to provide additional services on the frequency on which that national service is provided, and
- (b) to any person who is authorised by any such person as mentioned in subsection (3) to provide additional services on that frequency,

access to facilities reasonably required by that person for the purposes of, or in connexion with, the provision of any such additional services.

(7) Any person who grants to any other person access to facilities in accordance with conditions imposed under subsection (6) may require that other person to pay a reasonable charge in respect thereof; and any dispute as to the amount of any such charge shall be determined by the Authority.

¹⁰ Volume 1970-1972, page 395.

(8) The holder of a licence to provide a local, restricted or satellite service shall be taken for the purposes of this Part to be authorised by his licence to provide or to authorise another person to provide additional services on the frequency on which the licensed service is provided.

(9) In this Part “additional services licence” means a licence to provide additional services.

Applications for additional services licences

116.– (1) Where the Authority propose to grant a licence to provide additional services they shall publish, in such manner as they consider appropriate, a notice –

- (a) stating that they propose to grant such a licence;
- (b) specifying –
 - (i) the period for which the licence is to be granted,
 - (ii) the sound broadcasting service or services on whose frequency or frequencies the services are to be provided, and
 - (iii) (subject to the approval of the Secretary of State) the extent and nature of the spare capacity which is to be allocated by the licence;
- (c) inviting applications for the licence and specifying the closing date for such applications; and
- (d) specifying –
 - (i) the fee payable on any application made in pursuance of the notice, and
 - (ii) the percentage of qualifying revenue for each accounting period that would be payable by an applicant in pursuance of section 118(1)(c) if he were granted the licence.

(2) The Authority may, if they think fit, specify under subsection (1)(d)(ii) –

- (a) different percentages in relation to different accounting periods falling within the period for which the licence would be in force;
- (b) a nil percentage in relation to any accounting period so falling.

(3) Any application made in pursuance of a notice under this section must be in writing and accompanied by –

- (a) the fee specified in the notice under subsection (1)(d)(i);
- (b) a technical plan indicating –
 - (i) the nature of any additional services which the applicant proposes to provide, and

- (ii) so far as known to the applicant, the nature of any additional services which any other person proposes to provide in accordance with section 115(3);
 - (c) the applicant's cash bid in respect of the licence; and
 - (d) such information as the Authority may reasonably require as to the applicant's present financial position and his projected financial position during the period for which the licence would be in force.
- (4) At any time after receiving such application and before determining it the Authority may require the applicant to furnish additional information under subsection (3)(b) or (d).
- (5) Any information to be furnished to the Authority under this section shall, if they so require, be in such form or verified in such manner as they may specify.
- (6) The Authority shall, as soon as reasonably practicable after the date specified in a notice under this section as the closing date for applications, publish in such manner as they consider appropriate –
- (a) the name of every person who has made an application to them in pursuance of the notice;
 - (b) particulars of the technical plan submitted by him under subsection (3)(b); and
 - (c) such other information connected with his application as the Authority consider appropriate.

Procedure to be followed by Authority connexion with consideration of applications for and awarding of, licences

117.– (1) Where a person has made an application for an additional services licence in accordance with section 116, the Authority shall not proceed to consider whether to award him the licence on the basis of his cash bid in accordance with subsections (3) and (4) below unless it appear to them –

- (a) that the technical plan submitted under section 116(3)(b) is, so far as it involves the use of any telecommunications system, acceptable to the relevant licensing authorities; and
- (b) that the services proposed to be provided under the licence would be capable of being maintained throughout the period for which the licence would be in force;

and any reference to an applicant in section 100 (as applied by subsection (3) below) is accordingly a reference to an applicant in whose case it appears to the Authority that the requirements of paragraphs (a) and (b) above are satisfied.

(2) Before forming any view as to whether the requirement specified in subsection (1)(a) is satisfied in the case of an applicant the Authority shall consult the relevant licensing authorities.

(3) Subject to subsection (4), section 100 shall apply in relation to an additional services licence as it applies in relation to a national licence.

- (4) In the application of section 100 in relation to an additional services licence –
- (a) subsection (6) shall have effect with the substitution in paragraph (a) of a reference to section 118(1) for the reference to section 102(1); and
 - (b) subsection (9) shall have effect with the substitution in paragraph (b) of a reference to the requirement specified in subsection (1)(a) above for the reference to the requirement specified in section 99(1)(a).
- (5) If at any time after an additional services licence has been granted to any person but before the licence has come into force –
- (a) that person indicates to the authority that none of the services in question will be provided once the licence has come into force, or
 - (b) the Authority for any other reason have reasonable grounds for believing that none of those services will be so provided,
- then subject to subsection (6) –
- (i) the Authority shall serve on him a notice revoking the licence as from the time the notice is served on him, and
 - (ii) section 100 (as applied by subsection (3) above) shall, subject to section 100(11), have effect as if he had not made an application for the licence.
- (6) Subsection (5) shall not apply in the case of any person by virtue of paragraph (b) of that subsection unless the Authority have served on him a notice stating their grounds for believing that none of the services in question will be provided once his licence has come into force; and they shall not serve such a notice on him unless they have given him a reasonable opportunity of making representations to them about the matter complained of.
- (7) In this section “the relevant licensing authorities” means the Secretary of State and the [States of Jersey Telecommunications Board].

Additional payments to be made in respect of additional services licences

118.– (1) An additional services licence shall include conditions requiring the licence holder to pay to the Authority (in addition to any fees required to be so paid by virtue of section 87(1)(c)) –

- (a) in respect of the first complete calendar year falling within the period for which the licence is in force, the amount specified in his cash bid;
- (b) in respect of each subsequent year falling wholly or partly within that period, the amount so specified as increased by the appropriate percentage; and
- (c) in respect of each accounting period of his falling within the period referred to in paragraph (a), an amount representing such percentage of the qualifying revenue for that accounting period as was specified in relation to the licence under section 116(1)(d)(ii).

(2) For the purposes of subsection (1)(c) the qualifying revenue for any accounting period of the licence holder shall consist of all amounts which are received or to be received by

him or by any connected person and are referable to the right under his licence to use, or to authorise any other person to use, in that period the spare capacity allocated by the licence.

- (3) An additional services licence may include conditions –
 - (a) enabling the Authority to estimate before the beginning of an accounting period the amount due for that period by virtue of subsection (1)(c); and
 - (b) requiring the licence holder to pay the estimated amount by monthly instalments throughout that period.
- (4) Such a licence may in particular include conditions –
 - (a) authorising the Authority to revise any estimate on one or more occasions, and to adjust the instalments payable by the licence holder to take account of the revised estimate;
 - (b) providing for the adjustment of any overpayment or underpayment.
- (5) Where –
 - (a) the first complete accounting period of the licence holder falling within the period referred to in subsection (1)(a) (“the licence period”) does not begin at the same time as that period, or
 - (b) the last complete accounting period of his falling within the licence period does not end at the same time as that period,

any reference in subsection (1)(c) to an accounting period of his shall include a reference to such part of the accounting period preceding that first complete accounting period, or (as the case may be) following that last complete accounting period, as falls within the licence period; and other references to accounting periods in the Part shall be construed accordingly.

Additional services not interfere with other transmissions

119.– (1) An additional services licence may include such conditions as the Authority consider appropriate for securing that the provisions of any additional service under the licence does not cause any interference with –

- (a) the sound broadcasting service or services on whose frequency or frequencies it is provided, or
- (b) any other wireless telegraphy transmissions.

(2) Before imposing any conditions in pursuance of subsection (1) the Authority shall consult the relevant licensing authorities (within the meaning of section 117).

Enforcement of additional services licences

120.– (1) If the Authority are satisfied that the holder of an additional services licence has failed to comply with any condition of the licence or with any direction given by the Authority under or by virtue of any provision of this Part, they may (subject to subsection (3)) serve on him a notice requiring him to pay, within a specified period, a specified financial penalty to the Authority.

(2) The amount of any financial penalty imposed on any person in pursuance of subsection (1) –

- (a) shall, if such a penalty has not previously been imposed on that person during any period for which his licence has been in force (“the relevant period”), not exceed three per cent of the qualifying revenue for his last complete accounting period falling within the relevant period (as determined in accordance with section 118(2)); and
- (b) shall, in any other case, not exceed five per cent of the qualifying revenue for that accounting period (as so determined);

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

(3) The Authority shall not serve on any person a notice under subsection (1) unless they have given him a reasonable opportunity of making representations to them about the matters complained of.

(4) Section 111 shall apply in relation to an additional services licence as it applies in relation to a licence granted under Chapter II of this Part, but with the omission of subsection (7).

CHAPTER V

SUPPLEMENTAL

Computation of qualifying revenue

121.– (1) Part II of Schedule 7 (which contains provisions relating to the computation of qualifying revenue for the purposes of this Part) shall have effect.

Certain receipts of Authority to be paid into Consolidated Fund

122.– (1) Where the Authority receive in respect of any licence any of the amounts specified in subsection (2), that amount shall not form part of the revenues of the Authority but shall –

- (a) if the licence is for the provision of a service for any area, locality, establishment or other place, or for any event, in Great Britain, be paid into the Consolidated Fund of the United Kingdom;
- (b) if the licence is for the provision of a service for any area, locality, establishment or other place, or for any event, in Northern Ireland, be paid into the Consolidated Fund of Northern Ireland; or
- (c) if the licence is for the provision of a national or satellite service or any additional services, be paid into both of those Funds in such proportions as the Authority consider appropriate.

[(d) if the licence is for the provision of a service for any area, locality, institution or event in the Bailiwick of Jersey, be paid to the Treasurer of the States of Jersey and credited to the annual income of the States; or

(e) if the licence is for the provision of a service for an area consisting of –

(i) the Bailiwick of Jersey and the whole or part of the United Kingdom, or

(ii) the Bailiwick of Jersey and the Bailiwick of Guernsey, or

(iii) both those Bailiwicks and the whole or part of the United Kingdom,

as respects such proportion of the amount as the Authority consider appropriate, be paid and credited as mentioned in paragraph (d) above].

(2) The amounts referred to in subsection (1) are –

(a) any amount payable to the Authority by virtue of section 102(1) or 118(1);

(b) any amount payable to them by virtue of section 101(3); and

(c) any amount payable to them by virtue of section 110(1)(a), 113(3) or 120(1).

(3) Subsection (1) shall not be construed as applying to any amount which is required by the Authority for the making of an adjustment in respect of an overpayment made by any person.

(4) Any amount payable by any person to the Authority under or by virtue of this Part shall be recoverable by them as a debt due to them from that person; and, where any amount is so payable by a person as the holder of any licence under this Part, his liability to pay it shall not be affected by his licence ceasing (for any reason) to be in force.

(5) The Authority shall, in respect of each financial year, prepare an account showing –

(a) all such amounts falling within subsection (1) as have been received by them, and

(b) the sums paid into the Consolidated Funds of the United Kingdom and Northern Ireland respectively under that subsection in respect of those amounts,

and shall send that account to the Comptroller and Auditor General not later than the end of the month of November following the financial year to which it relates; and the Comptroller and Auditor General shall examine, certify and report on the account and lay copies of it, together with his report, before each House of Parliament.

Frequency planning and general research and development

123.– (1) The Authority may make arrangements for such work relating to frequency planning to be carried out as they consider appropriate in connexion with the discharge of their functions.

(2) Any such work shall be directed towards securing that the frequencies assigned to the Authority under this Act are used as efficiently as is reasonably practicable.

(3) The Authority may make arrangements for such research and development work to be carried out as they consider appropriate in connexion with the discharge of their functions.

(4) The Authority shall secure that, so far as is reasonably practicable –

- (a) any work carried out under arrangements made in pursuance of subsection (1) or (3) is carried out, under the supervision of the Authority, by persons who are neither members nor employees of the Authority; and
- (b) any work carried out under arrangements made in pursuance of subsection (3) is to a substantial extent financed by persons other than the Authority.

Authority to assist Secretary of State in connexion with licensing functions under 1949 Act

124.– (1) The Authority shall give to the Secretary of State such information or other assistance as he may reasonably require in connexion with his functions under section 1 of the Wireless Telegraphy Act 1949¹¹ as respects the granting, variation or revocation of licences under that section.

Representation by Authority of Government and other interests in connexion with broadcasting matters

125.– (1) The functions of the Authority shall include representing –

- (a) Her Majesty’s Government in the United Kingdom, and
- (b) persons providing independent radio services,

on bodies concerned with regulation (whether nationally or internationally) of matters relating to sound broadcasting.

Interpretation of Part III

126.– (1) In this Part (unless the context otherwise requires) –

“additional service” and “additional services licence” shall be construed in accordance with section 114(1) and section 115(9) respectively;

“the appropriate percentage”, in relation to any year, has the meaning given by section 102(10);

“assigned frequency” means a frequency for the time being assigned to the Authority under section 84(4);

“the Authority” means the Radio Authority established under this Part;

“cash bid” has the meaning given by section 98(8);

“independent radio service” has the meaning given by section 84(1);

“licence” means a licence under this Part, and “licensed” shall be construed accordingly;

¹¹ Tome VIII, page 172.

“licensable sound programme service” has the meaning given by section 112(1);

“local licence” and “national licence” mean a licence to provide a local service and a licence to provide a national service, respectively;

“local service”, “national service”, “restricted service” and “satellite service” shall be construed in accordance with section 84(2);

“sound broadcasting service” means a broadcasting service whose broadcasts consist of transmissions in sound only;

“spare capacity” shall be construed in accordance with section 114(2).

(2) Any reference in this Part to an area in the United Kingdom does not include an area which comprises or includes the whole of England; and nothing in this Part shall be read as precluding a local service from being provided for an area or locality that is to any extent comprised in the area or locality for which another local service is to be provided.

(3) Where the person who is for the time being the holder of any licence (“the present licence holder”) is not the person to whom the licence was originally granted, any reference in this Part (however expressed) to the holder of the licence shall be construed, in relation to any time falling before the date when the present licence holder became the holder of it, as including a reference to a person who was previously the holder of the licence.

PART IV

TRANSFER OF UNDERTAKINGS OF IBA AND CABLE AUTHORITY

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PART V

THE BROADCASTING COMPLAINTS COMMISSION

The Broadcasting Complaints Commission

142.– (1) The Commission which at the commencement of this section is known as the Broadcasting Complaints Commission (in this Part referred to “the BCC”) shall continue in existence as a body corporate but shall be constituted in accordance with, and have the functions conferred by, this Part.

(2) The BCC shall consist of not less than three members appointed by the Secretary of State.

(3) The Secretary of State shall appoint one member of the BCC to be chairman, and may appoint another to be deputy chairman.

(4) Schedule 13 to this Act shall have effect with respect to the BCC.

Function of BCC

143.– (1) Subject to the provisions of this Part, the function of the BCC shall be to consider and adjudicate upon complaints of –

- (a) unjust or unfair treatment in programmes to which this Part applies, or
- (b) unwarranted infringement of privacy in, or in connexion with the obtaining of material included in, such programmes.

(2) This Part applies to –

- (a) any television or sound programme broadcast by the BBC on or after such date as is specified in an order made by the Secretary of State for the purposes of this subsection;
- (b) * * * * *
- (c) any television or sound programme included, on or after that date, in a licensed service.

Making and entertaining of complaints

144.– (1) Complaints must be made in writing.

(2) A complaint may be made by an individual or by a body of persons, whether incorporated or not, but, subject to subsection (3), shall not be entertained by the BCC unless made by the person affected or by a person authorised by him to make the complaint for him.

(3) Where the person affected is an individual who has died or is for any other reason both unable to make a complaint himself and unable to authorise another person to do so for him, a complaint may be made by the personal representative of the person affected, or by a member of his family, or by some other person or body closely connected with him (whether as his employer, or as a body of which he is or was at his death a member, or in any other way).

(4) The BCC shall not entertain, or proceed with the consideration of, a complaint if it appears to them –

- (a) that the complaint relates to the broadcasting of the relevant programme, or to its inclusion in a licensed service, on an occasion more than five years after the death of the person affected, or
- (b) that the unjust or unfair treatment or unwarranted infringement of privacy complained of is the subject of proceedings in a court of law in the United Kingdom [or the Bailiwick of Jersey], or
- (c) that the unjust or unfair treatment or unwarranted infringement of privacy complained of is a matter in respect of which the person affected has a remedy by way of proceedings in a court of law in the United Kingdom [or the Bailiwick of Jersey,] and that in the particular circumstances it is not appropriate for the BCC to consider a complaint about it, or
- (d) that the complaint is frivolous,

or if it appears to them for any other reason inappropriate for them to entertain, or proceed with the consideration of, the complaint.

(5) The BCC may refuse to entertain a complaint if it appears to them not to have been made within a reasonable time after the last occasion on which the relevant programme was broadcast or, as the case may be, included in a licensed service.

(6) Where, in the case of a complaint, the relevant programme was broadcast or included in a licensed service within five years after the death of the person affected, subsection (5) shall apply as if at the end there were added “within five years after the death of the person affected”.

(7) The BCC may refuse to entertain –

- (a) a complaint of unjust or unfair treatment if the person named as the person affected was not himself the subject of the treatment complained of and it appears to the BCC that he did not have a sufficiently direct interest in the subject-matter of that treatment to justify the making of a complaint with him as the person affected; or
- (b) a complaint made under subsection (3) by a person other than the person affected or a person authorised by him, if it appears to the BCC that the complainant’s connexion with the person affected is not sufficiently close to justify the making of the complaint by him.

Consideration of complaints

145.– (1) Subject to the provisions of section 144, every complaint made to the BCC shall be considered by them either at a hearing or, if they think fit, without a hearing.

(2) Hearings under this section shall be held in private; and where such a hearing is held in respect of a complaint, each of the following persons shall be given an opportunity to attend and be heard, namely –

- (a) the complainant;
- (b) the relevant person;
- (c) where the relevant programme was included in a licensed service, the appropriate regulatory body;
- (d) any person not falling within any of paragraphs (a) to (c) who appear to the BCC to have been responsible for the making or provision of that programme; and
- (e) any other person who the BCC consider might be able to assist at the hearing.

(3) Before they proceed to consider a complaint the BCC shall send a copy of it –

- (a) to the relevant person, and
- (b) where the relevant programme was included in a licensed service, to the appropriate regulatory body.

(4) Where the relevant person receives from the BCC a copy of the complaint, it shall be the duty of that person, if so required by the BCC –

- (a) to provide the BCC with a visual or sound recording of the relevant programme or of any specified part of it, if and so far as the relevant person has such a recording in his possession;
- (b) to make suitable arrangements for enabling the complainant to view or hear the relevant programme, or any specified part of it, if and so far as the relevant person has in his possession a visual or sound recording of it;
- (c) to provide the BCC and the complainant with a transcript of so much of the relevant programme, or of any specified part of it, as consisted of speech, if and so far as the relevant person is able to do so;
- (d) to provide the BCC and the complainant with copies of any documents in the possession of the relevant person being the originals or copies of any correspondence between that person and the person affected or the complainant in connexion with the complaint;
- (e) to furnish to the BCC and the complainant a written statement in answer to the complaint.

(5) For the purposes of this section, section 155 and section 167 it shall be the duty of each broadcasting body to retain a recording of every television or sound programme which is broadcast by that body –

- (a) where it is of a television programme, during the period of 90 days beginning with the broadcast, and

- (b) where it is of a sound programme, during the period of 42 days beginning with the broadcast.
- (6) Where the relevant person receives from the BCC a copy of a complaint, it shall be the duty of that person, if so required by the BCC –
- (a) where the relevant person is a broadcasting body, to arrange for one or more of the governors, members or employees of the body to attend the BCC and assist them in their consideration of the complaint, or
 - (b) where the relevant person is a body other than a broadcasting body, to arrange for one or more of the following, namely –
 - (i) the persons who take part in the management or control of the body, or
 - (ii) the employees of the body,
 to attend the BCC and assist them in their consideration of the complaint, or
 - (c) where the relevant person is an individual, to attend, or to arrange for one or more of his employees to attend, the BCC and assist them in their consideration of the complaint.
- (7) Where the relevant person receives from the BCC a copy of a complaint and, in connexion with the complaint, the BCC make to any other person a request to which this subsection applies, it shall be the duty of the relevant person to take such steps as he reasonably can to ensure that the request is complied with.
- (8) Subsection (7) applies to the following requests by the BCC to any such other person as is there mentioned, namely –
- (a) a request to make suitable arrangements for enabling the complainant and any member or employee of the BCC to view or hear the relevant programme, or any specified part of it, if and so far as the person requested has in his possession a visual or sound recording of it;
 - (b) a request to provide the BCC and the complainant with a transcript of so much of the relevant programme, or of any specified part of it, as consisted of speech, if and so far as the person requested is able to do so;
 - (c) a request to provide the BCC and the complainant with copies of any documents in the possession of the person requested, being the originals or copies of any correspondence between that person and the person affected or the complainant in connexion with the complaint;
 - (d) a request to furnish to the BCC and the complainant a written statement in answer to the complaint;
 - (e) a request to attend, or (where the person requested is not an individual) to arrange for a representative to attend, the BCC and assist them in their consideration of the complaint.
- (9) The BCC may, if they think fit, make to any person who attends them in connexion with a complaint such payments as they think fit by way of travelling allowance or subsistence

allowance where expenditure on travelling or, as the case may be, on subsistence is necessarily incurred by him for the purpose of enabling him so to attend.

(10) In this section “the relevant person” means –

- (a) in a case where the relevant programme was broadcast by a broadcasting body, that body; and
- (b) in a case where the relevant programme was included in a licensed service, the licence holder providing the service.

Publication of BCC’s findings

146.– (1) Where the BCC have considered and adjudicated upon a complaint, they may give the following directions, namely –

- (a) where the relevant programme was broadcast by a broadcasting body, directions requiring that body to publish the matters mentioned in subsection (2) in such manner, and within such period, as may be specified in the directions; and
- (b) where the relevant programme was included in a licensed service, directions requiring the appropriate regulatory body to direct the licence holder to publish those matters in such manner, and within such period, as may be so specified.

(2) Those matters are –

- (a) a summary of the complaint; and
- (b) the BCC’s findings on the complaint or a summary of them.

(3) The form and content of any such summary as is mentioned in subsection (2)(a) or (b) shall be such as may be approved by the BCC.

(4) A broadcasting or regulatory body shall comply with any directions given to them under this section.

(5) Any licence to provide a licensed service which is granted by a regulatory body under this Act shall include conditions requiring the licence holder to comply with such directions as may be given to him by that body for the purpose of enabling them to comply with any directions given to them under this section.

(6) The BCC shall publish, at such intervals and in such manner as they think fit, reports each containing, as regards every complaint within this subsection which has been dealt with by them in the period covered by the report, a summary of the complaint and the action taken by them on it and, where they have adjudicated upon it, a summary of their findings.

(7) A complaint made to the BCC is within subsection (6) unless it is one which they are precluded from entertaining by section 144(2).

(8) The BCC may, if they think fit, omit from any summary included in a report under subsection (6) any information which could lead to the disclosure of the identity of any person connected with the complaint in question other than –

- (a) a broadcasting or regulatory body; or

- (b) a person providing a licensed service.

Duty to publicise BCC

147.– (1) It shall be the duty of each broadcasting or regulatory body to arrange for the publication (by means of broadcasts or otherwise) of regular announcements publicising the BCC.

(2) Any such announcements may contain a statement of the difference between the kinds of complaints that may be considered by the BCC and those that may be considered by the Broadcasting Standards Council established by this Act.

(3) Any licence to provide a licensed service which is granted by a regulatory body under this Act shall include conditions requiring the licence holder to comply with such directions as may be given to him by that body in connexion with the performance by them of their duty under subsection (1).

Annual reports

148.– (1) As soon as possible after the end of every financial year the BCC shall prepare a report of their proceedings during that year and transmit it to the Secretary of State who shall 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 auditors on that statement.

- (3) The BCC shall send a copy of the report –
 - (a) to each broadcasting or regulatory body; and
 - (b) to every person providing a licensed service.

149. * * * * *

Interpretation of Part V

150. In this Part –

“appropriate regulatory body”, in relation to a programme included in a licensed service, means the regulatory body by whom that service is licensed;

“the BCC” means the Broadcasting Complaints Commission;

“broadcasting body” means the BBC * * *;

“complaint” means a complaint to the BCC or any such unjust or unfair treatment or unwarranted infringement of privacy as is mentioned in section 143(1);

“licensed service” means –

- (a) a television programme service (within the meaning of Part I of this Act), or
- (b) an independent radio service falling within paragraph (a) or (b) of section 84(1),

which is licensed under Part I or (as the case may be) Part III of this Act, or any additional service (within the meaning of Part I or Part III of this Act) which is licensed under that Part of this Act and constitutes a teletext service;

“participant”, in relation to a programme means a person who appeared, or whose voice was heard, in the programme;

“the person affected” –

(a) in relation to any such unjust or unfair treatment as is mentioned in section 143(1), means a participant in the programme in question who was the subject of that treatment or a person who, whether such a participant or not, had a direct interest in the subject-matter of that treatment; and

(b) in relation to any such unwarranted infringement of privacy as is so mentioned, means a person whose privacy was infringed;

“regulatory body” means the Independent Television Commission or the Radio Authority;

“the relevant programme”, in relation to a complaint, means the programme to which the complaint relates;

“television programme” includes a teletext transmission, and references to programmes shall be construed accordingly;

“unjust or unfair treatment” includes treatment which is unjust or unfair because of the way in which material included in a programme has been selected or arranged.

PART VI

THE BROADCASTING STANDARDS COUNCIL

The Broadcasting Standards Council

151.– (1) The council which at the commencement of this section is known as the Broadcasting Standards Council shall be, by that name, a body corporate and as such shall be constituted in accordance with, and have the functions conferred by, this Act.

(2) The Council shall consist of –

- (a) a chairman and a deputy chairman appointed by the Secretary of State; and
 - (b) such number of other members appointed by the Secretary of State, not being less than four, as he may from time to time determine.
- (3) Schedule 14 to this Act shall have effect with respect to the Council.

Preparation by Council of code relating to broadcasting standards

152.– (1) It shall be the duty of the Council to draw up, and from time to time review, a code giving guidance as to –

- (a) practices to be followed in connexion with the portrayal of violence in programmes to which this Part applies,
- (b) practices to be followed in connexion with the portrayal of sexual conduct in such programmes, and
- (c) standards of taste and decency for such programmes generally.

(2) This Part applies to –

- (a) any television or sound programme broadcast by the BBC;
- (b) * * * * *
- (c) any television or sound programme included in a licensed service.

(3) It shall be the duty of each broadcasting or regulatory body, when drawing up or revising any code relating to standards and practice for programmes, to reflect the general effect of so much of the code referred to in subsection (1) (as for the time being in force) as is relevant to the programmes in question.

(4) The Council shall from time to time publish the code referred to in subsection (1) (as for the time being in force).

(5) Before drawing up or revising the code the Council shall consult –

- (a) each broadcasting or regulatory body; and
- (b) such other persons as appear to the Council to be appropriate.

Monitoring by Council of broadcasting standards

153.– (1) It shall be the duty of the Council to monitor programmes to which this Part applies with a view to enabling the Council –

- (a) to make reports on the portrayal of violence and sexual conduct in, and the standards of taste and decency attained by, such programmes generally, and
- (b) to determine whether to issue complaints in respect of such programmes under section 154(7).

(2) Subject to section 160(2), the Council may make reports on the matters specified in subsection 1(1)(a) on such occasions as they think fit; and any such report may include an assessment of either or both of the following, namely –

- (a) the attitudes of the public at large towards the portrayal of violence or sexual conduct in, or towards the standards of taste and decency attained by, programmes to which this Part applies; and
- (b) any effects or potential effects on the attitudes or behaviour of particular categories of persons of the portrayal of violence or sexual conduct in such programmes or of any failure on the part of such programmes to attain such standards.

(3) The Council may publish any report made by them in pursuance of subsection (1)(a).

(4) The Council shall have the further duty of monitoring, so far as is reasonably practicable, all television and sound programmes which are transmitted or sent from outside to the United Kingdom [and the Bailiwick of Jersey] but are capable of being received there, with a view to ascertaining –

- (a) how violence and sexual conduct are portrayed in those programmes; and
- (b) the extent to which those programmes meet standards of taste and decency.

(5) The Council may make a report to the Secretary of State on any issues identified by them in the course of carrying out their duty under subsection (4) and appearing to them to raise questions of general broadcasting policy.

Consideration by Council of complaints relating to broadcasting standards

154.– (1) Subject to the provisions of this section, it shall be the duty of the Council to consider complaints which are made to them under this section and relate –

- (a) to the portrayal of violence or sexual conduct in programmes to which this Part applies; or
- (b) to alleged failures on the part of such programmes to attain standards of taste and decency,

and to make findings on such complaints, taking into account any relevant provisions of the code.

(2) Any such complaint must be in writing and give particulars of the matters complained of.

(3) The Council shall not entertain a complaint which is made –

- (a) where the relevant programme is a television programme, more than two months after the relevant date, or
- (b) where the relevant programme is a sound programme, more than three weeks after that date,

unless it appears to them that in the particular circumstances it is appropriate for them to do so.

(4) In subsection (3) “the relevant date” means –

- (a) the date on which the relevant programme was broadcast by a broadcasting body or included in a licensed service, or
- (b) where it has been so broadcast or included on more than one occasion, the date on which it was last so broadcast or included.

(5) The Council shall not entertain, or proceed with the consideration of, a complaint if it appears to them –

- (a) that the matter complained of is the subject of proceedings in a court of law in the United Kingdom [or the Bailiwick of Jersey], or
- (b) that the matter complained of is a matter in respect of which the complainant has a remedy by way of proceedings in a court of law in the United Kingdom [or the Bailiwick of Jersey], and that in the particular circumstances it is not appropriate for the Council to consider a complaint about it, or
- (c) that the complaint is frivolous, or
- (d) that for any other reason it is inappropriate for them to entertain, or proceed with the consideration of, the complaint.

(6) Where, apart from this subsection, there would fall to be considered by the Council two or more complaints which appear to them to raise the same, or substantially the same, issue or issues in relation to a particular programme, the Council may determine that those complaints shall be treated for the purposes of this Part as constituting a single complaint.

(7) If it appears to the Council to be appropriate to do so, they may of their own motion issue complaints relating to matters falling within subsection (1)(a) or (b).

- (8) Any such complaint shall give particulars of the matters complained of.

Consideration of complaints

155.— (1) Subject to the provisions of section 154, every complaint made to or issued by the Council under that section shall be considered by them either without a hearing or, if they think fit, at a hearing (and any such hearing shall be held in private unless the Council decide otherwise).

- (2) Before the Council proceed to consider a complaint they shall send a copy of it –

- (a) to the relevant person; and
- (b) where the relevant programme was included in a licensed service, to the appropriate regulatory body.

(3) Where the relevant person receives from the Council a copy of the complaint, it shall be the duty of that person, if so required by the Council –

- (a) to provide the Council with a visual or sound recording of the relevant programme or any specified part of it, if and so far as he has such a recording in his possession;
- (b) to provide the Council with a transcript of so much of the relevant programme, or of any specified part of it, as consisted of speech, if and so far as he is able to do so;
- (c) to provide the Council with copies of any documents in his possession, being the originals or copies of any correspondence between him and the complainant in connexion with the complaint;
- (d) to furnish to the Council a written statement in answer to the complaint.

(4) Where a hearing is held in respect of a complaint, the following persons shall be given an opportunity to attend and be heard, namely –

- (a) the complainant;
- (b) the relevant person;
- (c) where the relevant programme was included in a licensed service, the appropriate regulatory body;
- (d) any person not within any of paragraphs (a) to (c) who appears to the Council to have been responsible for the making or provision of that programme; and
- (e) any other person who the Council consider might be able to assist at the hearing.

(5) In a case where the Council have made a determination in respect of any complaints under subsection (6) of section 154, subsection (4)(a) above shall be construed as referring to such one or more of the persons who made those complaints as the Council may determine; and in relation to a complaint issued by the Council under subsection (7) of that section, subsection (4) above shall have effect as if paragraph (a) were omitted.

(6) The Council may, if they think fit, make to any person who attends a hearing in connexion with a complaint such payments as they think fit by way of travelling allowance or subsistence allowance where expenditure on travelling or, as the case may be, on subsistence is necessarily incurred by him for the purpose of enabling him so to attend.

(7) In this section “the relevant person” means –

- (a) in a case where the relevant programme was broadcast by a broadcasting body, that body; and
- (b) in a case where the relevant programme was included in a licensed service, the licence holder providing that service.

Publication of Council’s findings

156.– (1) Where the Council have considered and made their findings on any complaint, they may give the following directions, namely –

- (a) where the relevant programme was broadcast by a broadcasting body, directions requiring that body to publish the matters mentioned in subsection (2) in such manner, and within such period, as may be specified in the directions; and
 - (b) where the relevant programme was included in a licensed service, directions requiring the appropriate regulatory body to direct the licence holder to publish those matters in such manner, and within such period, as may be so specified.
- (2) Those matters are –
- (a) a summary of the complaint; and
 - (b) the Council’s findings, and any observations by them, on the complaint, or a summary of those findings and any such observations.

(3) The form and content of any such summary as is mentioned in subsection (2)(a) or (b) shall be such as may be approved by the Council.

(4) A broadcasting or regulatory body shall comply with any directions given to them under this section.

(5) Any licence to provide a licensed service which is granted by a regulatory body under this Act shall include conditions requiring the licence holder to comply with such directions as may be given to him by that body for the purpose of enabling them to comply with any directions given to them under this section.

Power of Council to commission research

157.– (1) The Council may make arrangements for the undertaking of research into matters related to or connected with –

- (a) the portrayal of violence or sexual conduct in programmes to which this Part applies, or
- (b) standards of taste and decency for such programmes generally.

(2) The matters into which research may be undertaken in pursuance of subsection (1) include, in particular, matters falling within section 153(2)(a) and (b).

(3) Arrangements made under subsection (1) shall secure that, so far as is reasonably practicable, any research undertaken in pursuance of the arrangements is undertaken by persons who are neither members nor employees of the Council.

(4) The Council may publish the results of any research undertaken in pursuance of subsection (1).

International representation by Council of Government interests

158. The functions of the Council shall include representing Her Majesty's Government in the United Kingdom, at the request of the Secretary of State, on international bodies concerned with setting standards for television programmes.

Duty to publicise Council

159.– (1) It shall be the duty of each broadcasting or regulatory body to arrange for the publication (by means of broadcasts or otherwise) of regular announcements publicising the Council.

(2) Any such announcements may contain a statement of the difference between the kinds of complaints that may be considered by the Council and those that may be considered by the Broadcasting Complaints Commission.

(3) Any licence to provide a licensed service which is granted by a regulatory body under this Act shall include conditions requiring the licence holder to comply with such directions as may be given to him by that body in connexion with the performance by them of their duty under subsection (1).

Annual reports

160.– (1) As soon as possible after the end of every financial year the Council shall prepare a report of their proceedings during that year, and transmit it to the Secretary of State who shall lay copies of it before each House of Parliament.

(2) The report shall include a report by the Council on the matters specified in section 153(1)(a).

(3) The Council shall send a copy of the report –

- (a) to each broadcasting or regulatory body; and
- (b) to every person providing a licensed service.

Interpretation of Part VI

161.– (1) In this Part –

“the appropriate regulatory body”, in relation to a programme included in a licensed service, means the regulatory body by whom that service is licensed;

“broadcasting body” means the BBC or the Welsh Authority;

“the code” means the code referred to in section 152(1) (as for the time being in force);

“the Council” means the Broadcasting Standards Council;

“licensed service” means –

- (a) a television programme service (within the meaning of Part I of this Act), or
- (b) an independent radio service falling within paragraph (a) or (b) of section 84(1),

which is licensed under Part I or (as the case may be) Part III of this Act, or so much of any licensed delivery service (within the meaning of Part II of this Act) as is, by virtue of section 79(2) or (4), treated as the provision of a service licensed under Part I of this Act;

“regulatory body” means the Independent Television Commission or the Radio Authority;

“the relevant programme”, in relation to a complaint, means the programme to which the complaint relates;

“sexual conduct” means any form of sexual activity or other sexual behaviour.

(2) Any reference in this Part to programmes to which this Part applies shall be construed in accordance with section 152(2).

*PART VII*PROHIBITION ON INCLUSION OF OBSCENE AND OTHER MATERIAL IN
PROGRAMME SERVICES

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PART VIII

PROVISIONS RELATING TO WIRELESS TELEGRAPHY

Offence of keeping wireless telegraphy station or apparatus available for unauthorised use

168. The following section shall be inserted after section 1 of the Wireless Telegraphy Act 1949¹² (in this Part referred to as “the 1949 Act”) –

“Office of keeping wireless telegraphy station or apparatus available for unauthorised use

1A. Any person who has any station for wireless telegraphy or apparatus for wireless telegraphy in his possession or under his control and either –

- (a) intends to use it in contravention of section 1 of this Act; or
- (b) knows, or has reasonable cause to believe, that another person intends to use it in contravention of that section,

shall be guilty of an offence.”

Offence of allowing premises to be used for purpose of unlawful broadcasting

169. The following section shall be inserted in the 1949 Act after the section 1A inserted by section 168 above –

“Offence of allowing premises to be used for purpose of unlawful broadcasting

1B.– (1) A person who is in charge of any premises which are used for making an unlawful broadcast, or for sending signals for the operation or control of any apparatus used for the purpose of making an unlawful broadcast from any other place, shall be guilty of an offence if –

- (a) he knowingly causes or permits the premises to be so used; or
 - (b) having reasonable cause to believe that the premises are being so used, he fails to take such steps as are reasonable in the circumstances of the case to prevent the premises from being so used.
- (2) For the purposes of this section a person is in charge of any premises if he –
- (a) is the owner or occupier of the premises; or
 - (b) has, or acts or assists in, the management or control of the premises.

¹² Tome VIII, page 172.

- (3) For the purposes of this section a broadcast is unlawful if –
- (a) it is made by means of the use of any station for wireless telegraphy or apparatus for wireless telegraphy in contravention of section 1 of this Act; or
 - (b) the making of the broadcast contravenes any provision of the Marine, &c., Broadcasting (Offences) Act 1967
- (4) In this section –
- “broadcast” has the same meaning as in the Marine, &c., Broadcasting (Offences) Act 1967¹³;
- “premises” includes any place and, in particular, includes –
- (a) any vehicle, vessel or aircraft; and
 - (b) any structure or other object (whether movable or otherwise and whether on land or otherwise).”

Prohibition of acts facilitating unauthorised broadcasting

170. The following section shall be inserted in the 1949 Act after the section 1B inserted by section 169 above –

“Prohibition of acts facilitating unauthorised broadcasting

1C.– (1) If a person –

- (a) does any of the acts mentioned in subsection (2) in relation to a broadcasting station by which unauthorised broadcasts are made, and
- (b) if any knowledge or belief or any circumstances is or are specified in relation to the act, does it with that knowledge or belief or in those circumstances,

he shall be guilty of an offence.

(2) The acts referred to in subsection (1) are –

- (a) participating in the management, financing, operation or day-to-day running of the station knowing, or having reasonable cause to believe, that unauthorised broadcasts are made by the station;
- (b) supplying, installing, repairing or maintaining any wireless telegraphy apparatus or any other item knowing, or having reasonable cause to believe, that the apparatus or other item is to be, or is, used for the purpose of facilitating the operation or day-to-day running of the station and that unauthorised broadcasts are made by the station;
- (c) rendering any other service to any person knowing, or having reasonable cause to believe, that the rendering of that service to that person will facilitate the operation or day-to-day running of the station and that unauthorised broadcasts are so made;

¹³ Volume 1966-1967, page 735.

- (d) supplying a film or sound recording knowing, or having reasonable cause to believe, that an unauthorised broadcast of the film or recording is to be so made;
- (e) making a literary, dramatic or musical work knowing, or having reasonable cause to believe, that an unauthorised broadcast of the work is to be so made;
- (f) making an artistic work knowing, or having reasonable cause to believe, that an unauthorised broadcast including that work is to be so made;
- (g) doing any of the following acts, namely –
 - (i) participating in an unauthorised broadcast made by the station, being actually present as an announcer, as a performer or one of the performers concerned in an entertainment given, or as the deliverer of a speech;
 - (ii) advertising, or inviting another to advertise, by means of an unauthorised broadcast made by the station; or
 - (iii) publishing the times or other details of any unauthorised broadcasts made by the station or (otherwise than by publishing such details) publishing an advertisement of matter calculated to promote the station (whether directly or indirectly),

knowing, or having reasonable cause to believe, that unauthorised broadcasts are made by the station.

(3) In any proceedings against a person for an offence under this section consisting in the supplying of any thing or the rendering of any service, it shall be a defence for him to prove that he was obliged, under or by virtue of any enactment, to supply that thing or render that service.

(4) If, by means of an unauthorised broadcast made by a broadcasting station, it is stated, suggested or implied that any entertainment of which a broadcast is so made has been supplied by, or given at the expense of, a person, then for the purposes of this section he shall, unless he proves that it was not so supplied or given be deemed thereby to have advertised.

(5) Section 46 of the Consumer Protection Act 1987 shall have effect for the purpose of construing references in this section to the supply of any thing as it has effect for the purpose of construing references in that Act to the supply of any goods.

(6) In this section –

“broadcast” has the same meaning as in the Marine, &c., Broadcasting (Offences) Act 1967¹⁴ ;

“broadcasting station” means any business or other operation (whether or not in the nature of a commercial venture) which is engaged in the making of broadcasts;

“film”, “sound recording”, “literary, dramatic or musical work” and “artistic work” have the same meaning as in Part I of the Copyright, Designs and Patents Act 1988;

¹⁴ Volume 1966-1967, page 734.

“speech” includes lecture, address and sermon; and

“unauthorised broadcast” means a broadcast made by means of the use of a station for wireless telegraphy or wireless telegraphy apparatus in contravention of section 1 of this Act.”

Amendments of the Marine, &c., Broadcasting (Offences) Act 1967

171. The Marine, &c., Broadcasting (Offences) Act 1967 shall have effect subject to the amendments specified in Schedule 16 (which include amendments that impose further restrictions on broadcasting at sea and on acts facilitating such broadcasting).

Amendments of provisions of 1949 Act¹⁵ relating to penalties and forfeiture

172.– (1) Section 14 of the 1949 Act (penalties and legal proceedings) shall be amended as follows.

(2) In subsection (1), the following paragraphs shall be inserted before paragraph (a) –

“(aa) any offence under section 1(1) of this Act other than one falling within subsection (1A)(a) of this section;

(ab) any offence under section 1A of this Act other than one falling within subsection (1A)(aa) of this section;

(ac) any offence under section 1B or 1C of this Act;”.

(3) In subsection (1A), the following paragraph shall be inserted after paragraph (a) –

“(aa) any offence under section 1A of this Act committed in relation to any wireless telegraphy apparatus not designed or adapted for emission (as opposed to reception);”.

(4) The following subsections shall be substituted for subsection (3) –

“(3) Where a person is convicted of –

(a) an offence under this Act consisting in any contravention of any of the provisions of Part I of this Act in relation to any station for wireless telegraphy or any wireless telegraphy apparatus (including an offence under section 1B or 1C of this Act) or in the use of any apparatus for the purpose of interfering with any wireless telegraphy;

(b) any offence under section 12A of this Act;

(c) any offence under the Marine, &c., Broadcasting (Offences) Act 1967¹⁶; or

(d) any offence under this Act which is an offence under section 7 of the Wireless Telegraphy Act 1967 (whether as originally enacted or as substituted by section 77 of the Telecommunications Act 1984),

¹⁵ Tome VIII, page 187.

¹⁶ Volume 1966-1967, page 734.

the court may, in addition to any other penalty, order such of the following things to be forfeited to the [Crown for the benefit of the Crown revenues in the Bailiwick of Jersey] as the court considers appropriate, that is to say –

- (i) any vehicle, vessel or aircraft, or any structure or other object, which was used in connexion with the commission of the offence;
- (ii) any wireless telegraphy apparatus or other apparatus in relation to which the offence was committed or which was used in connexion with the commission of it;
- (iii) any wireless telegraphy apparatus or other apparatus not falling within paragraph (ii) above which was, at the time of the commission of the offence, in the possession or under the control of the person convicted of the offence and was intended to be used (whether or not by that person) in connexion with the making of any broadcast or other transmission that would contravene section 1 of this Act or any provision of the Marine, &c., Broadcasting (Offences) Act 1967¹⁷.

(3AA) The power conferred by virtue of subsection (3) (a) above does not apply in a case where the offence is any such offence as is mentioned in subsection (1A)(a) or (aa) above.

(3AB) References in subsection (3)(ii) or (iii) above to apparatus other than wireless telegraphy apparatus include references to –

- (a) recordings;
- (b) equipment designed or adapted for use –
 - (i) in making recordings; or
 - (ii) in reproducing from recordings any sounds or visual images; and
- (c) equipment not falling within paragraphs (a) and (b) above but connected, directly or indirectly, to wireless telegraphy apparatus.”

(5) In subsection (3E), for the words from “(whether” to “provision” there shall be substituted “, shall be treated as an offence committed under the same provision, and at the same time,”.

Extension of search and seizure powers in relation to unlawful broadcasting etc.

173.– (1) In subsection (1) of section 15 of the 1949 Act (entry and search of premises)

- (a) after “Act” there shall be inserted “or under the Marine, &c., Broadcasting (Offences) Act 1967”¹⁸ ; and
- (b) the words “and named in the warrant,” shall be omitted.

¹⁷ Volume 1966-1967, page 734.

¹⁸ Volume 1966-1967, page 734.

(2) In subsection (2) of that section, the words “and named in the authorisation” shall be omitted.

(3) The following subsection shall be inserted after subsection (2) of that section –

“(2A) Without prejudice to any power exercisable by him apart from this subsection, a person authorised by the Secretary of State or (as the case may be) by the BBC to exercise any power conferred by this section may use reasonable force, if necessary, in the exercise of that power.”

(4) In subsection (1)(b) of section 79 of the Telecommunications Act 1984 (seizure of apparatus and other property used in committing certain offences connected with wireless telegraphy), the following paragraphs shall be inserted after “reception); –

“(ba) any offence under section 5(b) of that Act;

(bb) any offence under the Marine, &c., Broadcasting (Offences) Act 1967;¹⁹”.

(5) In subsection (2) of that section –

(a) for “the person or persons named in it” there shall be substituted “any person authorised by the Secretary of State to exercise the power conferred by this subsection”; and

(b) the words “or them” shall be omitted.

(6) The following subsection shall be inserted after subsection (4) of that section –

“(4A) Without prejudice to any power exercisable by him apart from this subsection, a person authorised by the Secretary of State to exercise any power conferred by this section may use reasonable force, if necessary, in the exercise of that power.”

174. * * * * *

PART IX

COPYRIGHT AND RELATED MATTERS

175. * * * * *

176. * * * * *

PART X

MISCELLANEOUS AND GENERAL

Orders proscribing unacceptable foreign satellite services

177.– (1) * * * * *

¹⁹ Volume 1966-1967, page 734.

(2) * * * * *

(3) * * * * *

(4) * * * * *

(5) * * * * *

(6) In * * * section 178 –

“foreign satellite service” means a service which consists wholly or mainly in the transmission by satellite from a place outside the United Kingdom [and the Bailiwick of Jersey] of television or sound programmes which are capable of being received in the United Kingdom [or the Bailiwick of Jersey];

“relevant foreign satellite service” means –

(a) in relation to the Independent Television Commission, a foreign satellite service which consists wholly or mainly in the transmission of television programmes; and

(b) in relation to the Radio Authority, a foreign satellite service which consists wholly or mainly in the transmission of sound programmes.

Offence of supporting proscribed foreign satellite services

178.– (1) This section applies to any foreign satellite service which is proscribed [in the United Kingdom for the purpose of section 178 of the Broadcasting Act 1990 by virtue of an order under section 177 of that Act]; and references in this section to a proscribed service are references to any such service.

(2) Any person who in the [Bailiwick of Jersey] does any of the acts specified in subsection (3) shall be guilty of an offence.

(3) Those acts are –

(a) supplying any equipment or other goods for use in connexion with the operation or day-to-day running of a proscribed service;

(b) supplying, or offering to supply, programme material to be included in any programme transmitted in the provision of a proscribed service;

(c) arranging for, or inviting, any other person to supply programme material to be so included;

(d) advertising, by means of programmes transmitted in the provision of a proscribed service, goods supplied by him or services provided by him;

(e) publishing the times or other details of any programmes which are to be transmitted in the provision of a proscribed service or (otherwise than by publishing such details) publishing an advertisement of matter calculated to promote a proscribed service (whether directly or indirectly);

- (f) supplying or offering to supply any decoding equipment which is designed or adapted to be used primarily for the purpose of enabling the reception of programmes transmitted in the provision of a proscribed service.

(4) In any proceedings against a person for an offence under this section, it is a defence for him to prove that he did not know, and had no reasonable cause to suspect, that the service in connexion with which the act was done was a proscribed service.

- (5) A person who is guilty of an offence under this section shall be liable [to a fine].

(6) For the purposes of this section a person exposing decoding equipment for supply or having such equipment in his possession for supply shall be deemed to offer to supply it.

(7) Section 46 of the Consumer Protection Act 1987 shall have effect for the purpose of construing references in this section to the supply of any thing as it has effect for the purpose of construing references in that Act to the supply of any goods.

- (8) In this section “programme material” includes –

- (a) a film (within the meaning of Part I of the Copyright, Designs and Patents Act 1988);
- (b) any other recording; and
- (c) any advertisement or other advertising material.

179. * * * * *

180. * * * * *

Certain apparatus to be deemed to be apparatus for wireless telegraphy

181.– (1) Any apparatus which –

- (a) is connected to the telecommunication system by means of which a relevant cable service is provided, and
- (b) is so connected for the purpose of enabling any person to receive any programmes included in that service by means of the reception and immediate re-transmission of programmes included in a television broadcasting service,

shall be deemed for the purposes of the 1949 Act to be apparatus for wireless telegraphy.

- (2) Any such apparatus shall, in addition, be deemed for the purposes of –

- (a) section 1(7) of the 1949 Act (as amended by Part I of Schedule 18 to this Act), and
- (b) any regulations made by the Secretary of State for the purposes of that provision under section 2 of that Act,

to be television receiving apparatus.

(3) In this section “relevant cable service” means a service provided by any person to the extent that it consists in the use of a telecommunication system (whether run by him or by

any other person) for the purpose of the delivery, otherwise than by wireless telegraphy, of programmes included in one or more television broadcasting services, where such programmes are so delivered –

- (a) for simultaneous reception at two or more places in the United Kingdom [or the Bailiwick of Jersey]; or
 - (b) for reception at any place in the United Kingdom [or the Bailiwick of Jersey] for the purpose of being presented there either to members of the public or to any group of persons.
- (4) In this section –

“the 1949 Act” means the Wireless Telegraphy Act 1949²⁰ ;

“connected” has the same meaning as in the Telecommunications Act 1984;

“television broadcasting service” means television broadcasting service within the meaning of Part I of this Act, whether provided by the holder of a licence under that Part or by the BBC or the Welsh Authority or in accordance with Part II of Schedule 11 to this Act.

Certain events not to be shown on pay-per-view terms

182.– (1) The Independent Television Commission shall do all that they can to secure that any programme which consists of or includes the whole or any part of a listed event shall not be included on pay-per-view terms in any service provided by the holder of a licence granted by the Commission under Part I of this Act.

(2) Any such programme as is mentioned in subsection (1) shall not be included in pay-per-view terms in any television broadcasting service provided by the BBC or the Welsh Authority.

(3) For the purposes of this section –

- (a) a listed event is a sporting or other event of national interest which is for the time being included in a list [for the time being having effect in the United Kingdom for the purposes of section 182 of the Broadcasting Act 1990]; and
- (b) a programme is included in any service on pay-per-view terms if any payments falling to be made by subscribers to that service will or may vary according to whether that programme is or is not actually received by them.

(4) The Secretary of State shall not at any time draw up, revise or cease to maintain such a list as is mentioned in subsection (3) unless he has first consulted –

- (a) the BBC;
- (b) the Welsh Authority;
- (c) the Commission; and

²⁰ Tome VIII, page 172, and Volume 1990-1991, pages 389, 390, 391 and 392.

- (d) in relation to a relevant event, the person from whom the rights to televise that event may be required;

and for the purposes of this subsection a relevant event is a sporting or other event of national interest which the Secretary of State proposes to include in, or omit from, the list.

(5) As soon as he has drawn up or revised such a list as is mentioned in subsection (3), the Secretary of State shall publish the list in such manner as he considers appropriate for bringing it to the attention of –

- (a) the persons mentioned in subsection (4); and
- (b) every person who is the holder of a licence granted by the Commission under Part I of this Act.

(6) Neither subsection (1) nor subsection (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 recording of the whole or any part of any listed event where the programme is so included more than 48 hours after the original recording was made.

(7) In this section, “national interest” includes interest within [England, Scotland, Wales, Northern Ireland or the Bailiwick of Jersey].

183. * * * * *

184. * * * * *

Contributions towards maintenance of national television archive

185.– (1) The Commission shall, for the financial year which includes the commencement of this section and each subsequent financial year, determine an aggregate amount which they consider it would be appropriate for the holders of Channel 3 and Channel 5 licences to contribute, in accordance with this section, towards the expenses incurred by the nominated body in connexion with the maintenance by it of a national television archive.

(2) In this section “the nominated body” means such body as may for the time being be nominated by the Commission for the purposes of this section, being a body which –

- (a) is for the time being a designated body for the purposes of section 75 of the Copyright, Designs and Patents Act 1988 (recordings for archival purposes), and
- (b) appears to the Commission to be in a position to maintain a national television archive.

(3) A Channel 3 or Channel 5 licence shall include conditions requiring the licence holder to pay to the Commission, in respect of each of the financial years mentioned in subsection (1), such amount as they may notify to him for the purposes of this section, being such proportion of the aggregate amount determined for that year under that subsection as they consider appropriate (and different proportions may be determined in relation to different persons).

(4) Any amount received by the Commission by virtue of subsection (3) shall be transmitted by them to the nominated body.

(5) In this section –

“the Commission” means the Independent Television Commission; and

“Channel 3 licence” and “Channel 5 licence” have the same meaning as in Part I of this Act.

Duty of BBC to include independent productions in their television services

186.– (1) It shall be the duty of the BBC to secure that, in each relevant period, not less than the prescribed percentage of the total amount of time allocated to the broadcasting of qualifying programmes in the television broadcasting services provided by them is allocated to the broadcasting of a range and diversity of independent productions.

(2) In subsection (1) –

- (a) “qualifying programmes” and “independent productions” have the same meaning as in section 16(2)(h), and “the prescribed percentage” means the percentage for the time being specified in section 16(2)(h); and
- (b) the reference to a range of independent productions is a reference to a range of such productions in terms of cost of acquisition as well as in terms of the types of programme involved;

and before making an order under section 16(5) or (6) the Secretary of State shall (in addition to consulting the Independent Television Commission in accordance with section 16(7)) consult the BBC.

(3) The Director General of Fair Trading (“the Director”) shall, in respect of each relevant period, make a report to the Secretary of State on the extent to which the BBC have, in his opinion, performed their duty under subsection (1) above in that period.

(4) A report made by the Director under subsection (3) may contain, in addition to his conclusions as to the extent to which the BBC have performed that duty in the period in question –

- (a) such an account of his reasons for those conclusions as is, in his opinion, expedient for facilitating a proper understanding of those conclusions; and
- (b) his observations, in the light of those conclusions and his reasons for them, with regard to –
 - (i) competition in connexion with the production of television programmes for broadcasting by the BBC, or
 - (ii) matters appearing to him to arise out of, or to be conducive to, such competition.

(5) The Director may at any time make a report to the Secretary of State on any matter related to or connected with the performance by the BBC of their duty under subsection (1); and any such report may include observations by the Director on any matter falling within subsection (4)(b)(i) or (ii) and pertinent to the subject-matter of the report.

(6) The Director shall publish any report made by him under this section in such manner as he considers appropriate; and where he makes any report under this section he shall have regard to the need for excluding from the report, so far as it is practicable to do so –

- (a) any matter which relates to the private affairs of an individual, where in the opinion of the Director the publication of that matter would or might seriously and prejudicially affect the interests of that individual; and
- (b) any matter which relates specifically to the affairs of a body of persons (whether corporate or unincorporate), where in the opinion of the Director –
 - (i) publication of that matter would or might seriously and prejudicially affect the interests of that body, and
 - (ii) it is not necessary for the purposes of the report to include that matter as matter specifically relating to that body.

(7) For the purposes of the law relating to defamation, absolute privilege shall attach to any report of the Director under this section.

(8) In any proceedings relating to the performance by the BBC of their duty under subsection (1), any report made by the Director under subsection (3) –

- (a) shall be evidence of any facts stated in the report, and
- (b) so far as it consists of any such conclusions as are mentioned in subsection (4), shall be evidence of the extent to which the BBC have performed that duty in the relevant period in question;

and any document purporting to be a copy of any such report shall be received in evidence and shall be deemed to be such a copy unless the contrary is shown.

(9) The following periods are relevant periods for the purposes of this section, namely

–

- (a) the period beginning with 1st January 1993 and ending with 31st March 1994;
- (b) the financial year beginning with 1st April 1994; and
- (c) each subsequent financial year.

187. * * * * *

188. * * * * *

189. * * * * *

190. * * * * *

191. * * * * *

192. * * * * *

193. * * * * *

194. * * * * *

Offences by bodies corporate

195.– (1) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, then he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connexion with his functions of management as if he were a director of the body corporate.

Entry and search of premises

196.– (1) If [the Bailiff] is satisfied by information on oath –

- (a) that there is reasonable ground for suspecting that an offence under section 13, 82 or 97 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 relevant authority to enter and search [with officers of police (whether or not named in the warrant)] the premises specified in the information at any time within one month from the date of the warrant.

(2) In subsection (1) [“officers of police” means members of the Honorary Police or of the States of Jersey Police Force, and] “the relevant authority” –

- (a) in relation to an offence under section 13 or 82, means the Independent Televisions Commission; and
- (b) in relation to an offence under section 97, means the Radio Authority.

(3) 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 [to a fine].

(4) 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 [to a fine].

(5) * * * * *

(6) * * * * *

Restriction on disclosure of information

197.– (1) Subject to subsections (2) to (4), no information with respect to any particular business which has been obtained under or by virtue of this Act shall, so long as that business

continues to be carried on, be disclosed without the consent of the person for the time being carrying on that business.

- (2) Subsection (1) does not apply to any disclosure of information which is made –
 - (a) for the purpose of facilitating the performance of –
 - (i) any functions of the Independent Television Commission, the Welsh Authority or the Radio Authority under this Act or the 1988 Regulations, or
 - (ii) any functions of the Director General of Fair Trading, the Secretary of State or the Monopolies and Mergers Commission under the Fair Trading Act 1973 (excluding Parts II, III and XI of that Act), the Restrictive Trade Practices Act 1976, the Competition Act 1980 or this Act or the 1988 Regulations;
 - (b) in connexion with the investigation of any criminal offence or for the purposes of any criminal proceedings or a report of any such proceedings;
 - (c) for the purposes of any civil proceedings brought under or by virtue of the Fair Trading Act 1973 (excluding Part III), the Restrictive Trade Practices Act 1976 or this Act or the 1988 Regulations, or for the purposes of a report of any such proceedings; or
 - (d) in pursuance of any Community obligation.

- (3) Nothing in subsection (1) shall be construed –

- (a) as limiting the matters which may be included in, or be made public as part of, a report under section 186 above or under Schedule 4 to this Act, or
 - (b) as applying to any information which has been made public as part of such a report.

(4) Subsection (1) does not apply to any information obtained as mentioned in section 196(4) above.

- (5) The following provisions, namely –

- (a) section 133(1) of the Fair Trading Act 1973,
 - (b) section 41(1) of the Restrictive Trade Practices Act 1976, and
 - (c) section 19(1) of the Competition Act 1980,

shall not apply to any disclosure of information which is made for the purpose of facilitating the performance of any functions of the Independent Television Commission, the Welsh Authority or the Radio Authority under this Act or the 1988 Regulations.

(6) Any person who discloses any information in contravention of subsection (1) shall be guilty of an offence and liable [to a fine].

(7) In this section “the 1988 Regulations” means the Control of Misleading Advertisements Regulations 1988.

198. * * * * *

Notices

199.– (1) Subsections (2) to (4) below have effect in relation to any notice required or authorised by or under this Act to be served on or given to any person other than the Secretary of State.

(2) Any such notice shall be in writing and may be served on or given to the person in question –

- (a) by delivering it to him,
- (b) by leaving it at his proper address, or
- (c) by sending it by post to him at that address.

(3) Any such notice may –

- (a) in the case of a body corporate, be served on or given to the secretary or clerk of that body;
- (b) in the case of a partnership, be served on or given to any partner or any person having the control or management of the partnership business;
- (c) in the case of an unincorporated association other than a partnership, be served on or given to any member of the governing body of the association.

(4) For the purposes of this section and [section 12 of the Interpretation (Jersey) Law 1954]²¹ (service of documents by post) in its application to this section, the proper address of any person on or to whom a notice is to be served or given shall be his last known address, except that –

- (a) where it is to be served on or given to a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of the body; and
- (b) where it is to be served on or given to a partnership or a partner or a person having the control or management of a partnership business, it shall be the address of the principal office of the partnership;

and, in relation to a company registered outside the [Bailiwick of Jersey] or a partnership carrying on business outside the [Bailiwick of Jersey] reference in paragraph (a) or (b) to its principal office includes a reference to its principal office within the [Bailiwick of Jersey] (if any).

(5) Any notice served –

- (a) by the Independent Television Commission under section 21, 41, 42 or 55, or
- (b) by the Radio Authority under section 103, 109, 110, 111 or 120,

²¹ Tome VIII page 377, and Volume 1990-1991, page 90.

shall be published in such manner as that body consider appropriate, and shall be so published as soon as reasonably practicable after it is served.

(6) In this section (except in subsection (5)) “notice” includes any notification.

200. * * * * *

Programme services

201.– (1) In this Act “programme service” means any of the following services (whether or not it is, or it requires to be, licensed under this Act), namely –

- (a) any television broadcasting service or other television programme service (within the meaning of Part I of this Act);
- (b) any sound broadcasting service or licensable sound programme service (within the meaning of Part III of this Act);
- (c) any other service which consists in the sending, by means of a telecommunications system, of sounds or visual images or both either –
 - (i) for reception at two or more places in the United Kingdom [or the Bailiwick of Jersey] (whether they are so sent for simultaneous reception or at different times in response to requests made by different users of the service); or
 - (ii) for reception at a place in the United Kingdom [or the Bailiwick of Jersey] for the purpose of being presented there to members of the public or to any group of persons.

(2) Subsection (1)(c) does not apply to –

- (a) a local delivery service (within the meaning of Part II of this Act);
- (b) a service where the running of the telecommunications system does not require to be licensed under Part II of the [Telecommunications (Jersey) Law 1972]²²; or
- (c) a two-way service (as defined by section 46(2)(c)).

202. * * * * *

Consequential and transitional provisions

203.– (1) The enactments mentioned in Schedule 20 to this Act shall have effect subject to the amendments there specified (being minor amendments or amendments consequential on the provisions of this Act).

(2) Unless the context otherwise requires, in any enactment amended by this Act –

“programme”, in relation to a programme service, includes any item included in that service; and

“television programme” includes a teletext transmission.

²² Volume 1970-1972, page 393.

(3) The enactments mentioned in Schedule 21 to this Act (which include certain spent provisions) are hereby repealed to the extent specified in the third column of that Schedule.

(4) The transitional provisions and savings contained in Schedule 22 to this Act shall have effect.

204. * * * * *

SCHEDULES

SCHEDULE 1

THE INDEPENDENT TELEVISION COMMISSION: SUPPLEMENTARY PROVISIONS

Status and capacity

1.– (1) The Commission shall be a body corporate.

(2) The Commission shall not be treated for the purposes of the enactments and rules of law relating to the privileges of the Crown as a body exercising functions on behalf of the Crown.

(3) It shall be within the capacity of the Commission as a statutory corporation to do such things and enter into such transactions as are incidental or conducive to the discharge of their functions under this Act, including (subject to sub-paragraph (4)) the borrowing of money.

(4) The power of the Commission to borrow money (otherwise than under paragraph 13) shall not be exercised by them except with the consent of, or in accordance with a general authority given by, the Secretary of State.

2. * * * * *

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8. * * * * *

9. * * * * *

Authentication of Commission's seal

10. The application of the seal of the Commission shall be authenticated by the signature of the chairman or some other person authorised for the purpose.

Presumption of authenticity of documents issued by Commission

11. Any document purporting to be an instrument issued by the Commission and to be duly executed under the seal of the Commission or to be signed on behalf of the Commission shall be received in evidence and shall be deemed to be such an instrument unless the contrary is shown.

12. * * * * *

13. * * * * *

14. * * * * *

15. * * * * *

16. * * * * *

SCHEDULE 2**RESTRICTIONS ON THE HOLDING OF LICENCES****PART I****General**

1.– (1) In this Schedule –

“advertising agency” means an individual or a body corporate who carries on business as an advertising agent (whether alone or in partnership) or has control over any body corporate which carries on business as an advertising agent, and any reference to an advertising agency includes a reference to an individual who –

- (a) is a director or officer of any body corporate which carries on such a business, or
- (b) is employed by any person who carries on such a business;

“associate” –

- (a) in relation to a body corporate, means a director of that body corporate or a body corporate which is a member of the same group as that body corporate, and
- (b) in relation to an individual, shall be construed in accordance with subparagraph (2);

“control” –

- (a) in relation to a body corporate, shall be construed in accordance with subparagraph (3), and
- (b) in relation to any body other than a body corporate, means the power of a person to secure, by virtue of the rules regulating that or any other body, that the

affairs of the first-mentioned body are conducted in accordance with the wishes of that person;

“equity share capital” has the same meaning as in the Companies Act 1985;

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

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

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

“local delivery licence” has the meaning given by section 72(5), and “local delivery service” has the meaning given by section 72(1);

“participant”, in relation to a body corporate, means a person who holds or is beneficially entitled to shares in that body or who possesses voting power in that body.

(2) For the purpose of determining the persons who are an individual’s associates for the purposes of this Schedule, the following persons shall be regarded as associates of each other, namely –

- (a) any individual and that individual’s husband or wife and any relative, or husband or wife of a relative, of that individual or of that individual’s husband or wife;
- (b) any individual and any body corporate of which that individual is a director;
- (c) any person in his capacity as trustee of a settlement and the settlor or grantor and any person associated with the settlor or grantor;
- (d) persons carrying on business in partnership and the husband or wife and relatives of any of them;
- (e) any two or more persons acting together to secure or exercise control of a body corporate or other association or to secure control of any enterprise or assets;

and in this sub-paragraph “relative” means a brother, sister, uncle, aunt, nephew, niece, lineal ancestor or descendant (the stepchild or illegitimate child of any person, or anyone adopted by a person, whether legally or otherwise, as his child, being regarded as a relative or taken into account to trace a relationship in the same way as that person’s child); and references to a wife or husband shall include a former wife or husband and a reputed wife or husband.

(3) For the purposes of this Schedule a person controls a body corporate if –

- (a) he has a controlling interest in the body, or
- (b) (although not having such an interest in the body) he is able, by virtue of the holding of shares or the possession of voting power in or in relation to the body or any other body corporate, to secure that the affairs of the body are conducted in accordance with his wishes, or

- (c) he has the power, by virtue of any powers conferred by the articles of association or other document regulating the body or any other body corporate, to secure that the affairs of the body are so conducted;

and for this purpose a person has a controlling interest in a body corporate if he holds, or is beneficially entitled to, more than 50 per cent, of the equity share capital in that body, or possesses more than 50 per cent, of the voting power in it.

- (4) * * * * *

(5) For the purposes of any provision of this Schedule which refers to a body controlled by two or more persons or bodies of any description taken together, the persons or bodies in question shall not be regarded as controlling the body by virtue of paragraph (b) of sub-paragraph (3) unless they are acting together in concert.

(6) In this Schedule any reference to a participant with more than a five per cent, or (as the case may be) 20 per cent, interest in a body corporate is a reference to a person who –

- (a) holds or is beneficially entitled to more than five or (as the case may be) 20 per cent, of the shares in that body, or
- (b) possesses more than five or (as the case may be) 20 per cent, of the voting power in that body;

and, where any such reference has been amended by an order under this Schedule varying the percentage in question, this sub-paragraph shall have effect in relation to it subject to the necessary modifications.

2.– (1) Any reference in paragraph 1 above to a person –

- (a) holding or being entitled to shares, or any amount of the shares or equity share capital, in a body corporate, or
- (b) possessing voting power, or any amount of the voting power, in a body corporate,

is a reference to his doing so, or being so entitled, whether alone or jointly with one or more other persons and whether directly or through one or more nominees.

(2) For the purposes of that paragraph two bodies corporate shall be treated as members of the same group if –

- (a) one of them is a body corporate of which the other is a subsidiary, or
- (b) both of them are subsidiaries of another body corporate.

(3) In sub-paragraph (2) “subsidiary” has the meaning given by section 736 of the Companies Act 1985.

3. For the purposes of this Schedule the following persons are connected with each other in relation to a particular licence, namely –

- (a) the licence holder;
- (b) a person who controls the licence holder;

- (c) an associate of the licence holder or of a person falling within sub-paragraph (b); and
- (d) a body which is controlled by the licence holder or by an associate of the licence holder.

4. An order under this Schedule shall not be made by the Secretary of State unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

PART II

DISQUALIFICATION FOR HOLDING LICENCES

General disqualification of non-EEC nationals and bodies having political connexions

1.— (1) Subject to sub-paragraph (2), the following persons are disqualified persons in relation to a licence granted by the Commission or the Authority –

- (a) an individual who is neither –
 - (i) a national of a member State who is ordinarily resident within the European Economic Community, nor
 - (ii) ordinarily resident in the United Kingdom, the Isle of Man or the Channel Islands;
- (b) 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 political nature;
- (e) a body affiliated to a body falling within paragraph (d);
- (f) an individual who is an officer of a body falling within paragraph (d) or (e);
- (g) a body corporate which is an associate of a body corporate falling within paragraph (d) or (e);
- (h) a body corporate in which a body falling within any of paragraphs (c) to (e) and (g) is a participant with more than a five per cent interest;
- (i) a body which is controlled by a person falling within any of paragraphs (a) to (g) or by two or more such persons taken together; and
- (j) a body corporate in which a body falling within paragraph (i), other than one which is controlled –

- (i) by a person falling within paragraph (a), (b) or (f), or
 - (ii) by two or more such persons taken together,
- is a participant with more than a five per cent interest.
- (2) Sub-paragraph (1) shall apply in relation to –
- (a) a local delivery licence,
 - (b) a licence to provide a non-domestic satellite service,
 - (c) a licence to provide a non-domestic satellite radio service,
 - (d) a licence to provide a licensable programme service,
 - (e) a licence to provide a licensable sound programme service, or
 - (f) a licence to provide additional services (within the meaning of Part I or III of this Act) other than a licence to provide the teletext service referred to in section 49(2) of this Act,

as if paragraphs (a) and (b) (and the reference to those paragraphs in paragraph (i)) were omitted.

(3) In sub-paragraph (2)(c) “non-domestic satellite radio service” means a satellite service within the meaning of Part III of this Act which is not provided on any frequency allocated to the United Kingdom for broadcasting by satellite.

Disqualification of religious bodies

2.– (1) Subject to sub-paragraph (2), the following persons are disqualified persons in relation to a licence granted by the Commission or the Authority –

- (a) a body whose objects are wholly or mainly of a religious nature;
 - (b) a body which is controlled by a body falling within paragraph (a) or by two or more such bodies taken together;
 - (c) a body which controls a body falling within paragraph (a);
 - (d) a body corporate which is an associate of a body corporate falling within paragraph (a), (b) or (c);
 - (e) a body corporate in which a body falling within any of paragraphs (a) to (d) is a participant with more than a five per cent interest;
 - (f) an individual who is an officer of a body falling within paragraph (a); and
 - (g) a body which is controlled by an individual falling within paragraph (f) or by two or more such individuals taken together.
- (2) If on an application made to them under this sub-paragraph –

- (a) the Commission are satisfied that it is appropriate for a person to hold –
 - (i) a licence to provide a non-domestic satellite service, or
 - (ii) a licence to provide a licensable programme service, or
- (b) the Authority are satisfied that it is appropriate for a person to hold a particular kind of licence that may be granted by them under Part III of this Act other than a national licence,

being a person who, apart from this sub-paragraph, would be a disqualified person in relation to any such licence by virtue of sub-paragraph (1), they shall make a determination to the effect that they are so satisfied; and so long as any such determination remains in force in relation to that person, sub-paragraph (1) shall not apply to him in relation to any such licence.

(3) The Commission and the Authority shall each publish, in such manner as they consider appropriate, general guidance to persons making applications to them under sub-paragraph (2) as to the principles to be applied by them in determining whether it is appropriate for such persons to hold licences falling within paragraph (a) or (as the case may be) paragraph (b) of that sub-paragraph.

Disqualification of publicly-funded bodies for radio service licences

3.– (1) The following persons are disqualified persons in relation to any licence granted by the Authority other than a licence to provide a restricted service –

- (a) a body (other than a local authority) [or the States of Jersey] which has, in its last financial year, received more than half its income from public funds;
- (b) a body which is controlled by a body falling within paragraph (a) or by two or more such bodies taken together; and
- (c) a body corporate in which a body falling within paragraph (a) or (b) is a participant with more than a five per cent interest.

(2) For the purposes of sub-paragraph (1)(a) money is received from public funds if it is paid –

- (a) by a Minister of the Crown out of money provided by Parliament or out of the National Loans Fund;
- (b) by a Northern Ireland department out of the Consolidated Fund of Northern Ireland or out of money appropriated by Measure of the Northern Ireland Assembly; or
- (c) by a body which itself falls within sub-paragraph (1)(a), including a body which falls within that provision by virtue of this paragraph;

but, in each case, there shall be disregarded any money paid as consideration for the acquisition of property or the supply of goods or services or as remuneration, expenses, pensions, allowances or similar benefits for or in respect of a person as the holder of an office.

General disqualification on grounds of undue influence

4.– (1) A person is a disqualified person in relation to a licence granted by the Commission of the Authority if in the opinion of that body –

- (a) any relevant body is, by the giving of financial assistance or otherwise, exerting influence over the activities of that person, and
 - (b) that influence has led, is leading or is likely to lead to results which are adverse to the public interest.
- (2) In sub-paragraph (1) “relevant body” –
- (a) in relation to a licence granted by the Commission, means a body falling within paragraph 1(1)(c) to (h) or (j) above or a body which is controlled –
 - (i) by a person falling within paragraph 1(1)(c) to (g) above, or
 - (ii) by two or more such persons taken together; and
 - (b) in relation to a licence granted by the Authority, means a body falling within paragraph 1(1)(c) to (h) or (j) or 3 above or a body which is controlled as mentioned in paragraph (a)(i) or (ii) above.

General disqualification of broadcasting bodies

5. The following persons are disqualified persons in relation to a licence granted by the Commission or the Authority –

- (a) the BBC;
- (b) the Welsh Authority;
- (c) a body corporate which is controlled by either of those bodies; and
- (d) a body corporate in which –
 - (i) either of those bodies, or
 - (ii) a body corporate falling within sub-paragraph (c),

is (to any extent) a participant.

General disqualification of advertising agencies

6. The following persons are disqualified persons in relation to a licence granted by the Commission or the Authority –

- (a) an advertising agency;
- (b) an associate of an advertising agency;
- (c) any body which is controlled by a person falling within sub-paragraph (a) or (b) or by two or more such persons taken together;

- (d) any body corporate in which a person falling within any of sub-paragraphs (a) to (c) is a participant with more than a five per cent interest.

PART III

RESTRICTIONS TO PREVENT ACCUMULATIONS OF INTERESTS IN LICENSED SERVICES

Preliminary

1.– (1) In this Part of this Schedule “relevant services” means any such services as are mentioned in sub-paragraphs (2) and (3) and, for the purposes of this Part, relevant services shall (subject to paragraphs 2(1) and 5(1) below) be divided into the twelve categories specified in those sub-paragraphs.

(2) In the case of services licensed by the Commission, the categories are –

- (a) regional and national Channel 3 services and Channel 5;
- (b) domestic satellite services;
- (c) non-domestic satellite services;
- (d) licensable programme services;
- (e) additional services (within the meaning of Part I of this Act); and
- (f) local delivery services.

(3) In the case of services licensed by the Authority, the categories are –

- (a) national radio services;
- (b) local radio services;
- (c) restricted radio services;
- (d) satellite radio services;
- (e) licensable sound programme services; and
- (f) additional services (within the meaning of Part III of this Act).

(4) References in this Part to national, local, restricted or satellite radio services are references to national, local, restricted or satellite services within the meaning of Part III of this Act.

[(5) This Part has effect as if any order under paragraph 2(2) or (3), 4, 5(3), 6(8) or (10) or 10 of Part III of Schedule 2 to the Broadcasting Act 1990 for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey.]

Limits on the holding of licences to provide particular categories of services

2.– (1) Subject to sub-paragraph (3), the maximum number of licences which may at any time be held by any one person to provide relevant services falling within each of the following categories shall be –

- (a) two in the case of regional Channel 3 services;
- (b) one in the case of national Channel 3 services;
- (c) one in the case of Channel 5;
- (d) one in the case of national radio services;
- (e) twenty in the case of local radio services; and
- (f) six in the case of restricted radio services.

(2) * * * * *

(3) * * * * *

(4) Without prejudice to the generality of sub-paragraph (3)(b), an order made in pursuance of that provision may impose on the holder of a licence to provide any specified category of relevant services limits framed (directly or indirectly) by reference to either or both of the following matters, namely –

- (a) the number of licences of any one or more specified descriptions which are held by him or by any body controlled by him; and
- (b) his participation, to any specified extent, in any body corporate which is the holder of any licence or licences of any one or more such descriptions.

(5) Where a person holds a licence to provide a local radio service which, in accordance with section 86(2), authorises the provision of a multichannel service, he shall be treated for the purposes of sub-paragraph (1) as holding such number of licences to provide local radio services as corresponds to the number of channels on which the service may be provided.

(6) Where a person holds –

- (a) a licence to provide a domestic satellite service,
- (b) a licence to provide a non-domestic satellite service, or
- (c) a licence to provide a satellite radio service,

which, in accordance with section 44(2), 45(3) or 86(2), authorises the provision of a multichannel service, he shall be treated for the purposes of any order under sub-paragraph (2) as holding such number of licences to provide domestic satellite services, non-domestic satellite services or (as the case may be) satellite radio services as corresponds to the number of channels on which the service may be provided.

(7) In this paragraph –

- (a) “multichannel service” means a service which to any extent consists in the simultaneous transmission of different programmes on different frequencies; and
- (b) any reference to the number of channels on which such a service may be provided is a reference to the number of different frequencies involved.
- (8) For the purposes of –
 - (a) sub-paragraphs (1), (5) and (6), and
 - (b) any order under sub-paragraph (2),

a person shall be treated as holding a licence if the licence is held by a person connected with him.

Limits on the holding of licences to provide different categories of services

3. Where any restriction imposed by or under paragraph 5 or 6 below on the holder of a particular kind of licence in relation to participation in a body corporate which is the holder of another kind of licence, any person who holds one of those kinds of licence shall not also hold the other kind of licence.

4. * * * * *

Special rules relating to participation by holders of television broadcasting licences

5.– (1) For the purposes of paragraph 4 above and this paragraph the services specified in paragraph 1(2)(a) above shall be divided into the following three categories –

- (a) regional Channel 3 services;
- (b) national Channel 3 services; and
- (c) Channel 5.

(2) Where a person is the holder of a licence to provide a service falling within one of those categories, he shall not be a participant with more than a 20 per cent interest in any body corporate which is the holder of a licence to provide a service falling within either of the other two categories.

(3) * * * * *

Limits on participation by holders of licences in bodies licensed to provide services of different category

6.– (1) Where a person is the holder of a licence to provide a relevant service falling within one of the categories specified in sub-paragraph (2)(a) or (b) or (3)(a) of paragraph 1 above, he shall not be a participant with more than a 20 per cent interest in a body corporate which is the holder of a licence to provide a relevant service falling within either of the categories so specified.

- (2) Subject to sub-paragraphs (3) and (4), where a person –
 - (a) is the holder of a licence to provide a non-domestic satellite service, or

- (b) provides a satellite television service (other than a non-domestic satellite service) which is provided on a non-allocated frequency and appears to the Commission to be intended for general reception in the United Kingdom (whether or not it appears to them to be also intended for such reception elsewhere),

he shall not be a participant with more than a 20 per cent interest in a body corporate which is the holder of a licence to provide a relevant service falling within one of the categories referred to in sub-paragraph (1); and, where a person is the holder of a licence to provide such a relevant service, he shall not be a participant with more than a 20 per cent interest in a body corporate which is the holder of such a licence as is mentioned in paragraph (a) above or which provides such a service as is mentioned in paragraph (b) above.

- (3) In sub-paragraph (2) –

“non-allocated frequency” means a frequency other than one allocated to the United Kingdom for broadcasting by satellite, and

“satellite television service” means a service consisting in the transmission of television programmes by satellite;

and a service shall be disregarded for the purposes of paragraph (a) or (b) of that sub-paragraph if the programmes included in the service are at all times the same as those which are for the time being broadcast in a Channel 3 service or on Channel 5.

- (4) Nothing in sub-paragraph (2) shall impose any restriction –

- (a) on the extent to which an excluded licensee may be a participant in a body corporate which is the holder of a licence to provide a domestic satellite service, or
- (b) on the extent to which the holder of such a licence may be a participant in a body corporate which is an excluded licensee;

and for this purpose “excluded licensee” means a person who is the holder of a licence to provide a non-domestic satellite service and –

- (i) is licensed under section 7 of the Telecommunications Act 1984 to provide a specialised satellite service, and
- (ii) is so licensed (or, as the case may be, was first so licensed) by virtue of a licence granted under that section before the commencement of sub-paragraph (2), and
- (iii) is not connected with any other person who is the holder of a licence to provide a non-domestic satellite service.

(5) Where a person is the holder of a licence to provide a satellite radio service, he shall not be a participant with more than a 20 per cent interest in a body corporate which is the holder of a licence to provide a relevant service falling within sub-paragraph (2)(a) or (3)(a) of paragraph 1 above; and, where a person is the holder of a licence to provide such a relevant service, he shall not be a participant with more than a 20 per cent interest in a body corporate which is the holder of a licence to provide a satellite radio service.

(6) Where a person is the holder of a licence to provide a satellite radio service which is provided on any frequency allocated to the United Kingdom for broadcasting by satellite (“a

domestic licence”), he shall not be a participant with more than a 20 per cent interest in a body corporate which is the holder of a licence to provide a satellite radio service which is not provided on any such frequency (“a non-domestic licence”); and, where a person is the holder of a non-domestic licence, he shall not be a participant with more than a 20 per cent interest in a body corporate which is the holder of a domestic licence.

(7) Where a person is the holder of a licence to provide a relevant service falling within one of the categories specified –

(a) in sub-paragraph (2)(f) or (3)(b) of paragraph 1 above, or

(b) in paragraph 5(1)(a) above,

he shall not be a participant with more than a 20 per cent interest in a body corporate which is the holder of a licence to provide a relevant service falling within either of the other categories so specified if each of the services in question is provided for an area which is to a significant extent the same as that for which the other is provided.

[(7A) As respects participation by the holder of a licence to provide for an area which includes the Bailiwick of Jersey –

(a) a regional Channel 3 service, or

(b) a local radio service,

in a body corporate which is the holder of a licence to provide for an area which is to a significant extent the same as that area a service falling within the other of those two categories, the States of Jersey Broadcasting Committee may by order vary the percentage for the time being specified in sub-paragraph (7) above.]

(8) * * * * *

(9) In sub-paragraph (8) –

“relevant local licence” means a licence to provide a relevant service falling within either of the categories specified in paragraph 1(2)(f) or (3)(b) above; and

“relevant national or satellite licence” means a licence to provide a relevant service falling within one of the categories specified –

(a) in paragraph 1(2)(b) or (c) or (3)(a) or (d) above, or

(b) in paragraph 5(1)(b) or (c) above.

(10) * * * * *

Limits on participation in bodies holding licences to extend to participation in bodies controlling such bodies

7.– (1) Any restriction imposed by or under paragraph 4, 5 or 6 above on participation –

(a) in a body corporate which is the holder of a particular kind of licence, or

- (b) in two or more such bodies,

shall apply equally to participation –

- (i) in a body corporate which controls the holder of such a licence, or
- (ii) in two or more bodies corporate each of which controls the holder of such a licence,

as the case may be.

(2) Any restriction imposed under paragraph 6(8)(b) above on participation in a body corporate providing such a service as is mentioned in paragraph 6(2)(b) shall apply equally to participation in a body corporate which controls a body providing such a service.

Attribution of interests of connected persons

- 8.– (1) Any restriction on participation imposed by or under paragraph 4,5 or 6 above

- (a) on the holder of a licence, or
- (b) on a person providing such a service as is mentioned in paragraph 6(2)(b),

shall apply to him as if he and every person connected with him were one person.

(2) For the purposes of this paragraph and paragraph 9 below the following persons shall be treated as connected with a person providing such a service as is mentioned in paragraph 6(2)(b), namely –

- (a) a person who controls that person;
- (b) an associate of that person or of a person falling within paragraph (a); and
- (c) a body which is controlled by that person or by an associate of that person.

Restrictions imposed by orders

9.– (1) Without prejudice to the generality of paragraph 4 or 6(8) above, an order made in pursuance of that provision may impose restrictions framed by reference to the number of bodies corporate in which the holder of a licence, or any person connected with him, is a participant, and an order made in pursuance of paragraph 6(8)(a)(ii) may impose restrictions framed by reference to the number of bodies corporate in which a person providing such a service as is mentioned in paragraph 6(2)(b), or any person connected with him, is a participant.

- (2) Paragraph 8(2) above applies for the purposes of this paragraph.

10. * * * * *

*PART IV***RESTRICTIONS ON CONTROLLING INTERESTS IN BOTH NEWSPAPERS AND
LICENSED SERVICES****Preliminary**

1.– (1) In this part of this Schedule references to a national or local newspaper are (subject to sub-paragraph (2)) references to a national or local newspaper circulating wholly or mainly in the United Kingdom [and the Bailiwick of Jersey] or in a part of the United Kingdom [and the Bailiwick of Jersey].

(2) The relevant authority may determine that a newspaper which would not otherwise be a national or local newspaper for the purposes of this Part of this Schedule shall be treated as a national or (as the case may be) a local newspaper for the purposes of any particular restriction imposed by or under this Part of this Schedule if it appears to them to be appropriate for the newspaper to be so treated having regard to its circulation or influence in the United Kingdom [and the Bailiwick of Jersey] or (as the case may be) in a part of the United Kingdom [and the Bailiwick of Jersey]; and in this sub-paragraph “the relevant authority” –

- (a) in relation to a restriction having effect in relation to any licence which may be granted by the Commission, means the Commission; and
- (b) in relation to a restriction having effect in relation to any licence which may be granted by the Radio Authority, means that Authority.

(3) For the purposes of this Part of this Schedule the following persons are connected with each other in relation to a particular national or local newspaper, namely –

- (a) the proprietor of the newspaper;
- (b) a person who controls the proprietor;
- (c) an associate of the proprietor or of a person falling within paragraph (b); and
- (d) a body which is controlled by the proprietor or by an associate of the proprietor.

(4) Any reference in this Part of this Schedule, in relation to a local newspaper, to a relevant local radio service or a relevant local delivery service is a reference to a local radio service or a local delivery service which serves an area which is to a significant extent the same as that served by the newspaper.

(5) Paragraph 1(4) in Part III of this Schedule shall have effect for the purposes of this Part of this Schedule as it has effect for the purposes of Part III.

[(6) This Part has effect as if any order under paragraph 2(5) or 3(5) of Part IV of Schedule 2 to the Broadcasting Act 1990 for the time being in force in the United Kingdom had extended to the Bailiwick of Jersey.]

Restrictions on proprietors of newspapers

2.– (1) Subject to sub-paragraph (2), no proprietor of a national or local newspaper shall be a participant with more than a 20 per cent interest in a body corporate which is the holder of a licence to provide –

- (a) a Channel 3 service or Channel 5, or
- (b) a national radio service.

(2) Sub-paragraph (1) shall not impose any restriction on the proprietor of a local newspaper as respects participation in a body corporate which is the holder of a licence to provide a regional Channel 3 service except where the newspaper and the service each serve an area which is to a significant extent the same as that served by the other.

- (3) No person who –
 - (a) is the proprietor of a national newspaper, and
 - (b) is a participant with more than a five per cent interest in a body corporate falling within sub-paragraph (1) (but, in accordance with that sub-paragraph, is not a participant with more than a 20 per cent interest in it),

shall be a participant with more than a five per cent interest in any other such body corporate.

(4) No person who is the proprietor of a local newspaper shall be a participant with more than a 20 per cent interest in a body corporate which is the holder of a licence to provide a relevant local radio service or a relevant local delivery service.

- (5) * * * * *

(6) Paragraph 7(1) in Part III of this Schedule shall have effect in relation to any restriction imposed by or under this paragraph as it has effect in relation to any restriction imposed by or under paragraph 4, 5 or 6 in Part III.

[(7) As respects participation by the proprietor of a local newspaper in a body corporate which is the holder of a licence to provide –

- (a) a regional Channel 3 service for an area which includes the Bailiwick of Jersey, or
- (b) a relevant local radio service,

the States of Jersey Broadcasting Committee may by order vary the percentage for the time being specified in sub-paragraph (1) or, as the case may be, sub-paragraph (4) above.]

Restrictions on holders of licences

3.– (1) Subject to sub-paragraph (2), no person who is the holder of a licence to provide –

- (a) a Channel 3 service or Channel 5, or
- (b) a national radio service,

shall be a participant with more than a 20 per cent interest in a body corporate which runs a national or local newspaper.

(2) Sub-paragraph (1) shall not impose any restriction on the holder of a licence to provide a regional Channel 3 service as respects participation in a body corporate which runs a local newspaper except where the service and the newspaper each serve an area which is to a significant extent the same as that served by the other.

(3) No person who –

- (a) is the holder of any such licence as is mentioned in sub-paragraph (1), and
- (b) is a participant with more than a five per cent interest in a body corporate which runs a national newspaper (but, in accordance with that sub-paragraph, is not a participant with more than a 20 per cent interest in it),

shall be a participant with more than a five per cent interest in any other such body corporate.

(4) No person who is the holder of a licence to provide a relevant local radio service or a relevant local delivery service shall be a participant with more than a 20 per cent interest in a body corporate which runs a local newspaper.

(5) * * * * *

(6) For the purposes of this paragraph a person runs a national or local newspaper if –

- (a) he is the proprietor of such a newspaper; or
- (b) he controls a body which is the proprietor of such a newspaper.

[(7) As respects participation by the holder of a licence to provide –

- (a) a regional Channel 3 service for an area which includes the Bailiwick of Jersey, or
- (b) a relevant local radio service,

in a body corporate which runs a local newspaper, the States of Jersey Broadcasting Committee may by order vary the percentage for the time being specified in sub-paragraph (1) or, as the case may be, sub-paragraph (4) above.]

Attribution of interests of connected persons

4. Any restriction on participation imposed by or under paragraph 2 or 3 above –

- (a) on the proprietor of any newspaper, or
- (b) on the holder of any licence,

shall apply to him as if he and every person connected with him were one person.

Restrictions imposed by orders

5. Without prejudice to the generality of paragraph 2(5) or 3(5) above, an order made in pursuance of that provision may impose restrictions framed by reference to the number of bodies corporate in which –

- (a) the proprietor of a newspaper, or
- (b) the holder of a licence,

as the case may be, or any person connected with any such person, is a participant.

PART V

* * * * *

SCHEDULE 3

THE CHANNEL FOUR TELEVISION CORPORATION: SUPPLEMENTARY PROVISIONS

Status and capacity

1.– (1) The Corporation shall be a body corporate.

(2) The Corporation shall not be treated for the purposes of the enactments and rules of law relating to the privileges of the Crown as a body exercising functions on behalf of the Crown.

(3) It shall be within the capacity of the Corporation as a statutory corporation to do such things and enter into such transactions as are incidental or conducive to the discharge of their functions under this Act, including the borrowing of money.

2. * * * * *

3. * * * * *

4. * * * * *

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7. * * * * *

8. * * * * *

9. * * * * *

Authentication of Corporation's seal

10. The application of the seal of the Corporation shall be authenticated by the signature of the chairman or of some other person authorised for the purpose.

Presumption of authenticity of documents issued by Corporation

11. Any document purporting to be an instrument issued by the Corporation and to be duly executed under the seal of the Corporation or to be signed on behalf of the Corporation shall be received in evidence and shall be deemed to be such an instrument unless the contrary is shown.

12. * * * * *

13. * * * * *

SCHEDULE 4

* * * * *

SCHEDULE 5

SPECIAL PROVISIONS RELATING TO PUBLIC TELETEXT SERVICE

The relevant service

1. In this Schedule “the relevant service” means the teletext service referred to in section 49(2) of this Act.

Applications for licence to provide the relevant service

2.– (1) Where any such application as is mentioned in section 50(3) of this Act is made in respect of a licence to provide the relevant service –

- (a) the application shall be accompanied by the applicant’s proposals for providing a service that would comply with the requirements specified in paragraph 3(2) below, and
- (b) section 50(4) shall have effect as if the reference to section 50(3)(b) or (d) included a reference to paragraph (a) above.

(2) The Commission shall, when publishing a notice under section 50(1) in respect of the grant of a licence to provide the relevant service, publish with the notice general guidance to applicants for the licence which contains examples of the kinds of material whose inclusion in the service proposed by any such applicant under sub-paragraph (1)(a) above would be likely to result in a finding by the Commission that the service would comply with the requirements specified in paragraph 3(2) below.

(3) The notice to be published by the Commission under section 50(6) in respect of the applications made in pursuance of such a notice as is mentioned in sub-paragraph (2) above shall include the proposals submitted by each of the applicants under sub-paragraph (1)(a) above.

(4) The Commission shall also publish in such manner as they consider appropriate a notice –

- (a) inviting representations to be made to them with respect to any matters published by them in accordance with section 50(6)(c) or sub-paragraph (3) above, and

- (b) specifying the manner in which, and the time by which, any such representations are to be so made.

(5) The notice referred to in sub-paragraph (4) above shall be published as soon as reasonably practicable after the date specified in the notice under section 50(1) as the closing date for applications for the licence.

Consideration of applications and award of licence

3.– (1) Where a person has, in accordance with section 50 of this Act and paragraph 2 above, made an application for a licence to provide the relevant service, the Commission shall not proceed to consider whether to award him the licence on the basis of his cash bid in accordance with section 51(3) and (4) of this Act unless it appears to them that his proposed service would comply with the requirements specified in sub-paragraph (2).

(2) Those requirements are –

- (a) that the service includes a sufficient amount of news items which are of high quality and deal with both national and international matters;
- (b) that the service includes a sufficient amount of information which is of particular interest to persons living within different areas for which the service is provided; and
- (c) that (taken as a whole) the service includes a sufficient amount of information (other than news) which is calculated to appeal to a wide variety of tastes and interests.

(3) Section 51(1) shall accordingly have effect in relation to a licence to provide the relevant service as if the reference to the requirements of section 51(1)(a) and (b) included a reference to the requirements specified in sub-paragraph (2) above.

(4) In deciding whether an applicant's proposed service would comply with those requirements, the Commission shall take into account any representations made to them in pursuance of paragraph 2(4)(b) above.

(5) Where the Commission have awarded a licence to provide the relevant service to any person in accordance with section 51(3) and (4), the matters to be published by them in accordance with section 17(11)(a) and (12) of this Act (as they have effect in accordance with section 51(3) and (4)) shall include the name of every other applicant in whose case it appeared to them that his proposed service would comply with the requirements specified in sub-paragraph (2) above.

Conditions requiring licence holder to deliver promised service

4.– (1) A licence to provide the relevant service shall include such conditions as appear to the Commission to be appropriate for securing that the service provided under the licence accords with the proposals submitted by the licence holder under paragraph 2(1)(a) above.

(2) Any conditions imposed in pursuance of sub-paragraph (1) above may be varied by the Commission with the consent of the licence holder (and section 3(4)(b) shall accordingly not apply to any such variation).

Failure to begin providing licensed service and financial penalties on revocation of licence

5.– (1) Subject to sub-paragraph (2), section 18 of this Act shall apply in relation to a licence to provide the relevant service as it applies in relation to a licence to provide a Channel 3 service.

(2) In the application of that section in relation to a licence to provide the relevant service –

- (a) the reference in section 18(1) to section 17 shall be construed as a reference to that section as applied by section 51(3) of this Act; and
- (b) the reference in section 18(4) to section 19(2) to (6) shall be construed as a reference to section 52(2) of this Act.

Renewal of licence to provide relevant service

6. Section 53(5) of this Act shall have effect in relation to an application for the renewal of a licence to provide the relevant service as if, in addition to the grounds for refusing an application which are specified in paragraphs (a) to (c) of that provision, there were specified the following ground, namely that the Commission are not satisfied that the applicant would, if his licence were renewed, provide a service which complied –

- (a) with the conditions included in the licence in pursuance of paragraph 4 above (whether as originally imposed or as varied under sub-paragraph (2) of that paragraph), or
- (b) with the requirements specified in paragraph 3(2) above.

Additional methods of enforcement of licence to provide relevant service

7.– (1) Subject to sub-paragraph (2), sections 40 and 41 of this Act shall apply in relation to a licence to provide the relevant service as they apply in relation to a licence to provide a Channel 3 service.

(2) In the application of those sections in relation to a licence to provide the relevant service –

- (a) any reference in section 40(4) to a programme shall be construed as a reference to an item; and
- (b) section 41 shall have effect with the omission of subsections (1)(a) and (2).

SCHEDULE 6

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*SCHEDULE 7***QUALIFYING REVENUE: SUPPLEMENTARY PROVISIONS**

PART I**QUALIFYING REVENUE FOR PURPOSES OF PART I OR II OF THIS ACT****Computation of qualifying revenue**

1.– (1) It shall be the duty of the Commission to draw up, and from time to time review, a statement setting out the principles to be followed in ascertaining the qualifying revenue in relation to a person –

- (a) for any accounting period of his, or
- (b) for any year,

for the purposes of any provision of Part I or Part II of this Act.

(2) A statement under this paragraph may set out different principles for persons holding different kinds of licences.

(3) Before drawing up or revising a statement under this paragraph the Commission shall consult the Secretary of State and the Treasury.

(4) The Commission shall –

- (a) publish the statement drawn up under this paragraph and every revision of that statement; and
- (b) transmit a copy of that statement, and every revision of it, to the Secretary of State;

and the Secretary of State shall lay copies of the statement and of every such revision before each House of Parliament.

Disputes

2.– (1) For the purposes of any provision of Part I or Part II of this Act –

- (a) the amount of the qualifying revenue in relation to any person for any accounting period of his, or (as the case may be) for any year, or
- (b) the amount of any payment to be made to the Commission by any person in respect of any such revenue, or of an instalment of any such payment,

shall, in the event of a disagreement between the Commission and that person, be the amount determined by the Commission.

(2) No determination of the Commission under this paragraph shall be called in question in any court of law, or be the subject of any arbitration * * * *.

PART II**QUALIFYING REVENUE FOR PURPOSES OF PART III OF THIS ACT****Computation of qualifying revenue**

1.– (1) It shall be the duty of the Authority to draw up, and from time to time review, a statement setting out the principles to be followed in ascertaining the qualifying revenue for any accounting period of a licence holder for the purposes of any provision of Part III of this Act.

(2) A statement under this paragraph may set out different principles for persons holding different kinds of licences.

(3) Before drawing up or revising a statement under this paragraph the Authority shall consult the Secretary of State and the Treasury.

(4) The Authority shall –

(a) publish the statement drawn up under this paragraph and every revision of that statement; and

(b) transmit a copy of that statement, and every revision of it, to the Secretary of State;

and the Secretary of State shall lay copies of the statement and of every such revision before each House of Parliament.

Disputes

2.– (1) For the purposes of any provision of Part III of this Act –

(a) the amount of the qualifying revenue for any accounting period of a person, or

(b) the amount of any payment to be made to the Authority by any person in respect of any such revenue, or of an instalment of any such payment,

shall, in the event of a disagreement between the Authority and that person, be the amount determined by the Authority.

(2) No determination of the Authority under this paragraph shall be called in question in any court of law, or be the subject of any arbitration * * * * *.

SCHEDULE 8**THE RADIO AUTHORITY: SUPPLEMENTARY PROVISIONS****Status and capacity**

1.– (1) The Authority shall be a body corporate.

(2) The Authority shall not be treated for the purposes of the enactments and rules of law relating to the privileges of the Crown as a body exercising functions on behalf of the Crown.

(3) It shall be within the capacity of the Authority as a statutory corporation to do such things and enter into such transactions as are incidental or conducive to the discharge of their functions under this Act, including (subject to sub-paragraph (4)) the borrowing of money.

(4) The power of the Authority to borrow money (otherwise than under paragraph 13) shall not be exercised by them except with the consent of, or in accordance with a general authority given by, the Secretary of State.

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Authentication of Authority's seal

10. The application of the seal of the Authority shall be authenticated by the signature of the chairman or of some other person authorised for the purpose.

Presumption of authenticity of documents issued by Authority

11. Any document purporting to be an instrument issued by the Authority and to be duly executed under the seal of the Authority or to be signed on behalf of the Authority shall be received in evidence and shall be deemed to be such an instrument unless the contrary is shown.

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SCHEDULE 9

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SCHEDULE 10

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SCHEDULE 11

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SCHEDULE 12

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SCHEDULE 13

THE BROADCASTING COMPLAINTS COMMISSION: SUPPLEMENTARY PROVISIONS

Status and capacity

1.– (1) The BCC shall not be treated for the purposes of the enactments and rules of law relating to the privileges of the Crown as a body exercising functions on behalf of the Crown.

(2) It shall be within the capacity of the BCC as a statutory corporation to do such things and enter into such transactions as are incidental or conducive to the discharge of their functions under this Act.

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Authentication of BCC's seal

10. The application of the seal of the BCC shall be authenticated by the signature of the chairman or of some other person authorised for the purpose.

Presumption of authenticity of documents issued by BCC

11. Any document purporting to be an instrument issued by the BCC and to be duly executed under the seal of the BCC or to be signed on behalf of the BCC shall be received in evidence and shall be deemed to be such an instrument unless the contrary is shown.

12. * * * * *

SCHEDULE 14

THE BROADCASTING STANDARDS COUNCIL: SUPPLEMENTARY PROVISIONS

Status and capacity

1.– (1) The Council shall not be treated for the purposes of the enactments and rules of law relating to the privileges of the Crown as a body exercising functions on behalf of the Crown.

(2) It shall be within the capacity of the Council as a statutory corporation to do such things and enter into such transactions as are incidental or conducive to the discharge of their functions under this Act.

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Authentication of Council's seal

11. The application of the seal of the Council shall be authenticated by the signature of the chairman or of some other person authorised for the purpose.

Presumption of authenticity of documents issued by Council

12. Any document purporting to be an instrument issued by the Council and to be duly executed under the seal of the Council or to be signed on behalf of the Council shall be received in evidence and shall be deemed to be such an instrument unless the contrary is shown.

Accounts and audit

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SCHEDULE 15

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*SCHEDULE 16***AMENDMENTS OF THE MARINE, &c., BROADCASTING (OFFENCES) ACT 1967²³**

1.– (1) Section 2 (prohibition of broadcasting from marine structures) shall be amended as follows.

²³ Volume 1966-1967, page 734.

[(2) In subsection (1)(a), for “external waters or tidal waters in the Bailiwick of Jersey” substitute “any waters to which this section applies”.]

(3) After subsection (2) insert the following subsection –

“(3) This section applies to –

- (a) tidal waters in the [Bailiwick of Jersey];
- (b) external waters; and
- (c) waters in designated area within the meaning of the Continental Shelf Act 1964”.

2. After section 2 insert the following section –

Unlawful broadcasting from within prescribed areas of the high seas

2A.– (1) Subject to subsection (4) below, it shall not be lawful to make a broadcast which –

- (a) is made from a ship (other than one registered in the United Kingdom, the Isle of Man, or any of the Channel Islands) while the ship is within any area of the high seas prescribed [for the purposes of section 2A of the Marine, &c., Broadcasting Act 1967²⁴, by any order for the time being in force in relation to the United Kingdom] for the purposes of this section by an order made by the Secretary of State; and
- (b) is capable of being received in, or causes interference with any wireless telegraphy in the [Bailiwick of Jersey].

(2) If a broadcast is made from a ship in contravention of subsection (1) above, the owner of the ship, the master of the ship and every person who operates, or participates in the operation of, the apparatus by means of which the broadcast is made shall be guilty of an offence.

(3) A person who procures the making of a broadcast in contravention of subsection (1) above shall be guilty of an offence.

(4) The making of a broadcast does not contravene subsection (1) above if it is shown to have been authorised under the law of any country or territory outside the United Kingdom [and the Bailiwick of Jersey].

(5) * * * * *

3. In section 3 (prohibition of acts connected with broadcasting from certain ships and aircraft, and from marine structures outside the United Kingdom) –

- (a) in subsection (1), at the beginning insert “Subject to subsection (1A) below,”; and
- (b) after subsection (1) insert the following subsection –

²⁴ Volume 1966-1967, page 734.

“(1A) Subsection (1)(a) above does not apply to any broadcast made in contravention of section 2A(1) of this Act, sub-sections (1)(c) and (d) above do not apply to structures or other objects in waters falling within section 2(3)(c) of this Act.”

4. After section 3 insert the following –

“Prohibition of management of stations broadcasting from ships, aircraft etc.

3A.– (1) Any person who, from any place in the [Bailiwick of Jersey] or external waters, participates in the management, financing, operation or day-to-day running of any broadcasting station by which broadcasts are made –

(a) in contravention of section 1, 2 or 2A(1) of this Act, or

(b) as mentioned in section 3(1)(a) of this Act,

shall be guilty of an offence.

(2) In this section “broadcasting station” means any business or other operation (whether or not in the nature of a commercial venture) which is engaged in the making of broadcasts.”

5.– (1) Section 4 (prohibition of acts facilitating broadcasting from ships, aircraft etc.) shall be amended as follows.

(2) In subsection (1), after paragraph (a) insert –

“(aa) where paragraph (a) above does not apply but the broadcasts in question are made, or are to be made, from any structure or other object (not being a ship or aircraft) in waters falling within section 2(3)(c) of this Act, he does the act on that structure or other object within those waters; or

(ab) where paragraph (a) above does not apply but the broadcasts in question are made, or are to be made, from a ship in contravention of section 2A(1) of this Act, he does the act in that ship within any such area of the high seas as is mentioned in paragraph (a) of that provision; or”,

(3) In subsection (3)(e), for “or 2(1)” substitute “2(1) or 2A(1)”.

6.– (1) Section 5 (prohibition of acts relating to matter broadcast from ships, aircraft etc.) shall be amended as follows.

(2) In subsection (1), after paragraph (a) insert –

“(aa) where paragraph (a) above does not apply but the broadcast in question are made, or are to be made, from any structure or other object (not being a ship or aircraft) in waters falling within section 2(3)(c) of this Act, he does the act on that structure or other object within those waters; or

(ab) where paragraph (a) above does not apply but the broadcasts in question are made, or are to be made, from a ship in contravention of section 2A(1) of this Act, he does the act in that ship within any such area of the high seas as is mentioned in paragraph (a) of that provision; or”,

(3) In subsection (3)(a) and (4), for “or 2(1)”, in each place where those words occur, substitute “, 2(1) or 2A(1)”.

7. * * * * *

8. After section 7 insert the following section –

“Powers of enforcement in relation to marine offences under this Act

7A.– (1) The following persons are enforcement officers for the purposes of this section –

- (a) persons authorised by the Secretary of State to exercise the powers conferred by subsection (5) below;
- [(b) officers of police];
- (c) commissioned officers of Her Majesty’s armed forces;
- [(d) officers of Customs and Excise; and] under section 6(3) of the Customs and Excise Management Act 1979; and
- (e) persons not falling within any of the preceding paragraphs who are British sea-fishery officers by virtue of section 7(1) of the Sea Fisheries Act 1968²⁵ ;

and in this subsection “armed forces” means the Royal Navy, the Royal Marines, the regular army and the regular air force, and any reserve or auxiliary force of any of those services which has been called out on permanent service, or called into actual service, or embodied.

(2) If an enforcement officer has reasonable grounds for suspecting –

- (a) that an offence under this Act has been or is being committed by the making of a broadcast from any ship, structure or other object in external waters or in tidal waters in the [Bailiwick of Jersey] or from a ship registered in the United Kingdom, the Isle of Man or any of the Channel Islands while on the high seas;
- (b) that an offence under section 2 of this Act has been or is being committed by the making of a broadcast from a structure or other object in waters falling within subsection (3)(c) of that section, or
- (c) that an offence under section 2A of this Act has been or is being committed by the making of a broadcast from a ship,

and the Secretary of State has issued a written authorisation for the exercise of the powers conferred by subsection (5) below in relation to that ship, structure or other object, then (subject to subsection (6) and (7) below) the officer may, with or without persons assigned to assist him in his duties, so exercise those powers.

(3) If –

²⁵ Volume 1973-1974, page 78.

- (a) the Secretary of State has issued an authorisation under subsection (2) above for the exercise of the powers conferred by subsection (5) below in relation to any ship, structure or other object, and
- (b) an enforcement officer has reasonable grounds for suspecting that an offence under section 4 or 5 of this Act has been or is being committed in connexion with the making of a broadcast from that ship, structure or other object,

then (subject to subsections (6) and (7) below) the officer may, with or without persons assigned to assist him in his duties, also exercise those powers in relation to any ship, structure or other object which he has reasonable grounds to suspect has been or is being used in connexion with the commission of that offence.

(4) Where –

- (a) an enforcement officer has reasonable grounds for suspecting that an offence under section 4 or 5 of this Act has been or is being committed in connexion with the making of a broadcast from a ship, structure or other object, but
- (b) an authorisation has not been issued under subsection (2) above for the exercise of the powers conferred by subsection (5) below in relation to that ship, structure or other object,

then (subject to subsections (6) and (7) below) the officer may, with or without persons assigned to assist him in his duties, nevertheless exercise those powers in relation to any ship, structure or other object which he has reasonable grounds to suspect has been or is being used in connexion with the commission of that offence if the Secretary of State has issued a written authorisation for the exercise of those powers in relation to that ship, structure or other object.

(5) The powers conferred by this subsection on an enforcement officer in relation to any ship, structure or other object are –

- (a) to board and search the ship, structure or other object;
- (b) to seize and detain the ship, structure or other object and any apparatus or other thing found in the course of the search which appears to him to have been used, or to have been intended to be used, in connexion with, or to be evidence of, the commission of the suspected offence;
- (c) to arrest and search any person who he has reasonable grounds to suspect has committed or is committing an offence under this Act if –
 - (i) that person is on board the ship, structure or other object, or
 - (ii) the officer has reasonable grounds for suspecting that that person was so on board at, or shortly before, the time when the officer boarded the ship, structure or other object;
- (d) to arrest any person who assaults him, or a person assigned to assist him in his duties, while exercising any of the powers conferred by this subsection or who intentionally obstructs him or any such person in the exercise of any of those powers;

- (e) to require any person on board the ship, structure or other object to produce any documents or other items which are in his custody or possession and are or may be evidence of the commission of any offence under this Act;
- (f) to require any such person to do anything for the purpose of facilitating the exercise of any of the powers conferred by this subsection, including enabling any apparatus or other thing to be rendered safe and, in the case of a ship, enabling the ship to be taken to a port;
- (g) to use reasonable force, if necessary, in exercising any of those powers;

and references in paragraphs (a) to (c) and (e) above to the ship, structure or other object include references to any ship's boat or other vessel used from the ship, structure or other object.

(6) Except as provided in subsection (7) below, the powers conferred by subsection (5) above shall only be exercised in tidal waters in the [Bailiwick of Jersey] or in external waters.

(7) Those powers may in addition –

- (a) in relation to a suspected offence under this Act committed in a ship registered in the United Kingdom, the Isle of Man or any of the Channel Islands while on the high seas, be exercised in relation to that ship on the high seas;
- (b) in relation to a suspected offence under section 2 of this Act committed on a structure or other object within waters falling within subsection (3)(c) of that section, be exercised in relation to that structure or other object within those waters; and
- (c) in relation to a suspected offence under section 2A of this Act committed in a ship within any such area of the high seas as is mentioned in subsection (1)(a) of that section, be exercised in relation to that ship within that area of the high seas.

(8) Any person who –

- (a) assaults an enforcement officer, or a person assigned to assist him in his duties, while exercising any of the powers conferred by subsection (5) above or intentionally obstructs him or any such person in the exercise of any of those powers, or
- (b) without reasonable excuse fails or refuses to comply with any such requirement as is mentioned in paragraph (e) or (f) of that subsection,

shall be guilty of an offence under this Act.

(9) Neither an enforcement officer nor a person assigned to assist him in his duties shall be liable in any civil or criminal proceedings for anything done in purported exercise of any of the powers conferred by subsection (5) above if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(10) Nothing in this section shall have effect so as to prejudice the exercise of any powers exercisable apart from this section.

(11) Any reference in this section, in relation to a person assigned to assist an enforcement officer in his duties, to the exercise of any of the powers by subsection (5) above is a reference to the exercise by that person of any of those powers on behalf of that officer.”

[“9. In section 9(1) (interpretation) insert the following definition –

“officer of police” means a member of the Honorary Police or of the States of Jersey Police Force.]”.

SCHEDULE 17

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SCHEDULE 18

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SCHEDULE 19

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SCHEDULE 20

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SCHEDULE 21

REPEALS

Chapter	Short title	Extent of repeal
1949 c.54	Wireless Telegraphy Act 1949 ²⁶ .	Section 14(1B)(a). In section 15, in subsection (1) the words “and named in the warrant”, and in subsection (2) the words “and named in the authorisation”.
1955 c.7	Wireless Telegraphy (Blind Persons) Act 1955 ²⁷ .	The whole Act
1967 c.72	Wireless Telegraphy Act 1967.	Section 3(2) Section 5(2).

SCHEDULE 22

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²⁶ Tome VIII, page 172.

²⁷ Tome VIII, page 466.