



Jersey

# **BROADCASTING ACT 1981 (CHANNEL ISLANDS) ORDER 1987**

**Unofficial extended UK law**

06.072

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**APPENDIX**



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# **BROADCASTING ACT 1981 (CHANNEL ISLANDS) ORDER 1987**

**Jersey Order in Council 4/1988**

**THE BROADCASTING ACT 1981 (CHANNEL ISLANDS) ORDER, 1987.**

*(Registered on the 26th day of February, 1988.)*

**At the Court at Buckingham Palace.**

18th December, 1987.

**PRESENT**

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

**HER MAJESTY**, in pursuance of section 66(3) of the Broadcasting Act 1981, 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 1981 (Channel Islands) Order 1987 and shall come into force on 1st February, 1988.
- 2.** In this Order, “Channel Islands” means Jersey and Guernsey and “Jersey” and “Guernsey” mean the Bailiwicks of Jersey and Guernsey, respectively.
- 3.** It is hereby directed that the provisions of the Broadcasting Act 1981 extend to the Channel Islands with the adaptations and modifications specified in the Schedule to this Order.

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4. The Independent Broadcasting Authority Act 1973 (Channel Islands) Order 1979,<sup>2</sup> the Independent Broadcasting Authority Act 1979 (Channel Islands) Order, 1980,<sup>3</sup> and the Broadcasting Act 1980 (Channel Islands) Order, 1981<sup>4</sup> are hereby revoked.

**G.I. de Deney**

*Clerk of the Privy Council.*

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<sup>2</sup> Volume 1979–1981, page 29.

<sup>3</sup> Volume 1979–1981, page 207.

<sup>4</sup> Volume 1979–1981, page 401.

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**SCHEDULE**

**(Article 3)**

**Adaptations and Modifications in the Extension of the Broadcasting Act 1981 to the Channel Islands**

**1.** Unless the context otherwise requires, any reference to a provision of the Broadcasting Act 1981 or of any other Act of Parliament which has been extended to Jersey or Guernsey or both shall be construed as a reference to that provision as extended.

**2.** Any reference to local sound broadcasts or to local sound broadcasting services shall be construed as a reference only to local sound broadcasts or to local sound broadcasting services provided by the Independent Broadcasting Authority in the United Kingdom by virtue of the Broadcasting Act 1981, as it has effect in the United Kingdom.

**3.** In section 2 –

(a) paragraph (b) of subsection (4) shall be omitted; and

(b) for subsection (6) there shall be substituted the following subsections –

“(6) Any order made by the Secretary of State under subsection (5) as it has effect in the United Kingdom shall have effect in Jersey or Guernsey if registered by the Royal Court of Jersey or the Royal Court of Guernsey as the case may be”.

**4.** In section 3(7), for the words from “section 15” to the end of the subsection there shall be substituted the words “, in the case of Jersey, Article 5 of the Telecommunications (Jersey) Law, 1972 and, in the case of Guernsey, section 7 of the Telecommunications (Guernsey) Law, 1972, anything for the doing of which such a licence is required under that Act or either of those Laws; and that Act and those Laws shall have effect in relation to the Authority accordingly”.

**5.** In section 4 –

(a) in subsection (6), after the word “authorities” there shall be inserted the words “or proceedings of the States of Jersey, the States of Guernsey, the States of Alderney or the Chief Pleas of Sark”; and

(b) paragraph (b) of subsection (7) shall be omitted.

**6.** In section 8 for subsection (10) there shall be substituted the following subsections –

“(10) Any regulations made by the Secretary of State under this section as it has effect in the United Kingdom shall have effect in Jersey or Guernsey if registered by the Royal Court of Jersey or the Royal Court of Guernsey, as the case may be.

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(11) In relation to any programme broadcast in the Channel Islands the reference in subsection (7)(e) to a Minister of the Crown shall include references to the Lieutenant Governors of Jersey and Guernsey and the Bailiffs of Jersey and Guernsey”.

**7.** Sections 10(4), 17, 18, 26 and 28 shall be omitted.

**8.** In section 29 –

(a) subsection (6) shall be omitted; and

(b) for subsection (8) there shall be substituted the following subsections –

“(8) In relation to any television broadcasting station in the Channel Islands, the reference in subsection (1) to a Minister of the Crown shall include a reference to the Lieutenant Governors of Jersey and Guernsey and the Bailiffs of Jersey and Guernsey”.

**9.** In section 30 for subsection (3) there shall be substituted the following subsection –

“(3) Any regulations made by the Secretary of State under this section as it has effect in the United Kingdom shall have effect in Jersey or Guernsey if registered by the Royal Court of Jersey or the Royal Court of Guernsey, as the case may be”.

**10.** For section 32 there shall be substituted the following section –

“**32.** The contracts between the Authority and the various programme contractors shall provide for payments to be made by the programme contractors to the Authority representing what appear to the Authority to be the appropriate contributions of the respective programme contractors towards meeting the sums which the Authority regard as necessary in order to discharge their duty under section 36(2) of this Act”.

**11.** Sections 33, 34, 35, 38, 39, 40(5) and 41 shall be omitted.

**12.** In section 44, for subsection (3) there shall be substituted the following subsection –

“(3) The reference in subsection (2) to the Secretary of State shall include –

- (a) in relation to any agreement affecting employment in Jersey, a reference to the Industrial Disputes Officer appointed under the Industrial Disputes (Jersey) Law, 1956 as amended from time to time; and
- (b) in relation to any agreement affecting employment in Guernsey, a reference to the Labour and Welfare Committee of the States of Guernsey”.

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- 13.** Part II (sections 46 to 52) shall be omitted.
- 14.** In section 53, subsections (2) to (5) shall be omitted.
- 15.** in section 55(4) –
  - (a) in paragraph (b), after the words “United Kingdom” there shall be inserted the words “or Channel Islands”; and
  - (b) in paragraph (c), after the words “United Kingdom” there shall be inserted the words “or Channel Islands”.
- 16.** Section 60 shall be omitted.
- 17.** In section 63 –
  - (a) in subsection (1), the definition of “the Welsh Authority” shall be omitted; and
  - (b) subsection (2) shall be omitted.
- 18.** Sections 64, 65(1) and (2) and 66(2), (3) and (4) shall be omitted.
- 19.** In Schedule 3, the references in Part I to provisions of the Broadcasting Act 1981 shall be construed subject to the provisions of this Schedule, and Part II shall be omitted.
- 20.** Schedules 4, 5, 6 and 7 shall be omitted.
- 21.** In Schedule 8, paragraphs 3, 5, 6 and 8 shall be omitted.
- 22.** Schedule 9 shall have effect in relation only to such of the enactments specified there as have effect in the Channel Islands.

## **BROADCASTING ACT 1981**

### **CHAPTER 68**

#### *ARRANGEMENT OF SECTIONS*

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##### THE INDEPENDENT BROADCASTING AUTHORITY

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##### Section

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3. Powers of Authority.

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4. General provisions as to programmes.

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5. Code for programmes other than advertisements.
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11. Nature of the Fourth Channel, and its relation to ITV.
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##### **Teletext services**

14. Provision of teletext services by Authority.
15. Code for teletext transmissions.

##### **Advisory committees**

16. General advisory council and specialist advisory committees etc.
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18. \* \* \* \* \*

##### **Provisions applying to all contracts for programmes**

19. Duration of contracts for programmes and prior consultation etc.
20. Programme contractors.
21. Provisions to be included in contracts for programmes.
22. Provision for news broadcasts.
23. Newspaper shareholdings in programme contractors.



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24. Buying and selling of programmes by programme contractors.
25. Wages, conditions of employment, and training of persons employed by programme contractors.

**Sound programme contracts**

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27. Information as to programme contracts and applications for such contracts.

**Powers of Government in relation to Authority**

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29. Government control over Authority as to certain other matters.
30. Prevention of exclusive arrangements for broadcasting events of national interest.
31. Co-operation of Authority with BBC in the use of broadcasting installations.

**Rental payments**

32. Rental payments by programme contractors.
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36. Television and sound broadcasting to be separately financed by Authority.
37. Application of any excess of revenues over expenditure.
38. \* \* \* \* \*

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**Accounts, audit and annual reports**

42. Accounts and audit.
43. Annual reports.

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44. Machinery for settling terms and conditions of employment of Authority's staff, etc.
45. Audience research.

*PART II*

**THE FOURTH CHANNEL IN WALES**

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*PART III*  
THE BROADCASTING COMPLAINTS  
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Section

- 53. The Broadcasting Complaints Commission.
- 54. Function of Commission.
- 55. Making and entertaining of complaints.
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- 57. Publication of Commission's findings.
- 58. Duty to publicise Commission.
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- 60. \* \* \* \* \*

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- 62. Variation and revocation of directions and notices.
- 63. Interpretation.
- 64. \* \* \* \* \*
- 65. Consequential and transitional provisions and savings.
- 66. Short title, extent and commencement.

*SCHEDULES*

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supplementary provisions.**

SCHEDULE 2 – **Rules as to advertisements.**

SCHEDULE 3 – **Teletext services.**

SCHEDULE 4 – **Rental payments.**

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SCHEDULE 5 – **The Welsh Fourth Channel Authority:  
supplementary provisions.**

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SCHEDULE 6 – **Modifications of Act in relation to the  
Fourth Channel in Wales.**

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SCHEDULE 7 – **The Broadcasting Complaints Commission:  
supplementary provisions.**

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SCHEDULE 8 – **Transitional provisions and savings.**

SCHEDULE 9 – **Repeals.**

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**ELIZABETH II**



**1981 CHAPTER 68**

**AN ACT** to consolidate the Independent Broadcasting Authority Acts 1973, 1974 and 1978 and the Broadcasting Act 1980.

[30th October, 1981]

**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 follows<sup>5</sup> –

*PART I*

THE INDEPENDENT BROADCASTING AUTHORITY

**The Authority**

**1.-(1)** The authority called the Independent Broadcasting Authority shall continue in existence as a body corporate.

(2) The Authority shall consist of –

- (a) a Chairman and a Deputy Chairman; and
- (b) such number of other members, not being less than five, as the Secretary of State may from time to time determine.

(3) Unless and until the Secretary of State otherwise determines by notice in writing to the Authority, a copy of which shall be laid before each House of Parliament, the number of those other members shall be ten.

(4) Schedule 1 shall have effect with respect to the Authority.

**2.-(1)** The function of the Authority shall be to provide, in accordance with this Act and until 31st December, 1996, television and local sound broadcasting services, additional in each case to those of the BBC and of high quality (both as to the transmission and as to the matter transmitted), for so much of the United Kingdom, the Isle of Man and the Channel Islands as may from time to time be reasonably practicable.

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

<sup>5</sup> Deletions and words in square brackets indicate adaptations made by the Broadcasting Act 1981 (Channel Islands) Order, 1987.

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- (a) to provide the television and local sound broadcasting services as a public service for disseminating information, education and entertainment;
- (b) to ensure that the programmes broadcast by the Authority in each area maintain a high general standard in all respects (and in particular in respect of their content and quality), and a proper balance and 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; and
- (c) to secure a wide showing or (as the case may be) hearing for programmes of merit.

(3) Without prejudice to the powers conferred on the Authority by this Act, the programmes broadcast by the Authority shall, so far as may be consistent with the observance of the requirements of this Act, be provided not by the Authority but by persons (referred to in this Act as “programme contractors”) who, under contracts with the Authority, have, in consideration of payments to the Authority and subject to the provisions of this Act, the right and the duty to provide programmes or parts of programmes to be broadcast by the Authority, which may include advertisements.

(4) The following provisions, namely subsections (2)(b) and (3) of this section and sections 3, 4, 6, 8 and 9, have effect subject to the provisions of sections 10 to 13 (special provisions relating to the Fourth Channel); and further modifications of the provisions of this Act are contained –

- (a) in section 14(5) and Schedule 3 as respects teletext services; and
- (b) \* \* \* \* \*

(5) For the purpose of extending or further extending the duration of the function of the Authority under subsection (1) the Secretary of State may by order substitute for the date specified in that subsection, as for the time being in force, any date not later than 31st December, 2001.

(6) [Any order made by the Secretary of State under subsection (5) as it has effect in the United Kingdom shall have effect in Jersey or Guernsey if registered by the Royal Court of Jersey or the Royal Court of Guernsey as the case may be.]

**3.-(1)** The Authority shall (subject to the provisions of this Act) have power to do all such things as are in their opinion necessary for or conducive to the proper discharge of their function under section 2(1) and, in particular, they shall for the purpose of discharging that function have power –

- (a) to establish, install and use stations for wireless telegraphy;
- (b) to arrange for the provision and equipment of, or (if need be) themselves to provide and equip, studios and other premises for television and sound broadcasting purposes;

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- (c) by arrangements made for the purpose with British Telecommunications and persons carrying on broadcast relay stations, to provide for the distribution from broadcast relay stations of programmes broadcast by the Authority.
- (2) Notwithstanding section 2(3) the Authority may –
  - (a) arrange for the provision of parts of programmes otherwise than by programme contractors for the purpose of securing the inclusion in the programmes broadcast by the Authority of items of particular classes which in their opinion are necessary for securing a proper balance in the subject-matter of the programmes and cannot, or cannot as suitably, be provided by programme contractors;
  - (b) apart from the provision of such items, arrange for the provision (by programme contractors or otherwise) of, or (if need be) themselves provide, programmes or parts of programmes so far as may be necessary –
    - (i) if by reason of any temporary lack of suitable persons able and willing to become or continue as programme contractors on suitable terms and to perform their obligations as such; or
    - (ii) by reason of any interval between the expiration or termination of one contract with a programme contractor and the commencement of another contract with that or another programme contractor; and
  - (c) with the consent of the Secretary of State, arrange for the provision, otherwise than by programme contractors, of educational broadcasting services of an experimental nature to be broadcast in addition to education programmes provided for the purpose of the public service referred to in section 2(2)(a) by programme contractors;

and the Authority may, for the purpose of so providing programmes or parts of programmes or putting themselves into a position to do so if necessity arises, make such arrangements for obtaining the necessary material, enter into such contracts, employ such persons, acquire such property and do such things as may appear to them to be necessary or expedient.

(3) Without prejudice to the generality of subsections (1) and (2), the powers of the Authority shall extend to the carrying on of such businesses and the doing of such things as arise out of the other activities of the Authority or are necessary or expedient for the purpose of turning to account any property or rights of the Authority.

(4) Notwithstanding anything in this section the Authority shall not carry on business as sellers of, or (except with the approval of the Secretary of State) themselves engage in the manufacture or sale of, apparatus for wireless telegraphy or any other telegraphic equipment.

(5) Notwithstanding anything in this section, the Authority shall not have power –

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- (a) to provide broadcasting services other than television services and local sound broadcasting services; or
- (b) (except as provided by this section) to acquire any exclusive or other rights in respect of the broadcasting of any matters in sound only otherwise than as part of a local sound broadcast.

(6) Nothing in subsection (5) shall be construed as precluding the inclusion in any television programme broadcast by the Authority of matter transmitted in sound only –

- (a) by way of relays of any of the BBC's party political broadcasts which is so transmitted;
- (b) in compliance with a notice given to the Authority under section 29(1); or
- (c) by way of news items, announcements or other items incidental or ancillary to the television services provided by the Authority,

or as precluding the acquisition by the Authority of rights in respect of any matters to be so transmitted.

(7) Nothing in this section shall be construed as authorising the Authority to do, otherwise than under and in accordance with a licence under section 1 of the Wireless Telegraphy Act 1949 or [, in the case of Jersey, Article 5 of the Telecommunications (Jersey) Law, 1972<sup>6</sup> and, in the case of Guernsey, section 7 of the Telecommunications (Guernsey) Law 1972, anything for the doing of which such a licence is required under that Act or either of those Laws; and that Act and those Laws shall have effect in relation to the Authority accordingly.]

### **General provisions as to programmes**

**4.-(1)** It shall be the duty of Authority to satisfy themselves that, so far as possible, the programmes broadcast by the Authority comply with the following requirements, that is to say –

- (a) that nothing is included in the programmes which offends against good taste or decency or is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling;
- (b) that a sufficient amount of time in the programmes is given to news and news features and that all news given in the programmes (in whatever form) is presented with due accuracy and impartiality;
- (c) that proper proportions of the recorded and other matter included in the programmes are of British origin and of British performance;
- (d) that the programmes broadcast from any station or stations contain a suitable proportion of matter calculated to appeal specially to the tastes and outlook of persons served by the station or stations and, where

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<sup>6</sup> Volume 1970–1972, page 393.

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another language as well as English is in common use among those so served, a suitable proportion of matter in that language;

- (e) in the case of local sound broadcasting services, that the programmes broadcast from different stations for reception in different localities do not consist of identical or similar material to an extent inconsistent with the character of the services as local sound broadcasting services; and
- (f) that due impartiality is preserved on the part of the persons providing the programmes as respects matters of political or industrial controversy or relating to current public policy.

In applying paragraph (f), a series of programmes may be considered as a whole.

(2) Without prejudice to the generality of subsection (1), it shall be the duty of the Authority to secure the exclusion from the programmes broadcast by them of all expressions of opinion by the Authority or their subsidiary mentioned in section 12(2), or by any programme contractor, on matters other than broadcasting which are of political or industrial controversy or relate to current public policy.

(3) It shall be the duty of the Authority to satisfy themselves that the programmes broadcast by the Authority do not include, whether in an advertisement or otherwise, any technical device which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to, or otherwise influencing the minds of, members of an audience without their being aware, or fully aware, of what has been done.

(4) Nothing shall be included in any programme broadcast by the Authority, whether in an advertisement or not, which offers any prize of significant value (whether competed for or not) or any gift of significant value, being a prize or gift which is available only to persons receiving that programme, or in relation to which any advantage is given to such persons.

(5) Except with the previous approval of the Authority, there shall not be included in any programme broadcast by the Authority –

- (a) any religious service or any propaganda relating to matters of a religious nature;
- (b) any item, whether an advertisement or not, which gives or is designed to give publicity to the needs or objects of any association or organisation conducted for charitable or benevolent purposes.

(6) Nothing in subsection (2) or (5) shall apply to a programme broadcast by the Authority so far as the programme consists of proceedings in either House of Parliament or proceedings of a local authority, a committee of a local authority or a joint committee of two or more local authorities [or proceedings of the States of Jersey, the States of Guernsey, the States of Alderney or the Chief Pleas of Sark].

In this subsection “local authority” means any of the following bodies, namely, a local authority, within the meaning of the Local Government Act 1972, a local authority within the meaning of the Local Government (Scotland) Act 1973, a district council in

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Northern Ireland, the Common Council of the City of London and (without prejudice to the effect of that Act of 1972) the Inner London Education Authority.

(7) For the purpose of maintaining supervision and control over the programmes (including advertisements) broadcast by them the Authority may make visual and sound records of those programmes or any part thereof; and the making and use by the Authority of any such record exclusively for that purpose –

(a) shall not constitute an infringement of the copyright in any work, sound recording or cinematograph film; and

(b) \* \* \* \* \*

**Programmes other than advertisements**

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

(a) as to the rules to be observed in regard to the showing of violence, and in regard to the inclusion in local sound broadcasts of sounds suggestive of violence, particularly when large numbers of children and young persons may be expected to be watching or listening to the programmes; and

(b) as to such other matters concerning standards and practice for programmes (other than advertisements) broadcast by the Authority as the Authority may consider suitable for inclusion in the code;

and, in considering what other matters ought to be included in the code in pursuance of paragraph (b), the Authority shall have special regard to programmes broadcast when large numbers of children and young persons may be expected to be watching or listening.

(2) The Authority shall secure that the provisions of the code under this section are observed in relation to all programmes (other than advertisements) broadcast by them.

(3) The Authority may, in the discharge of their general responsibility for programmes other than advertisements, impose requirements as to standards and practice for such programmes which go beyond, or relate to matters not covered by, the provisions of the code under this section.

(4) The methods of control exercisable by the Authority for the purpose of securing that the provisions of the code under this section are observed, and for the purpose of securing compliance with requirements imposed under subsection (3) which go beyond, or relate to matters not covered by, the code, shall include a power to give directions to a programme contractor (or any other person providing programmes other than advertisements) imposing prohibitions or restrictions as respects items of a specified class or description or as respects a particular item.

**6.-(1)** In the case of programmes other than advertisements, the methods by which the Authority discharge their duties under sections 2(2) and 5 in relation to television broadcasts shall, and in relation to local sound broadcasts (to such extent as



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the Authority consider appropriate) may, include consideration of programme schedules submitted by programme contractors to the Authority for approval in accordance with this section.

(2) Subject to subsection (6), no programme (other than an advertisement) provided by a programme contractor –

- (a) if it is a television programme; or
- (b) if it is a local sound broadcast which the Authority have required to be made in accordance with a programme schedule so approved,

shall be broadcast by the Authority unless it forms part of a programme schedule approved by them in accordance with this section.

(3) A programme schedule –

- (a) shall be drawn up in consultation with the Authority; and
- (b) shall be for a period determined by them;

and the Authority may give to programme contractors such directions as appear to the Authority expedient for the purpose of ensuring that the Authority have sufficient time to discharge their responsibilities in the consideration of programme schedules.

(4) The Authority may give directions, which may be, to any degree, either general or specific and qualified or unqualified –

- (a) as to the exclusion of any item from a programme schedule;
- (b) as to the inclusion in, or in a particular part of, a programme schedule of an item, or items, of a particular category; or
- (c) as to the inclusion in a particular part of a programme schedule of a particular item;

and the Authority shall not approve a programme schedule until they are satisfied that it conforms with any directions given under this section.

(5) Without prejudice to the Authority's power to approve for the purposes of this section a revised or amended version of a programme schedule previously approved by them, the Authority may, if they think fit to do so in view of any change of circumstances occurring after a programme schedule has been approved by them, permit the programme contractor to make such alterations in that programme schedule as the Authority may approve, being alterations proposed to them in any convenient manner; and a programme schedule in which alterations have been made by virtue of this subsection shall, as so altered, be treated as having been approved by the Authority in accordance with this section.

(6) The Authority may give directions, which may be, to any degree, either general or specific and conditional or unconditional, authorising the making of

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alterations in any approved programme schedule without prior reference to the Authority –

- (a) where it is difficult or impracticable for the programme contractor to communicate with the Authority in the time available; or
- (b) in the event of a technical breakdown;

and the programmes contained in a programme schedule in which alterations are made by virtue of this subsection may be broadcast by the Authority notwithstanding those alterations.

(7) The Authority's approval under this section may be given subject to such exceptions, reservations and qualifications as the Authority think fit; and the Authority may at any time call for further particulars of a programme schedule submitted to them, or of any item in the programme schedule.

**7.-(1)** Without prejudice to the provision as to prizes and gifts contained in section 4(4), a programme (other than an advertisement) broadcast by the Authority –

- (a) shall not include anything which offers any prize of significant value (whether competed for or not) or any gift of significant value unless –
  - (i) the value of the prize or gift does not exceed an amount previously approved by the Authority for that prize or gift in relation to that programme; and
  - (ii) the aggregate value of all such prizes and gifts offered in the programme does not exceed an amount previously approved by the Authority for that programme; and
- (b) shall not include anything which offers any prize or gift of significant value in connexion with a game, competition or test of any kind unless the rules governing the conduct of the game, competition or test have been previously approved by the Authority.

(2) Subsection (1) shall not be taken to apply to a programme by reason only that in it there is broadcast a sporting or other event or competition not organised for the purposes of the programme.

### **Advertisements**

**8.-(1)** The programmes broadcast by the Authority may, so long as the provisions of this Act are complied with in relation thereto, include advertisements inserted therein in consideration of payments to the relevant programme contractor or (in the case of an advertisement included in a programme or part of a programme provided under section 3(2)(b) to the Authority.

(2) Orders for the insertion of the said advertisements may be received either through advertising or other agents or direct from the advertiser, but neither the Authority nor any programme contractor shall act as an advertising agent.

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(3) It shall be the duty of the Authority to secure that the provisions of Schedule 2 are complied with in relation to the advertisements included in the programmes broadcast by the Authority.

(4) After consultation with the Authority the Secretary of State may make regulations amending, repealing, or adding to the provisions of Schedule 2.

(5) Without prejudice to any of the duties incumbent on the Authority otherwise than under this subsection in relation to advertisements, it shall be the duty of the Authority –

- (a) to consult from time to time with the Secretary of State as to the classes and descriptions of advertisements which must not be broadcast and the methods of advertising which must not be employed; and
- (b) to carry out any directions which he may give them in those respects.

(6) Subject to subsections (7) to (9), nothing shall be included in any programmes broadcast by the Authority, whether in an advertisement or not, which states, suggests or implies (or could reasonably be taken to state, suggest or imply) that any part of any programme broadcast by the Authority which is not an advertisement has been supplied or suggested by any advertiser; and, except as an advertisement, nothing shall be included in any programme broadcast by the Authority which could reasonably be supposed to have been included in the programme in return for payment or other valuable consideration to the relevant programme contractor or the Authority.

(7) Nothing in subsection (6) shall be construed as prohibiting the inclusion of any of the following matters in any part of a programme broadcast by the Authority which is not an advertisement, namely –

- (a) items designed to give publicity to the needs or objects of any association or organisation conducted for charitable or benevolent purposes;
- (b) reviews of literary, artistic or other publications or productions, including current entertainments;
- (c) items consisting of factual portrayals of doings, happenings, places or things, being items which in the opinion of the Authority are proper for inclusion by reason of their intrinsic interest or instructiveness and do not comprise an undue element of advertisement;
- (d) announcements of the place of any performance included in the programme, or of the name and description of the persons concerned as performers or otherwise in any such performance, announcements of the number and description of any record so included, and acknowledgements of any permission granted in respect of any such performance, persons or record;
- (e) items inserted at the request, or under the authority, of a Minister of the Crown (including the head of a Northern Ireland department);

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- (f) such other matters (if any) as may be prescribed by regulations made by the Secretary of State after consultation with the Authority.

(8) Nothing in subsection (6) shall be construed as prohibiting the inclusion of an advertisement in any programme broadcast by the Authority by reason only of the fact that it is related in subject-matter to any part of that programme which is not an advertisement.

(9) So much of subsection (6) as prohibits the inclusion in programmes (other than advertisements) broadcast by the Authority of anything which could reasonably be supposed to have been included therein in return for payment or other valuable consideration to the Authority shall not apply to any programme so broadcast in an educational service provided under section 3(2)(c).

(10) [Any regulations made by the Secretary of State under this section as it has effect in the United Kingdom shall have effect in Jersey or Guernsey if registered by the Royal Court of Jersey or the Royal Court of Guernsey, as the case may be.

(11) In relation to any programme broadcast in the Channel Islands the reference in subsection (7)(e) to a Minister of the Crown shall include references to the Lieutenant Governors of Jersey and Guernsey and the Bailiffs of Jersey and Guernsey.]

**9.-(1)** It shall be the duty of the Authority –

- (a) to draw up, and from time to time review, a code governing standards and practice in advertising and prescribing the advertisements and methods of advertising to be prohibited, or prohibited in particular circumstances; and
- (b) to secure that the provisions of the code are complied with as regards the advertisements included in the programmes broadcast by the Authority.

(2) The Authority may, in the discharge of their general responsibility for advertisements and methods of advertising, impose requirements as to advertisements and methods of advertising which go beyond the requirements imposed by the code under this section.

(3) The methods of control exercisable by the Authority for the purpose of securing that the provisions of the code under this section are complied with, and for the purpose of securing compliance with requirements imposed under subsection (2) which go beyond the requirements of the code, shall include a power to give directions to a programme contractor with respect to the classes and descriptions of advertisements and methods of advertising to be excluded, or to be excluded in particular circumstances, or with respect to the exclusion of a particular advertisement, or its exclusion in particular circumstances.

(4) The Authority may give directions to a programme contractor with respect to the times when advertisements are to be allowed.

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(5) Directions under this section may be, to any degree, either general or specific and qualified or unqualified; and directions under subsection (4) may, in particular, relate to –

- (a) the greatest 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 over to advertisements and the number of such periods to be allowed in any programme or item in a programme or in any hour or day;
- (c) the exclusion of advertisements from a specified broadcast;

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.

**Special provisions relating to the Fourth Channel**

**10.-(1)** If the Authority provide a television broadcasting service additional to that already being provided by them under this Act, the programmes (other than advertisements) broadcast in that service shall, subject to subsection (4) and without prejudice to section 12(2), be provided by the Authority themselves.

(2) In this Act –

- (a) “ITV” means the television broadcasting service already being provided by the Authority under this Act, and “on ITV” means in that service;
- (b) “the Fourth Channel” means the additional television broadcasting service referred to in subsection (1) and “on the Fourth Channel” means in that service;
- (c) “TV programme contractor” means a person whose contract as a programme contractor gives him the right and the duty to provide programmes or parts of programmes for broadcasting on ITV;
- (d) references to the area of a TV programme contractor are references to the area for which he has the right and the duty to provide programmes or parts of programmes for broadcasting on ITV;
- (e) references to a TV programme contractor’s contract are references to the contract by virtue of which he is such a contractor.

(3) In consequence of subsection (1) –

- (a) references in section 2(3) (provision of programmes by programme contractors) to programmes broadcast by the Authority shall not include references to programmes broadcast by them on the Fourth Channel; and
- (b) section 3(2) (provision of programmes in exceptional cases otherwise than by programme contractors) and section 6 (submission of programme

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schedules by programme contractors for Authority's approval) shall not apply in the case of the Fourth Channel.

(4) \* \* \* \* \*

(5) In this section "television broadcasting service" does not include a teletext service.

**11.-(1)** As regards the programmes (other than advertisements) broadcast on the Fourth Channel it shall be the duty of the Authority –

- (a) to ensure that the programmes contain a suitable proportion of matter calculated to appeal to tastes and interests not generally catered for by ITV;
- (b) without prejudice to so much of section 2(2)(a) as relates to the dissemination of education, to ensure that a suitable proportion of the programmes are of an educational nature;
- (c) to encourage innovation and experiment in the form and content of programmes;

and generally to give the Fourth Channel a distinctive character of its own.

(2) While the Authority are providing both ITV and the Fourth Channel it shall be their duty to ensure, so far as is consistent with their duties under subsection (1) –

- (a) that as regards each of those services, the programmes broadcast in that service by the Authority in each area maintain a proper balance and 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; and
- (b) that, as between the two services, a proper balance of subject-matter is maintained, having regard both to the programmes broadcast in those services as a whole and also to the days of the week on which, and the times of the day at which, the various programmes are broadcast;

and so long as the Authority are under the duty imposed by this subsection, so much of section 2(2)(b) as relates to the maintenance of a proper balance and wide range in the programmes broadcast by the Authority shall not apply in the case of television programmes so broadcast.

(3) Section 4(1)(d) (programmes to contain a suitable proportion of matter catering for the tastes and outlook of persons served by the station or stations in question and, where another language as well as English is in common use among such persons, a suitable proportion of matter in that language) shall not apply in the case of programmes broadcast on the Fourth Channel.

**12.-(1)** Subject to subsection (2), the Authority may, for the purpose of providing programmes (other than advertisements) for broadcasting on the Fourth

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Channel make such arrangements for obtaining and assembling the necessary material, enter into such contracts, employ such persons, acquire such property and do such things as may appear to them to be necessary or expedient.

This subsection is without prejudice to the generality of section 3(1) and paragraph 4(1) of Schedule 1.

(2) The Authority shall arrange for the following activities involved in providing programmes (other than advertisements) for broadcasting on the Fourth Channel to be performed by a subsidiary of the Authority formed by them for the purpose, namely –

- (a) obtaining and assembling the necessary material; and
- (b) such of the other activities involved in providing such programmes as appear to the Authority appropriate.

(3) As respects the selection of programmes (other than advertisements) for broadcasting on the Fourth Channel it shall be the duty of the Authority –

- (a) to have regard, in particular, to their duties under section 11(1); and
- (b) to secure that, so far as is consistent with their duties in relation to the Fourth Channel under sections 2(2) and 11, a substantial proportion of the programmes broadcast on the Fourth Channel are supplied otherwise than by persons of either of the following descriptions, namely a TV programme contractor and a body corporate under the control of a TV programme contractor.

(4) In this section “subsidiary” shall be construed in accordance with section 154 of the Companies Act 1948.

**13.-(1)** The programmes broadcast by the Authority on the Fourth Channel for reception in the area of any TV programme contractor may, so long as the provisions of this Act are complied with in relation thereto, include advertisements provided for insertion therein by that contractor in consideration of payments to him.

(2) The contract of every TV programme contractor shall be framed so as to give him the right, in consideration of payments made to the Authority and so long as the provisions of this Act are complied with in relation thereto, to provide advertisements for inclusion in the programmes broadcast by the Authority on the Fourth Channel for reception in his area.

(3) For any period in which programmes are to be broadcast on the Fourth Channel for reception in the area of a TV programme contractor it shall be the duty of the Authority to make suitable arrangements –

- (a) for the contractor to receive advance information about the programmes other than advertisements which are to be so broadcast in that period and about the periods which will be available for the broadcasting of advertisements; and

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- (b) for the inclusion, in the programmes so broadcast in that period, of advertisements provided for the purpose by the contractor in the exercise of his right to do so under his contract.

(4) In relation to the programmes broadcast by the Authority on the Fourth Channel, the provisions of sections 8 and 9 (together with Schedule 2) shall have effect with the following modifications, that is to say –

- (a) section 8(1) shall not apply;
- (b) section 8(2) shall apply to orders for the inclusion by a TV programme contractor of advertisements among those provided by him for insertion in those programmes;
- (c) section 8(9) and the reference to section 8(9) in section 8(6), shall not apply;
- (d) section 9(4) and, in section 9(5), the words from “and directions under subsection (4)” onwards shall not apply.

(5) Where two or more TV programme contractors share the same area, the preceding provisions of this section shall, in the case of each of them, apply as if the only programmes broadcast or to be broadcast by the Authority on the Fourth Channel for reception in that area were those so broadcast or to be broadcast in periods in respect of which his contract gives him the right and the duty to provide programmes or parts of programmes for reception in that area on ITV.

#### **Teletext services**

**14.-(1)** Without prejudice to the generality of section 3(3), the television broadcasting services provided by the Authority may, if the Authority think fit, include teletext services.

(2) Without prejudice to the powers conferred on the Authority by section 3(2), teletext transmissions broadcast by the Authority shall be provided not by the Authority but by persons (referred to in this Act as “teletext contractors”) who, under contracts with the Authority, have, in consideration of payments to the Authority and subject to such of the provisions of this Act as apply in relation to such transmissions, the right and the duty to provide material (which may include advertisements) to be included in teletext transmissions broadcast by the Authority.

(3) A teletext contractor may, but need not, be a TV programme contractor.

(4) For the purposes of this Act teletext transmissions shall not be treated as programmes, subject however to subsection (5) and to any other provisions of this Act expressly requiring them to be so treated for the purpose of particular provisions.

(5) In the provisions mentioned in Schedule 3 –

- (a) references to programmes or to television programmes shall be read as including references to teletext transmissions; and



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- (b) references to programme contractors shall be read as including references to teletext contractors;

and in section 3(2), in its application in relation to teletext transmissions or teletext contractors by virtue of this subsection, the reference to section 2(3) shall be read as a reference to subsection (2) of this section.

(6) In this Act “teletext transmission” means a television transmission intended for general reception and consisting of a succession of visual displays (with or without accompanying sound) each capable of being selected and held for separate viewing or other use, and “teletext service” means a service consisting of teletext transmissions.

**15.-(1) The Authority –**

- (a) shall draw up, and from time to time review, a code giving guidance as to such matters concerning standards and practice for teletext transmissions (including advertisements) broadcast by the Authority as the Authority may consider suitable for inclusion in the code; and
- (b) shall secure that the provisions of the code are observed in relation to all teletext transmissions broadcast by the Authority.

(2) Before drawing up or revising a code under this section the Authority shall consult the Secretary of State.

(3) The Authority may, in the discharge of their general responsibility for television broadcasting services provided by them, impose requirements as to standards and practice for teletext transmissions broadcast by them which go beyond, or relate to matters not covered by, the provisions of the code.

**(4) The methods of control exercisable by the Authority –**

- (a) for the purpose of securing that the provisions of the code are observed; and
- (b) for the purpose of securing compliance with requirements imposed under subsection (3) which go beyond, or relate to matters not covered by, the code;

shall include a power to give directions to a teletext contractor imposing prohibitions or restrictions as respects items of a specified class or description or as respects a particular item.

**Advisory committees**

**16.-(1)** The Authority may appoint, or arrange for the assistance of, advisory committees to give advice to the Authority and programme contractors on such matters as the Authority may determine; and a general advisory council may be appointed under this subsection.

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(2) Without prejudice to the generality of subsection (1), the Authority shall in particular appoint, or arrange for the assistance of, the following committees, namely –

- (a) a committee representative of the main streams of religious thought in the United Kingdom, the Isle of Man and the Channel Islands, to give advice to the Authority as to the exercise of their functions in relation to any such items as are mentioned in section 4(5)(a), and on any other matters of a religious nature included in the programmes broadcast by the Authority, or in any publications issued by the Authority;
- (b) a committee so constituted as to be representative of both –
  - (i) organisations, authorities and persons concerned with standards of conduct in the advertising of goods and services (including in particular the advertising of goods or services for medical or surgical purposes); and
  - (ii) the public as consumers;

to give advice to the Authority with a view to the exclusion of misleading advertisements from the programmes broadcast by the Authority, and otherwise as to the principles to be followed in connexion with the advertisements included in such programmes or in any publications issued by the Authority; and

- (c) a committee consisting of persons who have, or are representative of authorities or organisations who have, special interest and experience in education, to give advice to the Authority, and in particular advice on the policy for, and planning of, broadcasts intended for reception by schools and other educational establishments.

(3) The functions of the committee referred to in subsection (2)(b) of this section shall include the duty of keeping under review the code under section 9 and submitting to the Authority recommendations as to any alterations which appear to them to be desirable.

(4) Before appointing a person to be the chairman of the committee referred to in subsection (2)(b) of this section, the Authority shall satisfy themselves that that person –

- (a) will have no financial or other interest in any advertising agency; and
- (b) will have no such other financial or other interest in advertising as is in the opinion of the Authority likely to prejudice his independence as chairman;

and the Authority shall also satisfy themselves from time to time that the chairman of that committee has no such interest as is described in paragraph (a) or (b) of this subsection.

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(5) The Authority shall, after consultation with such professional organisations as the Secretary of State may require and such other bodies or persons as the Authority think fit, appoint, or arrange for the assistance of, a medical advisory panel to give advice to the Authority as to –

- (a) advertisements for medicines and medical and surgical treatments and appliances;
- (b) advertisements for toilet products which include claims as to the therapeutic or prophylactic effects of the products;
- (c) advertisements for medicines and medical and surgical treatments for veterinary purposes;

and such other advertisements as the Authority may think fit to refer to the panel.

(6) The Authority shall consult the panel before drawing up the code under section 9 and in the course of any review of that code.

(7) The Authority shall ensure that, before the first occasion on which they broadcast an advertisement which in their opinion falls under paragraph (a), (b) or (c) of subsection (5) of this section, the advertisement is, in accordance with arrangements approved by the Authority, referred to a member or members of the panel for advice.

**17.** \* \* \* \* \*

**18.** \* \* \* \* \*

**Provisions applying to all contracts for programmes**

**19.-(1)** The Authority shall not –

- (a) enter into any contract with a programme contractor for the provision of programmes for a period exceeding the relevant maximum period; or
- (b) extend any contract with a programme contractor so that the period for which programmes are provided under the contract exceeds the relevant maximum period;

but, subject to subsection (5), nothing in this subsection precludes the Authority from entering into successive contracts with the same programme contractor.

(2) For the purposes of subsection (1) the relevant maximum period is –

- (a) ten years in the case of a contract taking effect on or after 1st January, 1980 for the provision of local sound broadcasts in a locality –
  - (i) in which such broadcasts have not previously been provided by a programme contractor; or

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- (ii) in which such broadcasts have previously been so provided, but only in so much of it as in the opinion of the Authority does not amount to a substantial part of it; and

- (b) eight years in every other case.

(3) Before entering into any contract with a programme contractor for the provision of programmes in any area or locality, the Authority shall take such steps as appear to them appropriate (including if they think fit the holding of public meetings)

—

- (a) to ascertain the opinions of the public in that area or locality about the service proposed to be provided there by the Authority; and
- (b) to encourage the making of comments and suggestions about that service by members of the public in that area or locality;

and shall take into account those opinions and any such comments and suggestions received by them.

(4) Before entering into any contract with a programme contractor for the provision of programmes in any area or locality, the Authority shall publish, in such manner as they think fit, a notice —

- (a) stating that they propose to enter into a contract for the provision of television programmes or, as the case may be, local sound broadcasts in that area or locality;
- (b) stating the date from which it is proposed that the contract will take effect; and
- (c) inviting applications for the contract.

(5) Where the Authority and a programme contractor enter into a succession of contracts for the provision of programmes, each succeeding contract being entered into in pursuance of a provision to that effect in a preceding contract —

- (a) each succeeding contract entered into shall be treated for the purposes of subsection (1) as an extension, or further extension, of the first of those contracts; and
- (b) the Authority need not comply with subsection (3) or (4) in relation to any of those contracts other than the first.

**20.-(1)** The Authority shall not enter into any contract with a programme contractor whereby (whether by virtue of that contract alone or by virtue of that contract together with one or more other contracts) the contractor is to provide television programmes for an area and is to provide local sound broadcasts for reception in a locality which, in the opinion of the Authority, is comprised in that area.

- (2) It shall be the duty of the Authority to do all that they can to secure —

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- (a) that persons who are disqualified persons as defined in subsection (6) or (8) do not become or continue as programme contractors, either alone or in partnership with other persons; and
  - (b) that there is adequate competition to supply programmes between a number of programme contractors independent of each other both as to finance and as to control.
- (3) In the performance of their duty under subsection (2)(b) the Authority shall do all that they can to secure –
- (a) that no programme contractor with whom the Authority enter into a contract for the provision of television programmes for an area, and no associate of such a programme contractor, has, or during the period of the contract will acquire, control over any programme contractor with whom the Authority enter into a contract for the provision of local sound broadcasts for reception in any locality which in the opinion of the Authority is comprised in that area; and
  - (b) that no programme contractor with whom the Authority enter into a contract for the provision of local sound broadcasts for reception in a particular locality, and no associate of such a programme contractor, has, or during the period of contract will acquire, control over any programme contractor for the provision of television programmes for an area which in the opinion of the Authority includes that locality.
- (4) No contract and no interest in a contract between a programme contractor and the Authority shall be assignable either in whole or in part without the previous consent in writing of the Authority.
- (5) Every contract concluded between the Authority and a programme contractor shall, where the programme contractor is a body corporate, contain all such provisions as the Authority think necessary or expedient to ensure that if any change affecting the nature or characteristics of the body corporate, or any change in the persons having control over or interests in the body corporate, takes place after the conclusion of the contract, which, if it had occurred before the conclusion of the contract, would have induced the Authority to refrain from entering into the contract, the Authority may by notice in writing to the programme contractor, taking effect forthwith or on a date specified in the notice, determine the contract.
- (6) In subsection (2)(a) “disqualified person”, in relation to contracts for the provision of television programmes, means a person who –
- (a) being an individual is neither –
    - (i) a national of a member State who is ordinarily resident within the European Economic Community; nor
    - (ii) ordinarily resident in the United Kingdom, the Isle of Man or the Channel Islands;
  - (b) being a body corporate is neither –

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- (i) a body formed under the law of a member State which has its registered or head office or principal place of business within the European Economic Community; nor
  - (ii) a body incorporated under the law of the Isle of Man or the Channel Islands;
  - (c) being an individual or a body corporate, carries on business as an advertising agent (whether alone or in partnership), or has control over any body corporate which carries on business as an advertising agent, or is a director or officer of any such body corporate, or is employed by any person who carries on business as an advertising agent; or
  - (d) being a body corporate, is under the control of any such person as is mentioned in paragraph (a), (b) or (c) of this subsection, or of any two or more such persons together, or has among its directors, officers or servants any person who is a disqualified person otherwise than by virtue of paragraph (a) or (b) of this subsection.
- (7) For the purposes of subsection (6)(a)(i) “national”, in relation to the United Kingdom, means a person –
- (a) who is a citizen of the United Kingdom and Colonies or a British subject not possessing that citizenship or the citizenship of any other Commonwealth country or territory, who, in either case, has the right of abode in the United Kingdom; or
  - (b) who is a citizen of the United Kingdom and Colonies by birth or by registration or naturalisation in Gibraltar, or whose father was so born, registered or naturalised.
- (8) In subsection (2)(a) “disqualified person”, in relation to contracts for the provision of local sound broadcasts, means a person who either falls within paragraph (a), (b), (c) or (d) of subsection (6) or, being an individual or body corporate, carries on (whether alone or in partnership) a business which (either wholly, or to an extent which in the opinion of the Authority is substantial) –
- (a) consists of the manufacture of records or of the publication of musical works; or
  - (b) consists of promoting the broadcasting of sound recordings or of promoting the broadcasting or performance of musical works; or
  - (c) consists of obtaining employment for theatrical performers or for persons to take part as performers in programmes broadcast (whether by the authority or otherwise) by way of television or sound broadcasting;
- or has control over any body corporate which carries on such a business, or is a director or officer of any such body corporate, or is employed by any person who carries on such a business.
- (9) For the purposes of subsection (8) –

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- (a) “record” and “sound recording” have the same meaning as in the Copyright Act 1956,<sup>7</sup> and references to the publication, broadcasting or performance of musical works shall be constructed as if they were contained in that Act; and
- (b) “theatrical performer” has the same meaning as in the Theatrical Employers Registration Act 1925.

**21.-(1)** The contracts between the Authority and the various programme contractors shall contain all such provisions as the Authority think necessary or expedient to be inserted for complying and securing compliance with the provisions of this Act and any restrictions or requirements imposed thereunder in relation to the programmes provided by the programme contractors.

(2) Without prejudice to subsection (1), every contract between the Authority and a programme contractor –

- (a) shall contain a provision reserving to the Authority an absolute right to serve on the programme contractor such a notice as is mentioned in subsection (3) if, in view of any breaches by the programme contractor of his obligations under his contract with the Authority, the Authority, after giving the programme contractor a reasonable opportunity of making representations with respect to the matter, think it necessary to do so; but
- (b) shall be such as to secure that no notice can be given in pursuance of a right reserved in accordance with paragraph (a) unless the programme contractor has broken the contract on at least three occasions and, in respect of each of those breaches of contract, has received from the Authority written particulars of the breach within one month from the time when the breach came to the notice of the Authority.

(3) The notice referred to in subsection (2)(a) is a notice in writing, taking effect forthwith or on a date stated in the notice, to determine or suspend for such period as may be specified in the notice, or until a further notice is given, the Authority’s obligation to transmit the programmes supplied by the programme contractor (without prejudice, however, to the programme contractor’s obligations as to the supply of programmes up to the date when the notice takes effect).

(4) Where a notice is given in pursuance of a right reserved in accordance with subsection (2)(a), the programme contractor shall not be entitled to any compensation from the Authority, or to any refund of any sum previously paid by him, or to any relief from any liability which has accrued at the date when the notice takes effect for any sums payable by him to the Authority.

(5) Without prejudice to the power of the parties to agree upon any wider form of arbitration provision, every contract between the Authority and a programme contractor shall be such as to secure that any dispute –

- (a) whether an alleged breach of which the programme contractor has received written particulars is a breach of the contract for the purposes of

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<sup>7</sup> Tome VIII, page 793.

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the provisions included in the contract in pursuance of subsection (2)(b);  
or

- (b) whether the written particulars were received from the Authority within one month from the time when the breach came to the notice of the Authority;

shall be determined by arbitration.

(6) Every contract concluded between the Authority and a programme contractor shall contain all such provisions as the Authority for the purposes of the discharge of their functions think necessary or expedient to ensure that the programme contractor –

- (a) if so required, will provide the Authority in advance with scripts and particulars of the programmes or any part thereof (including advertisements) and of full details of the technical arrangements for obtaining visual images and sounds which are to form the programmes or any part thereof;
- (b) if so required, will make visual and sound records of the programmes or any part thereof (including advertisements) and produce them to the Authority for examination or reproduction;
- (c) will provide the Authority with such declarations, returns, documents and other information as the Authority may require;
- (d) in particular, if so required, will provide the Authority with information as to the costs incurred by the programme contractor in providing the programmes or any part thereof (including advertisements) and his receipts from advertisers;
- (e) if so required, will give reasonable facilities to the Authority for inspecting the books, accounts, records and other documents kept by the programme contractor for the purpose of any business carried on by him, and for taking copies of, or of any part of, any such documents.

(7) Without prejudice to subsection (1) of this section, every contract between the Authority and a programme contractor shall contain such provisions as the Authority think necessary or expedient to ensure compliance by the programme contractor with any request to which section 56(6) applies which may be made to him by the Broadcasting Complaints Commission.

(8) The provisions of this section relating to breaches of contract on the part of programme contractors shall be without prejudice –

- (a) to the right of the Authority to accept as a repudiation by a programme contractor any breach of contract by the programme contractor going to the root of the contract; and
- (b) to any other remedies of the Authority for the enforcement of their rights in respect of contracts with programme contractors;



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and shall not, except as expressly provided therein, affect the jurisdiction of any court in respect of such contracts.

**22.** The contracts between the Authority and the various programme contractors shall contain all such provisions as the Authority think necessary or expedient to ensure –

- (a) that there is at all times at least one body or organisation effectively equipped and adequately financed to provide news for broadcasting in the programmes supplied to the Authority by the respective programme contractors, and that in so far as any such body or organisation supplies to programme contractors other programmes which it can suitably provide, it is effectively equipped and adequately financed for the purpose;
- (b) that each of the programme contractors with whom the Authority enter into contracts for the provision of television programmes is afforded opportunities of obtaining a financial interest in that body or organisation or, if there are two or more such bodies or organisations providing news for broadcasting in the television programmes supplied to the Authority by those contractors, is afforded opportunities of obtaining a financial interest in such of those bodies or organisations as the Authority may in his case direct; and
- (c) that the appointment of the manager, editor or other chief executive of any such body or organisation is approved by the Authority.

**23.-(1)** Every contract concluded between the Authority and a programme contractor shall, where the programme contractor is a body corporate, contain all such provisions as the Authority think necessary or expedient to ensure that if at any time –

- (a) there are newspaper shareholdings in the programme contractor; and
- (b) it appears to the Authority that the existence of those shareholdings has led or is leading to results which are contrary to the public interest;

the Authority, with the consent of the Secretary of State, may by notice in writing to the programme contractor, taking effect forthwith or on a date specified in the notice, determine or suspend for such period as may be so specified or until a further notice is given, the Authority's obligation to transmit the programmes supplied by the programme contractor.

(2) Without prejudice to any such provisions contained in a contract between the Authority and a programme contractor, if at any time there are newspaper shareholdings in the programme contractor, and it appears to the Secretary of State that the existence of those shareholdings has led or is leading to results which are contrary to the public interest, he may, after consultation with the Authority, by order –

- (a) determine on a date specified in the order the Authority's obligation to transmit the programmes supplied by the programme contractor; or

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- (b) suspend that obligation for such period as may be so specified, or during a period beginning with a date so specified and continuing so long as the order remains in force; and
- (c) whether or not the order provides for the determination or suspension of the said obligation, direct that, while the order remains in force, the Authority shall not enter into any further contract with the programme contractor for the supply of programmes.

(3) Any order under subsection (2) shall be made by statutory instrument; but no such order, other than an order the sole purpose of which is to rescind, postpone commencement of or terminate a period of suspension or to cancel a direction, shall be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

(4) The determination or suspension in accordance with this section of the Authority's obligation to transmit the programmes supplied by the programme contractor, whether effected by a notice or by an order, shall not affect the programme contractor's obligation as to the supply of programmes up to date when the determination or suspension takes effect.

(5) Where such a determination or suspension takes effect, the programme contractor shall not be entitled to any compensation from the Authority or to any refund of any sum previously paid by the programme contractor or to any relief from any liability which has accrued at the date when the determination or suspension takes effect for any sums payable by the programme contractor to the Authority.

(6) For the purposes of this section there are newspaper shareholdings in a body corporate if shares in that body corporate are held by any individual or body corporate being either –

- (a) the proprietor of any newspaper, whether national or local; or
- (b) a person who has control over any body corporate which is a proprietor of such a newspaper.

**24.-(1)** The Authority may give directions to any programme contractor requiring him to supply to another programme contractor for inclusion in any comparable programme of his any item supplied or originated by the first programme contractor; and the contracts between the Authority and the various programme contractors shall contain all such provisions as the Authority think necessary or expedient for ensuring –

- (a) that each programme contractor will take all reasonable steps to put himself in a position to comply with any directions which may be given to him under this subsection and, when any such directions have been given to him, to enable the other programme contractor to include the item to which the directions relate in any comparable programme of his; and
- (b) that if financial and other arrangements for the supply of any item in respect of which directions have been given under this subsection are not

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agreed between the two programme contractors, or when so agreed do not receive the approval of the Authority required by virtue of subsection (2), the item will be supplied in accordance with such financial and other arrangements as may be determined by the Authority.

(2) The contracts between the Authority and the various programme contractors shall provide that, where items to be included in the programmes of a programme contractor are not originated by that programme contractor, the financial and other arrangements between the programme contractor and the supplier shall require the approval of the Authority –

- (a) in all cases where the supplier is another programme contractor; and
- (b) in such other cases as the Authority may from time to time direct;

and directions given for the purposes of this subsection may apply to programme contractors generally or may be different for different programme contractors.

(3) For the purposes of this section two programmes shall be regarded as being comparable if either –

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

**25.-(1)** The wages paid by any programme contractor to persons employed by him in connexion with his business as such and the conditions of employment of persons so employed shall, unless agreed upon by the programme contractor or any organisations representative of programme contractors and by organisations representative of the persons employed, be no less favourable to the person employed than the wages which would be payable, and the conditions which would have to be observed, under a contract which complies with the requirements of any resolution of the House of Commons for the time being in force applicable to contracts of Government departments.

(2) If any dispute arises as to what wages ought to be paid, or what conditions ought to be observed, in accordance with subsection (1), it shall (if not otherwise disposed of) be referred by the Advisory, Conciliation and Arbitration Service to the Central Arbitration Committee for settlement.

(3) Where any award has been made by the Central Arbitration Committee upon a dispute referred to that Committee under subsection (2), then, as from the date of the award or from such other date, not being earlier than the date on which the dispute to which the award relates first arose, as the Committee may direct, it shall be an implied term of the contract between the employer and workers to whom the award applies that the rate of wages to be paid, or the conditions of employment to be observed, under the contract shall, until varied in accordance with the provisions of this section, be in accordance with the award.

(4) The contracts between the Authority and the various programme contractors shall contain such provisions as the Authority think necessary or expedient

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to ensure that each programme contractor makes adequate provision for the training of persons employed by him in the preparation or making of programmes.

(5) In relation to employment in Northern Ireland, the references in this section to the House of Commons, Government departments, the Advisory, Conciliation and Arbitration Service and the Central Arbitration Committee shall be construed as references to the Northern Ireland Assembly, Northern Ireland departments, the Department of Manpower Services for Northern Ireland and the Industrial Court in Northern Ireland.

**26.** \* \* \* \* \*

**Information as to programme contracts etc**

**27.-(1)** Where the Authority enter into a contract with a programme contractor for the provision either of television programmes or local sound broadcasts to be transmitted from one or more stations, the Authority shall, on request made by any person and on payment by him of such sum (if any) as the Authority may reasonably require, furnish to that person such one or more of the following as may be specified in the request, that is to say –

- (a) a copy of that contract;
- (b) a statement of the number of applications (if any) received by the Authority for a programme contract for the provision of television programmes or (as the case may be) local sound broadcasts to be transmitted from that station or those stations in addition to the application received from the contractor with whom the contract is made; and
- (c) subject to subsection (2), a copy of so much of that contractor's application for such a contract as related to the character of the television programmes or local sound broadcasts which he proposed to provide if his application were accepted by the Authority.

(2) The Authority shall not be required by virtue of subsection (1) to furnish to any person such a copy as is mentioned in paragraph (c) of that subsection until after television programmes or (as the case may be) local sound broadcasts provided by the contractor under the contract in question have begun to be transmitted by the Authority.

**28.** \* \* \* \* \*

**29.-(1)** The Secretary of State or any other Minister of the Crown may, if it appears to him to be necessary or expedient to do so in connexion with his functions as such, at any time by notice in writing require the Authority to broadcast, at such times and from such of the stations used by them as may be specified in the notice, any announcement specified in the notice, with or without visual images of any picture, scene or object mentioned in the announcement; and shall be the duty of the Authority to comply with the notice.

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(2) Where the Authority broadcast any announcement in pursuance of a notice under subsection (1) they may, if they think fit, announce that they are doing so in pursuance of such a notice.

(3) Subject to subsection (4), the Secretary of State may at any time by notice in writing require the Authority to refrain from broadcasting 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) If the Secretary of State by notice in writing requires the Authority under subsection (3) to refrain from broadcasting anything, the Authority may, if they think fit, broadcast an announcement of the notice or of the revocation or expiration of the notice.

(5) The Secretary of State may at any time, after consultation with the Authority, by notice in writing require the Authority –

- (a) to adopt or use, or refrain from adopting or using, technical measures or processes specified in the notice;
- (b) to install, establish, maintain or use any such additional station, stations or apparatus as may be so specified, situated in such places and complying with such requirements as may be so specified;
- (c) to broadcast such test or experimental transmissions from such station or stations, and at such times and for such periods, as may be so specified;

and it shall be the duty of the Authority to comply with the notice.

(6) \* \* \* \* \*

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

(8) [In relation to any television broadcasting station in the Channel Islands, the reference in subsection (1) to a Minister of the Crown shall include a reference to the Lieutenant Governors of Jersey and Guernsey and the Bailiffs of Jersey and Guernsey.]

**30.**-(1) With a view to preventing the making of exclusive arrangements for the broadcasting of sporting or other events of national interest, the Secretary of State may make regulations as to the grant to the Authority and programme contractors, to the BBC and to the Welsh Fourth Channel Authority respectively of broadcasting facilities in respect of such events.

(2) Regulations made under this section shall not apply to the broadcasting of a record of any event specified in the regulations where the transmission is made more than seven days after that event.

(3) [Any regulations made by the Secretary of State under this section as it has effect in the United Kingdom shall have effect in Jersey or Guernsey if registered by the Royal Court of Jersey or the Royal Court of Guernsey, as the case may be.]

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198*

**31.-(1)** The Secretary of State may at any time by notice in writing –

- (a) require the Authority to radiate such of their broadcast transmissions as may be specified in the notice from a mast, tower or other installation belonging to the BBC; or
- (b) require the Authority to permit such of the BBC's broadcast transmissions as may be so specified to be radiated from a mast, tower or other installation belonging to the Authority; or
- (c) require the Authority to co-operate with the BBC in providing and using an installation and to radiate such of the Authority's broadcast transmissions as may be so specified from that installation;

and it shall be the duty of the Authority to comply with any such notice.

(2) Before giving a notice under this section to the Authority the Secretary of State shall consult the Authority and the BBC.

(3) If, after a notice is given under this section to the Authority, a dispute between the Authority and the BBC arising out of the matters to which the notice relates is referred to the Secretary of State by either body, or it appears to the Secretary of State that there is such a dispute, he may give such directions to the Authority as he may think expedient for determining the dispute; and it shall be the duty of the Authority to comply with any such directions.

### **Rental payments**

**32.** [The contracts between the Authority and the various programme contractors shall provide for payments to be made by the programme contractors to the Authority representing what appear to the Authority to be the appropriate contributions of the respective programme contractors towards meeting the sums which the Authority regard as necessary in order to discharge their duty under section 36(2) of this Act.]

**33.** \* \* \* \* \*

**34.** \* \* \* \* \*

**35.** \* \* \* \* \*

### **Finances of Authority**

**36.-(1)** The provision by the Authority of television broadcasting services, and the provision by them of local sound broadcasting services, shall for financial purposes constitute separate branches of their undertaking; and references in this Act to a branch of the Authority's undertaking shall be construed accordingly.

(2) For each branch of their undertaking it shall be the duty of the Authority so to conduct their affairs as to secure that their revenues from that branch become at the earliest possible date, and thereafter continue, at least sufficient –

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- (a) to meet all sums properly chargeable to revenue account in respect of that branch of their undertaking (including sums which, for the purposes of that branch, are required for the repayment of loans and interest thereon, for provision for depreciation and for the establishment and maintenance of the reserve fund for that branch); and
- (b) to make provision towards, and as soon as practicable for, necessary capital expenditure for the purposes of that branch of their undertaking.

(3) For each branch of their undertaking the Authority shall establish and maintain a reserve fund; and, subject to the following provisions of this section, the management of that fund, the sums to be carried from time to time to the credit of the fund, and the application of the fund, shall be as the Authority may determine.

(4) No part of either of those funds shall be applied otherwise than for the purposes of the branch of the Authority's undertaking for which the fund was established.

(5) The Secretary of State may, with the approval of the Treasury, give to the Authority such directions as he may think fit as to any matter relating to the establishment or management of either of those funds, to the carrying of sums to the credit thereof, or to the application thereof; and the Authority shall comply with the directions.

**37.-(1)** In the case of each branch of the Authority's undertaking any excess of the revenues of the Authority for any financial year over the total sums properly chargeable by the Authority to revenue account for that year, including in such sums (without prejudice to the generality of that expression) sums credited under section 36(3) to the reserve fund established for that branch, shall be applied by the Authority in such manner as the Secretary of State, with the approval of the Treasury after consultation with the Chairman (or in his absence the Deputy Chairman) of the Authority, may direct.

(2) A direction under subsection (1) of this section may require the whole or any part of any excess of the revenues of the Authority to be paid into the Consolidated Fund.

(3) A direction under subsection (1) of this section shall not require any part of any excess of the revenues of the Authority attributable to one branch of their undertaking to be applied for the purposes of the other branch of their undertaking.

**38.** \* \* \* \* \*

**39.** \* \* \* \* \*

**40.-(1)** For the financial year in which the Broadcasting Complaints Commission is established and each subsequent financial year the Secretary of State shall notify to the Authority the total sum which he considers to be the appropriate contribution of the programme contractors towards the expenses of the Commission.

(2) The contracts between the Authority and the various programme contractors shall contain such provisions as the Authority consider necessary for

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securing that the programme contractors make to the Authority in respect of every financial year payments (additional to those required by section 32) representing what appear to the Authority to be the appropriate contributions of the respective programme contractors towards meeting the sum notified to the Authority for that year under subsection (1).

(3) The payments made to the Authority by virtue of subsection (2) shall not form part of the revenue of the Authority and, when received by the Authority, shall be paid to the Secretary of State.

(4) All sums received by the Secretary of State under subsection (3) shall be paid into the Consolidated Fund.

(5) \* \* \* \* \*

41. \* \* \* \* \*

### **Accounts, audit and annual reports**

**42.-(1)** The Authority shall keep proper accounts and proper records in relation to the accounts, and shall prepare in respect of each financial year a statement of accounts in such form as the Secretary of State with the approval of the Treasury may direct, being a form which shall conform with the best commercial standards.

(2) The accounts of the Authority shall be audited by auditors to be appointed by the Authority with the approval of the Secretary of State, and a person shall not be qualified to be so appointed unless he is a member of one or more of the following bodies –

the Institute of Chartered Accountants in England and Wales;

the Institute of Chartered Accountants of Scotland;

the Association of Certified Accountants;

the Institute of Chartered Accountants in Ireland;

any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 by the Secretary of State.

(3) The Authority shall at all reasonable times upon demand made by the Secretary of State or by any person authorised by him in that behalf –

(a) afford to him or them full liberty to examine the accounts of the Authority, and

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



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**43.**-(1) As soon as may be after the end of every financial year, the Authority shall prepare a general report of their proceedings during that year, and transmit it to the Secretary of State who shall consider it and lay copies of it before each House of Parliament.

(2) The report shall have attached to it the statement of accounts for the year and a copy of any report made by the auditor on that statement, and shall also include such information relating to the plans, and past and present activities, of the Authority, and to the financial position of the Authority, as the Secretary of State may from time to time direct.

(3) The report for any financial year shall also include –

- (a) an account of the way in which the power to make grants under section 41 has been exercised during that year; and
- (b) a description of the provision made by the various programme contractors for the training of persons employed by them in the preparation or making of programmes.

(4) The report for any financial year in which the Authority provide both ITV and the Fourth Channel shall include the following information –

- (a) a general description of the programmes broadcast on ITV and the Fourth Channel respectively, with particular reference to programmes containing news or news features and programmes of an educational nature, and a general account of how the programmes broadcast on the Fourth Channel differed from those broadcast on ITV, with particular reference as aforesaid;
- (b) an account of the way in which the Authority have discharged their duty under section 11(1)(c) as regards the encouragement of innovation and experiment in the form and content of programmes for broadcasting on the Fourth Channel;
- (c) a description of the sources from which the programmes broadcast on ITV and the Fourth Channel respectively were obtained, and an account of the extent to which the Authority have discharged their duty under section 12(3)(b), as regards the sources of programmes broadcast on the Fourth Channel;
- (d) a description of the arrangements made by the Authority with respect to the broadcasting of advertisements on ITV and the Fourth Channel respectively, and a general account of –
  - (i) any complaints received by the Authority about those arrangements or about the conduct of TV programme contractors in connexion with the sale of advertising time in those services respectively; and
  - (ii) the action taken by the Authority in relation to those complaints.

In this subsection “programmes” means programmes other than advertisements.

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(5) Subsection (4) does not apply in relation to programmes broadcast by the Authority, whether on ITV or otherwise, for reception in Wales.

(6) Subsections (3) and (4) are without prejudice to the power of the Secretary of State under subsection (2) to give directions as to the information to be included in any report under this section; and that power shall include power to direct the Authority to include in any such report such information relating to any matter required by subsection (3) or (4) to be dealt with in the report as may be specified in the directions.

### **Miscellaneous**

**44.**-(1) Except so far as the Authority are satisfied that adequate machinery exists for achieving the purposes of this section, it shall be the duty of the Authority to seek consultation with any organisation appearing to them to be appropriate with a view to the conclusion between the Authority and that organisation of such agreements as appear to the parties to be desirable with respect to the establishment and maintenance of machinery for –

- (a) the settlement by negotiation of terms and conditions of employment of persons employed by the Authority, with provision for reference to arbitration, in default of such settlement, of such cases as may be determined by or under the agreements; and
- (b) the promotion and encouragement of measures affecting the safety, health, training and welfare of persons employed by the Authority, and the discussion of other matters of mutual interest to the Authority and such persons.

(2) The Authority shall send to the Secretary of State copies of any such agreement and of any instrument varying the terms of any such agreement.

(3) [The reference in subsection (2) to the Secretary of State shall include –

- (a) in relation to any agreement affecting employment in Jersey, a reference to the Industrial Disputes Officer appointed under the Industrial Disputes (Jersey) Law, 1956<sup>8</sup> as amended from time to time; and
- (b) in relation to any agreement affecting employment in Guernsey, a reference to the Labour and Welfare Committee of the States of Guernsey.]

**45.**-(1) The functions of the Authority shall include the making of arrangements for bringing the programmes broadcast by the Authority and the other activities of the Authority under constant and effective review, and in particular for ascertaining the state of public opinion concerning the programmes broadcast by the Authority and for encouraging the making of useful comments and suggestions by members of the public.

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<sup>8</sup> Tome VIII, page 643.

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(2) Those arrangements shall include provision for full consideration by the Authority of the facts, comments and suggestions so obtained.

(3) In this section “programmes” includes advertisements.

**46.** \* \* \* \* \*

**47.** \* \* \* \* \*

**48.** \* \* \* \* \*

**49.** \* \* \* \* \*

**50.** \* \* \* \* \*

**51.** \* \* \* \* \*

**52.** \* \* \* \* \*

*PART III*

THE BROADCASTING COMPLAINTS COMMISSION

**53.-(1)** The commission named the Broadcasting Complaints Commission shall continue in existence as a body corporate.

(2) \* \* \* \* \*

(3) \* \* \* \* \*

(4) \* \* \* \* \*

(5) \* \* \* \* \*

**54.-(1)** Subject to the provisions of this Part, the function of the Commission shall be to consider and adjudicate upon complaints of –

- (a) unjust or unfair treatment in sound or television programmes actually broadcast by a broadcasting body on or after 1st June, 1981; or
- (b) unwarranted infringement of privacy in, or in connexion with the obtaining of material included in, sound or television programmes actually so broadcast.

(2) The Commission shall not entertain complaints not falling within subsection (1).

(3) In this Part –

“broadcasting body” means the BBC or the IBA;

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“complaint” means a complaint to the Commission of any such unjust or unfair treatment or unwarranted infringement of privacy as is mentioned in subsection (1);

“participant” means –

- (a) in the case of a sound programme, a person whose voice was heard in the programme;
- (b) in the case of a television programme, 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 subsection (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;
- (b) in relation to any such unwarranted infringement of privacy as is so mentioned, means a person whose privacy was infringed;

“the relevant programme”, in relation to a complaint, means the programme in which the alleged unjust or unfair treatment occurred or in which, or in connexion with the obtaining of material included in which, the alleged unwarranted infringement of privacy occurred;

“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;

and references in this Part to television programmes and programme contractors include references to teletext transmissions and teletext contractors respectively.

**55.-(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 Commission 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 Commission shall not entertain, or proceed with the consideration of, a complaint if it appears to them –

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- (a) that the complaint relates to the broadcasting of the relevant programme 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 Channel Islands]; 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 Channel Islands]; and that in the particular circumstances it is not appropriate for the Commission 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 Commission 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 by a broadcasting body.

(6) Where, in the case of a complaint, the relevant programme was broadcast 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 Commission 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 Commission that he did not have a sufficiently direct interest in the subject-matter thereof 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 Commission that the complainant’s connexion with the person affected is not sufficiently close to justify the making of the complaint by him.

**56.**-(1) Subject to the provisions of section 55, every complaint made to the Commission 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 broadcasting body by whom the relevant programme was broadcast; and

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- (c) any person not within paragraph (a) or (b) who appears to the Commission to have been responsible for the making or provision of that programme.

(3) Before they proceed to consider a complaint the Commission shall send a copy of it to the broadcasting body by whom the relevant programme was broadcast.

(4) Where a broadcasting body receive from the Commission a copy of a complaint, it shall be the duty of that body, if so required by the Commission –

- (a) to make suitable arrangements for enabling the complainant and any member or officer of the Commission to view or hear the relevant programme, or any specified part of it, if and so far as that body have in their possession a visual or sound record of it;
- (b) to provide the Commission 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 that body are able to do so;
- (c) to provide the Commission and the complainant with copies of any documents in the possession of that body being the originals or copies of any correspondence between that body and the person affected or the complainant in connexion with the complaint;
- (d) to furnish to the Commission and the complainant a written statement in answer to the complaint.

(5) Where the Commission propose to consider a complaint, it shall be the duty of the broadcasting body by whom the relevant programme was broadcast, if so required by the Commission, to arrange for one or more of the governors, members or officers of that body to attend and assist the Commission in their consideration of the complaint.

(6) Where, in connexion with a complaint received by them, the Commission have made to any person (other than the broadcasting body by whom the relevant programme was broadcast) who appears to them to have been responsible for the making or provision of the relevant programme a request to which this subsection applies, it shall be the duty of that broadcasting body to take such steps as they reasonably can to ensure that the request is complied with.

(7) Subsection (6) applies to the following requests by the Commission to any such person as is there mentioned, namely –

- (a) a request to make suitable arrangements for enabling the complainant and any member or officer of the Commission 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 record of it;
- (b) a request to provide the Commission 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 required is able to do so;

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- (c) a request to provide the Commission 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 Commission 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 and assist the Commission in their consideration of the complaint.

(8) The Commission 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.

**57.-(1)** Where the Commission have considered and adjudicated upon a complaint, they may give to the broadcasting body by whom the relevant programme was broadcast directions requiring them to publish, in any manner specified in the directions, and within such period as may be so specified –

- (a) a summary of the complaint approved for the purpose by the Commission; and
- (b) the Commission's findings on the complaint or a summary thereof so approved.

(2) A broadcasting body shall comply with any directions given to them under subsection (1).

(3) The Commission shall publish, at such intervals and in such manner as they think fit, reports each containing, as regards every complaint within this subsection dealt with by them in the period covered by the report, a summary of the complaint and of the action taken by them on it and, where they have adjudicated upon it, a summary of their findings.

(4) A complaint made to the Commission is within subsection (3) unless it is one which they are precluded from entertaining by section 54(2) or 55(2).

(5) The Commission may, if they think fit, omit from any summary included in a report under subsection (3) any information which could lead to the disclosure of the identity of any person connected with the complaint in question other than a broadcasting body or programme contractor.

**58.** It shall be the duty of each broadcasting body to publish (by means of broadcasts or otherwise) regular announcements publicising the Commission and their function of considering and adjudicating upon complaints.

**59.-(1)** As soon as may be after the end of every financial year, the Commission shall prepare a report of their proceedings during that year, and transmit

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it to the Secretary of State who shall consider it, lay copies of it before each House of Parliament, and cause it to be published.

(2) The said report shall have attached to it the statement of accounts prepared under paragraph 8 of Schedule 7 for the year and a copy of any report made by the auditor on that statement.

(3) The Commission shall send a copy of the said report to each broadcasting body and every programme contractor.

**60.** \* \* \* \* \*

*PART IV*

GENERAL

**61.** The Authority may –

- (a) for the purposes of any provision in this Act which makes anything subject to the approval of the Authority; or
- (b) for the purposes of provisions included in the contracts between the Authority and the various programme contractors in pursuance of section 24(2);

give an approval in general terms applying to all cases within the terms in which the approval is given.

**62.** Any direction or notice given by the Secretary of State or by the Authority under any provision in this Act may be varied or revoked by a subsequent direction or notice under that provision.

**63.-(1)** In this Act, unless the context otherwise requires –

“associated”, in relation to a body corporate (including a programme contractor which is a body corporate), means a body corporate which is a member of the same group as that body corporate, and for this purpose any two bodies corporate are to be treated as members of the same group if one of them is a body corporate of which the other is a subsidiary (within the meaning of section 154 of the Companies Act 1948) or if both of them are subsidiaries within the meaning of that section) of one and the same body corporate;

“the Authority” and “the IBA” mean the Independent Broadcasting Authority;

“the BBC” means the British Broadcasting Corporation;

“broadcast relay station” means a station for the retransmission by cable or wire, to the customers of the persons maintaining the station, of broadcast programmes which those persons receive either by cable or wire or by wireless from the persons who broadcast the programmes;



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“the Commission” means the Broadcasting Complaints Commission;

“control”, in relation to a body corporate, means the power of a person to secure, by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate, that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person;

“financial year” means the twelve months ending with 31st March;

“the Fourth Channel”, and references to programmes broadcast thereon, shall be construed in accordance with section 10(2);

“for reception in Wales” means for reception wholly or mainly in Wales;

“ITV”, and references to programmes broadcast thereon, shall be construed in accordance with section 10(2);

“local sound broadcast” means a programme which is broadcast (otherwise than as part of a television broadcast) from a station so constructed and operated as to have a range of transmission limited to that which is sufficient, in normal circumstances, to ensure adequate reception throughout a particular locality, or from two or more stations so constructed and operated as to have collectively such a range of transmission, and “local sound broadcasting services” means services consisting of programmes so broadcast; and, where a programme is so broadcast, the fact that –

- (a) as so broadcast it is received outside that particular locality; or
- (b) it is also broadcast (whether simultaneously or not) from one or more other stations for reception in other localities;

shall not prevent it from being regarded as a local sound broadcast within the meaning of this Act;

“programme contractor” has the meaning given by section 2(3);

“teletext contractor” has the meaning given by section 14(2);

“teletext transmission” and “teletext service” have the meaning given by section 14(6);

“TV programme contractor” has the meaning given by section 10(2);

\* \* \* \* \*

“wireless telegraphy”, “station for wireless telegraphy” and “apparatus for wireless telegraphy” have the same meaning as in the Wireless Telegraphy Act 1949.<sup>9</sup>

<sup>9</sup> Tome VIII, page 165.

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(2) \* \* \* \* \*

(3) For the purposes of this Act –

- (a) a person shall not be regarded as carrying on business as an advertising agent, or as acting as such an agent, unless he carries on a business involving the selection and purchase of advertising space or time for persons wishing to advertise;
- (b) a person who carries on such a business shall be regarded as carrying on business as an advertising agent irrespective of whether he is in law the agent of those for whom he acts;
- (c) a person who is the proprietor of a newspaper shall not be regarded as carrying on business as an advertising agent by reason only that he makes arrangements on behalf of advertisers whereby advertisements appearing in the newspapers are also to appear in one or more other newspapers; and
- (d) a company or other body corporate shall not be regarded as carrying on business as an advertising agent by reason only that its objects or powers include or authorise that activity;

and any reference in this Act to an advertising agency shall be construed accordingly.

(4) References in this Act to programmes or television programmes or to programme contractors have effect in relation to teletext transmissions and teletext contractors respectively subject to the provisions of section 14(4) and (5) and Schedule 3.

**64.** \* \* \* \* \*

**65.-(1)** \* \* \* \* \*

(2) \* \* \* \* \*

(3) This Act shall have effect subject to the transitional provisions and savings contained in Schedule 8.

(4) The enactments mentioned in Schedule 9 are hereby repealed to the extent specified in the third column of that Schedule.

(5) Nothing in this section is to be taken as prejudicing the operation of the provisions of the Interpretation Act 1978 as respects the effect of repeals.

**66.-(1)** This Act may be cited as the Broadcasting Act 1981.

(2) \* \* \* \* \*

(3) \* \* \* \* \*

(4) \* \* \* \* \*

## *SCHEDULES*

### **SCHEDULE 1**

#### **THE INDEPENDENT BROADCASTING AUTHORITY: SUPPLEMENTARY PROVISIONS**

##### **Appointment of members**

1.-(1) All the members of the Authority (including the Chairman and Deputy Chairman who shall be appointed as such) shall be appointed by the Secretary of State from among persons appearing to him to be qualified for the office.

(2) Three out of the members of the Authority other than the Chairman and Deputy Chairman shall be persons who appear to the Secretary of State to be suited to make the interests of Scotland, Wales and Northern Ireland, respectively, their special care.

(3) A person shall be disqualified for being appointed, or being, a member of the Authority so long as he is a Governor of the BBC.

(4) Before appointing a person to be a member of the Authority, the Secretary of State shall satisfy himself that that person will have no such financial or other interest (and, in particular, no such financial or other interest in any advertising agency or in any business concerned with the manufacture or sale of apparatus for wireless telegraphy or other telegraphic equipment or in any business consisting or intended to consist in whole or in part in entering into or carrying out contracts with the Authority for the provision of programmes or parts of programmes) as is likely to affect prejudicially the discharge by him of his functions as member of the Authority; and the Secretary of State shall also satisfy himself from time to time with respect to every member of the Authority that he has no such interest.

(5) Any person who is, or whom the Secretary of State proposes to appoint to be, a member of the Authority shall, whenever requested by the Secretary of State to do so, furnish to him such information as the Secretary of State considers necessary for the performance by him of his duties under sub-paragraph (4).

##### **Tenure of office**

2.-(1) Subject to sub-paragraphs (2) and (3), every member of the Authority shall hold office for such period, not exceeding five years, as may be fixed at the time of his appointment, and shall, on ceasing to be a member, be eligible for re-appointment.

(2) The Secretary of State may at any time direct by notice in writing, a copy of which shall be laid before each House of Parliament, that any member of the Authority shall cease to hold office; and any member of the Authority may at any time resign his office by notice in writing to the Secretary of State.

(3) If any member of the Authority dies or ceases to hold office before the expiry of the term for which he was appointed, the term of office of his successor shall be so fixed as to expire at the end of the former term, but the Secretary of State may, if

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he thinks fit to do so, defer the making of an appointment until the expiry of the former term.

### **Remuneration and pensions of members**

3.-(1) The Authority shall pay to each of their members, in respect of his office as such, such remuneration (whether by way of salary or fees) and such allowances as the Secretary of State may determine in the case of those members respectively; and in determining the remuneration and allowances to be paid, under this sub-paragraph, different provision may be made as regards the Chairman, the Deputy Chairman and the other members.

(2) If any member of the Authority, other than the Chairman, is employed about the affairs of the Authority otherwise than as a member of the Authority, the Authority shall pay to that member (in addition to any remuneration to which he may be entitled in respect of his office as a member) such remuneration, if any, as the Secretary of State may determine.

(3) The Authority may pay or make provision for paying to or in respect of any of their members such pensions, allowances or gratuities as the Secretary of State may determine in the case of those members respectively.

(4) Where a person ceases to be a member of the Authority otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, the Authority may make to him a payment of such amount as the Secretary of State may determine.

(5) The approval of the Minister for the Civil Service shall be required for any determination under this paragraph.

(6) As soon as possible after making a determination under this paragraph, the Secretary of State shall lay a statement thereof before each House of Parliament.

### **Capacity and status of Authority**

4.-(1) 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 exercise and performance of their powers and duties under this Act, including the borrowing of money.

(2) It is declared that the Authority are not to 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.

### **Proceedings**

5.-(1) The quorum of the Authority shall be four or such number not being less than four as the Authority may from time to time determine.

(2) The Authority may act notwithstanding a vacancy among their members.

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6.-(1) A member of the Authority who is in any way directly or indirectly interested in a contract made or proposed to be made by the Authority shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose the nature of his interest at a meeting of the Authority.

(2) Any disclosure made under sub-paragraph (1) shall be recorded in the minutes of the Authority, and the member –

- (a) shall not take part after the disclosure in any deliberation or decision of the Authority with respect to that contract, and
- (b) shall be disregarded for the purpose of constituting a quorum of the Authority for any such deliberation or decision.

7. Subject to paragraphs 5 and 6, the Authority may regulate their own procedure.

#### **Officers and employees of Authority**

8.-(1) The Authority may appoint a secretary and such other officers, and take into their employment such other persons, as they may determine.

(2) The Authority shall, as regards any officers or persons employed in whose case it may be determined by the Authority so to do, pay to or in respect of them such pensions, allowances or gratuities, or provide and maintain for them such pension schemes (whether contributory or not), as may be so determined.

(3) If any officer of or other person employed by the Authority, being a participant in any pension scheme applicable to his office or employment, becomes a member of the Authority, he may, if the Secretary of State so determines, be treated for the purposes of the pension scheme as if his service as a member of the Authority were service as an officer of or person employed by the Authority.

#### **Authentication of Authority's seal**

9. The application of the seal of the Authority shall be authenticated by –

- (a) the signature of the Chairman or Deputy Chairman of the Authority or some other member of the Authority authorised by the Authority to authenticate the application of their seal; and
- (b) the signature of the secretary of the Authority or some other officer of the Authority authorised by the Authority to act in that behalf.

#### **Presumption of authenticity of documents issued by Authority**

10. Any document purporting to be an instrument issued by the Authority and to be sealed as aforesaid or to be signed on behalf of the Authority shall be received in evidence and shall be deemed to be such an instrument without further proof unless the contrary is shown.

## **SCHEDULE 2**

### **RULES AS TO ADVERTISEMENTS**

1.-(1) The advertisements must be clearly distinguishable as such and recognisably separate from the rest of the programme.

(2) Successive advertisements must be recognisably separate.

(3) Advertisements must not be arranged or presented in such a way that any separate advertisement appears to be part of a continuous feature.

(4) Audible matter in advertisements must not be excessively noisy or strident.

2. The standards and practice to be observed in carrying out the requirements of the preceding paragraph shall be such as the Authority may determine either generally or in particular cases.

3. The amount of time given to advertising in the programmes shall not be so great as to detract from the value of the programmes as a medium of information, education and entertainment.

4. Advertisements shall not be inserted otherwise than at the beginning or the end of the programme or in natural breaks therein.

5.-(1) Rules (to be agreed upon from time to time between the Authority and the Secretary of State, or settled by the Secretary of State in default of such agreement) shall be observed as to the classes or broadcasts (which shall in particular include the broadcast of any religious service) in which advertisements may not be inserted, and the interval which must elapse between any such broadcast and any previous or subsequent period given over to advertisements.

(2) The Secretary of State may, after consultation with the Authority, impose rules as to the minimum interval which must elapse between any two periods given over to advertisements, and the rules may make different provision for different circumstances.

6. In the acceptance of advertisements there must be no unreasonable discrimination either against or in favour of any particular advertiser.

7.-(1) The charges made by any programme contractor for advertisements shall be in accordance with tariffs fixed by him from time to time, being tariffs drawn up in such detail and published in such form and manner as the Authority may determine.

(2) Any such tariffs may make provision for different circumstances, and, in particular, may provide, in such detail as the Authority may determine, for the making, in special circumstances, of additional special charges.

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8. No advertisement shall be permitted which is inserted by or on behalf of any body whose objects are wholly or mainly of a religious or political nature, and no advertisement shall be permitted which is directed towards any religious or political end or has any relation to any industrial dispute.

9. If, in the case of any of the broadcasting stations used by the Authority, there appears to the Authority to be a sufficient local demand to justify that course, provision shall be made for a reasonable allocation of time for local advertisements, of which a suitable proportion shall be short local advertisements.

*SCHEDULE 3*

**TELETEXT SERVICES**

*PART I*

**PROVISIONS OF ACT APPLIED BY SECTION 14(5)**

<i>Provision</i> <sup>10</sup>	<b>Subject-matter</b>
Section 3(1) and (2), except subsection (2)(a) and (c).	General powers of Authority, and provision of programmes in cases where no programme contractor is available.
Section 4(7).	Making and use by the Authority of visual and sound records of programmes broadcast by them.
Section 8(1) and (2).	Inclusion of advertisements in programmes, reception of orders for their insertion, and provision precluding the Authority or any programme contractor from acting as an advertising agent.
Section 16(1)	Advisory committees.
Section 19.	Duration of contracts and prior consultation etc.
Section 20, except subsections (1), (2)(b) and (3).	Duties of Authority in relation to contracts for programmes.
Sections 21 and 23 to 25.	Other provisions applying to all contracts for programmes.
Section 27.	Information as to programme contracts.
Section 28.	Government control over the Authority as to hours of broadcasting.
Sections 32 to 35.	Rental payments by programme contractors, instalments payable by them on account, and provision for supplementary additional payments.
Section 43(3)(b).	Report on provision by

<sup>10</sup> See paragraph 19 of the Schedule of the Broadcasting Act 1981 (Channel Islands) Order, 1987, page 34.



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	programme contractors of training facilities.
Section 45.	Audience research.
Section 61.	Approvals by Authority.
In section 63(1), the definition of "broadcast relay station".	Interpretation.
Schedule 4.	Supplementary provisions about rental payments.

*PART II*

OTHER PROVISIONS APPLIED BY SECTION 14(5)

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*SCHEDULE 4*

**RENTAL PAYMENTS**

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*SCHEDULE 5*

**THE WELSH FOURTH CHANNEL AUTHORITY: SUPPLEMENTARY PROVISIONS**

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*SCHEDULE 6*

**MODIFICATIONS OF ACT IN RELATION TO THE FOURTH CHANNEL IN WALES**

\* \* \* \* \*

*SCHEDULE 7*

**THE BROADCASTING COMPLAINTS COMMISSION: SUPPLEMENTARY PROVISIONS**

**Tenure of office**

1.-(1) Subject to the following provisions of this Schedule, a person shall hold and vacate office as a member or as chairman or deputy chairman of the Commission in accordance with the terms of his appointment.

(2) A person shall not be appointed as a member of the Commission for more than five years at a time.

(3) A person may at any time resign his office as a member or as chairman or deputy chairman.

**Remuneration and pensions of members**

2.-(1) The Commission may pay to each member such remuneration and allowances as the Secretary of State may determine.

(2) The Commission may pay or make provision for paying to or in respect of any member such sums by way of pensions, allowances or gratuities as the Secretary of State may determine.

(3) Where a person ceases to be a member otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, the Commission may make to him a payment of such amount as the Secretary of State may determine.

(4) The approval of the Minister for the Civil Service shall be required for any determination under this paragraph.

**Staff**

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3.-(1) The Commission may appoint such officers and servants as the Commission may determine with the consent of the Secretary of State as to numbers and terms of employment.

(2) The Commission may pay or make provision for paying to or in respect of any of their employees such sums by way of pensions, allowances or gratuities as the Secretary of State may determine.

4. The Employers' Liability (Compulsory Insurance) Act 1969 shall not require insurance to be effected by the Commission.

### **Proceedings**

5.-(1) Subject to the provisions of Part III of this Act, the arrangements for the proceedings of the Commission (including the quorum for meetings) shall be such as the Commission may determine.

(2) The arrangements may, with the approval of the Secretary of State, provide for the discharge, under the general direction of the Commission, of any of the Commission's functions by a committee or by one or more of the members, officers or servants of the Commission.

6. The validity of any proceedings of the Commission shall not be affected by any defect in the appointment of a member or by any vacancy among the members or in the office of chairman.

### **Financial provisions**

7. The Secretary of State shall pay to the Commission expenses incurred or to be incurred by the Commission under paragraphs 2 and 3 of this Schedule and, with the consent of the Minister for the Civil Service and the Treasury, shall pay to the Commission such sums as the Secretary of State thinks fit for enabling the Commission to meet other expenses.

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

- (a) to keep proper accounts and proper records in relation to the accounts;
- (b) to prepare in respect of each financial year a statement of accounts in such form as the Secretary of State may direct with the approval of the Treasury; and
- (c) to cause the accounts kept and the statement prepared for each financial year to be audited by auditors appointed by the Commission with the approval of the Secretary of State.

(2) A person shall not be qualified to be appointed as an auditor in pursuance of sub-paragraph (1) unless he is a member of one or more of the following bodies –

the Institute of Chartered Accountants in England and Wales;

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the Institute of Chartered Accountants of Scotland;

the Association of Certified Accountants;

the Institute of Chartered Accountants in Ireland;

any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 by the Secretary of State.

**Status of Commission**

9. The Commission shall not be regarded as the servant or agent of the Crown or as enjoying any status, privilege or immunity of the Crown; and the Commission's property shall not be regarded as property of or property held on behalf of the Crown.

*SCHEDULE 8*

**TRANSITIONAL PROVISIONS AND SAVINGS**

\* \* \* \* \*

*SCHEDULE 9*

**REPEALS**

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1973 c. 19.	Independent Broadcasting Authority Act 1973. <sup>11</sup>	The whole Act.
1978 c. 43.	Independent Broadcasting Authority Act 1978. <sup>12</sup>	The whole Act.
1980 c. 64.	Broadcasting Act 1980. <sup>13</sup>	The whole Act.

<sup>11</sup> Volume 1979–1981, pages 34 and 85.

<sup>12</sup> Volume 1979–1981, page 87.

<sup>13</sup> Volume 1979–1981, page 402.