



**Isle of Man**

*Ellan Vannin*

**AT 12 of 1993**

**BROADCASTING ACT 1993**





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## BROADCASTING ACT 1993

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**Isle of Man***Ellan Vannin*

## **BROADCASTING ACT 1993**

<i>Received Royal Assent:</i>	<i>7 July 1993</i>
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<i>Commenced:</i>	<i>1 August 1993</i>

**AN ACT** to make new provision for the licensing of certain programme services; to enable certain satellite services to be proscribed; to make further provision relating to copyright in connection with programme services; to require charges to be indicated on certain telecommunication apparatus; and for connected purposes.

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### **PART 1 – PROVISION AND REGULATION OF PROGRAMME SERVICES**

#### **1 Functions of Communications Commission**

It is the function of the Communications Commission ('the Commission') –

- (a) to regulate, in accordance with this Part, programme services which are provided from places in the Island;
- (b) to keep under review the reception in the Island of programme services provided from places in the Island or elsewhere, and the quality and content of those services;
- (c) to further the interests of the Island in the whole field of programme services.

#### **2 Licensing of programme services**

- (1) The Commission shall, in accordance with this Part, grant such licences to provide programme services as it may determine.
- (2) The Commission shall discharge its functions under this Part as respects the licensing of programme services in the manner which it considers is best calculated to ensure that –
  - (a) at least one broadcasting service is provided from a place in the Island;<sup>1</sup>

- (b) all programme services so provided are of a high quality and offer a wide range of programmes calculated to appeal to a variety of tastes and interests; and
  - (c) one public service broadcasting service is provided from a place in the Island.<sup>2</sup>
- (2A) Where the Commission is determining whether to grant a licence under this Part it shall have regard to the following matters, namely –
- (a) the ability of the applicant for the licence to maintain, throughout the period for which the licence would be in force, the service which that person proposes to provide;
  - (b) the extent to which any such proposed service would broaden the range of programmes available to persons living in the Island, by way of services licensed or to be licensed under this Part, and in particular the extent to which the service would cater for tastes and interests different from those already catered for by services licensed or to be licensed under this Part;
  - (c) the extent to which any such proposed service would affect the ability of any existing service licensed under this Part to be maintained for the remainder of the period for which the licence for that existing service is to be in force; and
  - (d) the extent to which any reasonable demand for programme service is or is to be met by other means.<sup>3</sup>
- (3) Subject to subsection (3A), a licence may be granted for the provision of such a service as is specified in the licence, for such period (not exceeding 10 years) as the Commission thinks fit.<sup>4</sup>
- (3A) In the case of a licence for the provision of a public service broadcasting service, a licence may be granted for a period not exceeding 30 years.<sup>5</sup>
- (4) The Commission –
- (a) shall not grant a licence to any person unless it is satisfied that he is a fit and proper person to hold it, and
  - (b) shall do all that it can to secure that, if it ceases to be so satisfied in the case of any person holding a licence, that person does not remain the holder of the licence.
- (5) A licence granted to any person is not transferable to any other person without the previous consent in writing of the Commission; and the Commission shall not give such consent unless it is satisfied as mentioned in subsection (4)(a).
- (6) Nothing in this section empowers the Commission to grant a licence for the provision of a programme service for which a licence may be granted under Part I (independent television) or Part III (national independent radio) of the Broadcasting Act 1990 (an Act of Parliament), as it has effect

in the Island ('the UK Act') or under Part I or II of the Broadcasting Act 1996 (an Act of Parliament), as it has effect in the Island.<sup>6</sup>

(7) In this section —

'public service broadcasting service' means a broadcasting service which is provided as a public service for disseminating information, education and entertainment, which is responsive to the tastes, interests and concerns of the whole community, where the programmes reflect the varied elements which make up the culture of the people of the Island and has especial regard for the elements which distinguish that culture, where the programmes have a wide range in their subject matter, having regard both to the programmes as a whole and also to the days of the week on which, and the times of the day at which, programmes are broadcast, and where a sufficient amount of time in the programmes is given to news programmes and to current affairs programmes which are of high quality.<sup>7</sup>

### 3 Restrictions on the holding of licences

- (1) Schedule 1 shall have effect for the purpose of restricting the holding of licences.
- (2) The Commission shall do all that it can to secure —
  - (a) that a person does not become or remain the holder of a licence to provide a sound broadcasting service if he is a person who is disqualified for holding that licence by paragraph 1, 2 or 3 of Schedule 1; and
  - (b) that any requirements imposed by or under paragraphs 4 and 5 of that Schedule are complied with by or in relation to persons holding licences to provide sound broadcasting services.
- (3) The Commission may accordingly —
  - (a) require any applicant for such a licence to provide it with such information as it may reasonably require for the purpose of determining —
    - (i) whether he is disqualified as mentioned in subsection (2)(a);
    - (ii) whether any such requirements as are mentioned in subsection (2)(b) would preclude it from granting such a licence to him; and
    - (iii) if so, what steps would be required to be taken by or in relation to him in order for any such requirements to be complied with;
  - (b) make the grant of such a licence to any person conditional on the taking of any specified steps that appear to it to be required to be taken as mentioned in paragraph (a)(iii);

- (c) impose conditions in any such licence enabling it to require the licence holder, if a body corporate, to give it advance notice of proposals affecting —
    - (i) shareholdings in the body, or
    - (ii) the directors of the body,where such proposals are known to the body;
  - (d) impose conditions in any such licence enabling it to give the licence holder directions requiring him to take, or arrange for the taking of, any specified steps appearing to it to be required to be taken in order for any such requirements as are mentioned in subsection (2)(b) to be complied with.
- (4) Every licence to provide a sound broadcasting service shall include such conditions as the Commission considers necessary or expedient to ensure that where —
- (a) the holder of the licence is a body, and
  - (b) a relevant change takes place after the grant of the licence,
- the Commission may revoke the licence by notice served on the holder of the licence and taking effect forthwith or on a date specified in the notice.
- (5) The Commission shall not serve any such notice on the licence holder unless it has given the holder a reasonable opportunity of making representations to it about the matters complained of.
- (6) In this section ‘relevant change’, in relation to a body which is the holder of a licence, means —
- (a) any change in the nature or characteristics of the body, or
  - (b) any change in the persons having control over or interests in the body,
- being (in either the case) a change which is such that, if it fell to the Commission to determine whether to grant the licence in the new circumstances of the case, it would be induced by the change to refrain from doing so.

#### 4 Conditions of licence

- (1) A licence may include —
- (a) such conditions as appear to the Commission to be appropriate, having regard to any duties which are or may be imposed on it or on the licence holder by or under this Part;
  - (b) conditions enabling the Commission to supervise and enforce technical standards in connection with the provision of the licensed service;
  - (c) conditions requiring the payment by the licence holder to the Treasury (whether on the grant of the licence or at such times

- thereafter as may be determined by or under the licence, or both) of a fee or fees of an amount or amounts so determined;
- (d) conditions requiring the licence holder to comply with any direction given by the Commission as to such matters as are specified in the licence or are of a description so specified, or (except to the extent that the Commission consent thereto) not to do or to do such things as are specified in the licence or are of a description so specified;
  - (e) conditions requiring the licence holder to permit any person authorised by the Commission to enter any premises which are used in connection with the licensed service, and to inspect, examine, operate or test any equipment on the premises which is used in that connection;
  - (f) conditions requiring the licence holder to provide the Commission, in such manner and at such times as it may reasonably require, with such information as it may require for the purpose of exercising its functions under this Part; and
  - (g) such other conditions as the Commission thinks appropriate.
- (2) In the case of a licence granted under section 2(2)(c) to provide a public service broadcasting service, in addition to those conditions which may be included under subsection (1) of this section, the licence shall, if the licence is granted for a period exceeding 10 years include conditions requiring the Commission to undertake a periodical review of the provision of the service at least every 10 years, against such criteria as the Commission may prescribe.<sup>8</sup>

## 5 General requirements as to licensed services

The Commission shall do all that it can to secure that every licensed service complies with the following requirements —

- (a) that nothing is included in its programmes which offends against good taste or decency or is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling;
- (b) that any news given (in whatever form) in its programmes is presented with due accuracy and impartiality;
- (c) that its programmes do not include any technique which exploits the possibility of conveying a message to, or otherwise influencing the minds of, persons receiving the programmes without their being aware, or being fully aware, of what has occurred;
- (d) that there are excluded from its programmes all expressions of the views and opinions of the person providing the service on matters of political or industrial controversy or relating to current public policy;

- (e) that due impartiality is preserved on the part of the person providing the service as respects such matters;
- (f) that undue prominence is not given in its programmes to the views and opinions of particular persons or bodies on such matters;
- (g) that due responsibility is exercised with respect to the content of any of its programmes which are religious programmes;
- (h) that it does not include any advertisement which is inserted by or on behalf of any body whose objects are wholly or mainly of a political nature, any advertisement which is directed towards any political end, or an advertisement which has any relation to any industrial dispute (other than an advertisement of a public service nature inserted by or on behalf of the Council of Ministers, a Department or a Statutory Board);
- (i) that, in the acceptance of advertisements for inclusion in it, there is no unreasonable discrimination either against or in favour of any particular advertiser.

## 6 Codes of practice etc

- (1) The Commission may draw up, and from time to time review, a code giving guidance —
  - (a) as to the rules to be observed with respect to the showing of violence, or the inclusion in programmes of sounds suggestive of violence, in licensed services, particularly when large numbers of children and young persons may be expected to be watching or listening to the programmes;
  - (b) as to the rules to be observed in connection with the application of paragraphs (a) to (g) of section 5 in relation to such services;
  - (c) as to the rules to be observed with respect to the inclusion in such programmes of appeals for donations, and
  - (d) as to such other matters concerning standards and practice for such programmes as the Commission considers suitable for inclusion in the code.
- (2) The Commission may draw up, and from time to time review, a code —
  - (a) governing standards and practice in advertising and in the sponsoring of programmes;
  - (b) prescribing the advertisements and methods of advertising or sponsorship to be prohibited, or to be prohibited in particular circumstances; and
  - (c) as to the rules to be observed in connection with the application of paragraphs (h) and (i) of section 5 in relation to licensed services.

- (3) Before drawing up or revising a code of practice under this section the Commission shall consult with —
  - (a) every person who is the holder of a licence and whose licensed service may be affected by the code, and
  - (b) such other persons as it considers appropriate.
- (4) The Commission shall do all that it can to secure that the provisions of a code of practice under this section are observed in the provision of licensed services to which the code relates.
- (5) The Commission may give directions to any licence holder —
  - (a) with respect to the classes and descriptions of advertisement and methods of advertising or sponsorship to be excluded, or to be excluded in particular circumstances;
  - (b) with respect to the exclusion of a particular advertisement, or its exclusion in particular circumstances; or
  - (c) with respect to the times when advertisements are to be allowed;and the licence holder shall comply with any direction given to him under this subsection.
- (6) to (8) [Repealed]<sup>9</sup>

## **7 Variation or revocation of licences**

- (1) The Commission may vary a licence by a notice served on the licence holder if —
  - (a) in the case of a variation of the period of the licence, the licence holder consents, or
  - (b) in any other case, the licence holder has been given a reasonable opportunity to make representations to the Commission about the variation.
- (2) The Commission may, if the licence holder consents, revoke a licence by notice served on him.
- (3) If the Commission is satisfied that the holder of a licence is failing to comply with any condition of the licence or with a direction given to him under section 6, and that the failure is such that, if not remedied, it would justify the revocation of the licence, it may serve on the licence holder a notice —
  - (a) stating that the Commission is satisfied as mentioned in this subsection;
  - (b) specifying the respects in which the licence holder is failing to comply with any such condition or direction as is there mentioned; and

- (c) stating that, unless the licence holder takes such steps to remedy the failure as are specified in the notice, within such period as is so specified, the Commission will revoke the licence.
- (4) If, at the end of the period specified under subsection (3)(c), the Commission —
- (a) is satisfied that the licence holder has failed to take the steps so specified,
  - (b) has given the licence holder a reasonable opportunity of making representations to it about the matters complained of, and
  - (c) is satisfied that the revocation of the licence is necessary in the public interest,
- it may revoke the licence by notice to him.
- (5) If the Commission is satisfied that the holder of a licence, in connection with his application for the licence —
- (a) provided it with information which was false in a material particular, or
  - (b) withheld any material information with the intention of causing it to be misled,
- and has given the licence holder a reasonable opportunity of making representations to it about the matters complained of, it may revoke the licence by notice to him.

## 8 Powers of Council of Ministers

- (1) The Council of Ministers may at any time require the Commission to direct the holders of any licences specified in the notice —
- (a) to publish in their licensed services, at such times as may be specified in the notice, such announcement as is so specified; or
  - (b) to refrain from including in the programmes included in their licensed services any matter or class of matter so specified.
- (2) A licence holder shall comply with any direction given in pursuance of a notice under subsection (1).
- (3) Where a licence holder publishes an announcement in pursuance of a direction under subsection (1)(a), he may announce that he is doing so in pursuance of such a direction.
- (4) Where —
- (a) a direction under subsection (1) has been given or revoked or has expired, or
  - (b) a requirement under subsection (1) has been revoked or has expired,

the licence holder may publish in the licensed service an announcement of the giving, revocation or expiry of the direction or requirement, as the case may be.

## 9 Provision of facilities by Commission

- (1) The Commission may, for the purpose of the provision of any licensed services —
  - (a) establish, install and use stations for transmitting or distributing programmes (whether by means of telecommunication systems or by wireless telegraphy or any other means or combination of means); and
  - (b) provide and equip studios and other premises for the production of programmes.
- (2) This section is without prejudice to —
  - (a) Part I of the Wireless Telegraphy Act 1949 (an Act of Parliament) (regulation of wireless telegraphy); or
  - (b) Part II of the *Telecommunications Act 1984* (regulation of telecommunication services).

## 10 Restriction on provision of programme services

- (1) Subject to subsection (2), any person who provides any programme service from a place in the Island, other than a licensed service, is guilty of an offence.
- (2) The Commission may by order provide that subsection (1) shall not apply to such services or descriptions of services as are specified in the order; but an order under this subsection shall not have effect unless it is approved by Tynwald.
- (3) A person guilty of an offence under subsection (1) is liable —
  - (a) on summary conviction, to a fine not exceeding £5,000;
  - (b) on conviction on information, to a fine.
- (4) No proceedings in respect of an offence under this section shall be instituted except by or with the consent of the Attorney General.
- (5) Without prejudice to subsection (3), compliance with this section is enforceable by civil proceedings at the suit of the Attorney General for an injunction or other appropriate relief.
- (6) Section 195 (offences by bodies corporate) and section 196 (powers of entry) of the UK Act apply to an offence under this section as they apply to an offence under section 13 of that Act, with the substitution in section 196(1) of a reference to the Commission for the reference to the relevant authority.

## 11 Savings

- (1) Nothing in the foregoing provisions of this Part (except section 1 (b) and (c)) applies to programme service —
  - (a) licensed by the Independent Television Commission under Part I of the UK Act, or by the Radio Authority under Part III of that Act, or by either of those bodies under Part I or II of the Broadcasting Act 1996 (an Act of Parliament), as it has effect in the Island; or<sup>10</sup>
  - (b) provided by the British Broadcasting Corporation.
- (2) Nothing in the foregoing provisions of this Part affects —
  - (a) any requirement to hold a wireless telegraphy licence under the Wireless Telegraphy Act 1949 (an Act of Parliament), or the terms, provisions and limitations of any such licence, or
  - (b) any requirement to hold a licence under section 5 (licensing of telecommunication systems) of the *Telecommunications Act 1984*, or the conditions of any such licence.

## 12 Gaelic broadcasting

- (1) A licence for a broadcasting service intended for reception wholly or mainly in the Island shall include a condition requiring the holder of the licence to include in the service such proportion of programmes in Manx Gaelic as may be specified in or determined in accordance with the licence.<sup>11</sup>
- (2) Where a licence is granted subject to a condition referred to in subsection (1), the Treasury shall after consultation with the Commission make payments, by way of grants or otherwise, to the holder of the licence or to any other person for the purpose of financing the making and inclusion in the service in question of programmes in Manx Gaelic.
- (3) There is established a body called the Gaelic Broadcasting Committee ('the Committee'), consisting of a chairman and not less than 3 other members appointed by the Council of Ministers.<sup>12</sup>
- (4) Before appointing any member of the Committee the Council of Ministers shall consult the Commission and such persons having knowledge of Manx Gaelic as appear to the Council of Ministers to be appropriate.
- (5) The members of the Committee shall hold office in accordance with the terms of their appointment.
- (6) The functions of the Committee shall be to promote, and advise the Commission and the Treasury on, the making and broadcasting of programmes in Manx Gaelic.

- (7) The Committee shall in each year report to the Council of Ministers on the work of the Committee during the previous year, and the report shall be laid before Tynwald.

In this subsection ‘year’ means a year ending on 31st March.

- (8) In this section ‘programmes in Manx Gaelic’ includes programmes in English for teaching Manx Gaelic.

## 12A Funding of public service broadcasting service

Where a licence is granted for the provision of a public service broadcasting service under section 2, the Treasury may, after consultation with the Council of Ministers and with the approval of Tynwald, make payments, by way of grants or otherwise, to the holder of the licence for the purpose of providing that public service broadcasting service.<sup>13</sup>

## 13 Interpretation of Part 1

- (1) In this Part —

“**business interest**”, in relation to a person receiving programmes, means an interest in receiving them for the purposes of his business, trade, profession or employment;

“**cable programme service**” has the meaning given by subsection (3);

“**the Commission**” means the Communications Commission;

“**licence**” means a licence under section 2;

“**licensed service**” means a programme service which is licensed under this Part;

“**non-representational images**” means visual images which are neither still pictures nor comprised within sequences of visual images capable of being seen as moving pictures;

“**notice**” means a notice in writing;

“**programme**” includes an advertisement and, in relation to any service, includes any item included in that service;

“**programme service**” has the meaning given by subsection (2);

“**sound broadcasting service**” has the same meaning as in Part III of the UK Act;

“**telecommunication system**” has the same meaning as in the *Telecommunications Act 1984*;

“**two-way service**” means a service of which it is an essential feature that while visual images or sounds (or both) are being conveyed by the person providing the service there will or may be sent from each place of reception, by means of the same telecommunication system or the part of

it by means of which they are conveyed, visual images or sounds (or both) for reception by the person providing the service or other persons receiving it (other than signals sent for the operation or control of the service);

“**the UK Act**” means the Broadcasting Act 1990 (an Act of Parliament), as it has effect in the Island.

“**wireless telegraphy**” has the same meaning as in the Wireless Telegraphy Act 1949 (an Act of Parliament).

(2) In this Part “**programme service**” means any of the following services (whether or not it is, or requires to be, licensed under this Part or any other statutory provision)

- (a) any television broadcasting service (within the meaning of Part I of the UK Act);
- (b) any sound broadcasting service;
- (c) any additional service (within the meaning of Part I or Part III of the UK Act);
- (d) any other service consisting of the transmission of television programmes by satellite;
- (e) any cable programme service;
- (f) subject to subsection (4), any other service which consists in the sending, by means of a telecommunication system, of sounds or visual images or both either —
  - (i) for reception at 2 or more places in the Island (whether they are so sent for simultaneous reception or at different times in response to requests made by different users of the service); or
  - (ii) for reception at a place in the Island for the purpose of being presented there to members of the public or to any group of persons.

(3) In this Part “**cable programme service**” means (subject to subsections (4) and (5)) a service consisting in the provision of television programmes or sound programmes with a view to their being conveyed by means of a telecommunication system (whether or not run by the person providing the programmes), for reception —

- (a) in 2 or more dwelling houses in the Island (whether simultaneously or not) otherwise than for the purpose of being received there by persons who have a business interest in receiving them; or
- (b) in the case of television programmes, at any place, or for simultaneous reception at 2 or more places, in the Island for the purpose of their being presented there either to members of the

public or to a group of persons some or all of whom do not have a business interest in hearing or seeing them.

- (4) Subsections (2)(f) and (3) do not apply to —
  - (a) a service where the running of the telecommunication system does not require to be licensed under Part II of the *Telecommunications Act 1984*; or
  - (b) a two-way service.
- (5) Subsection (3) does not apply to a service consisting in the provision of —
  - (a) programmes provided for transmission in the course of the provision of a programme service falling within subsection (2)(a), (b) or (d); or
  - (b) television programmes which consist wholly or mainly of non-representational images.
- (6) For the purpose of determining for the purposes of this or any other enactment whether a service is for reception in the Island or at any place in the Island, the fact that the service has been encrypted to any extent shall be disregarded.

#### 14 Transitional provision

- (1) Subject to subsection (2), the provisions of the Manx Radio agreement shall until 1st April 1995 have effect as a licence for the provision of the sound broadcasting service referred to therein, subject to the terms and conditions thereof (including the provisions for termination and for exclusive rights), except that —
  - (a) any term importing a provision of the *Broadcasting Commission (Isle of Man) Act 1965* shall be construed as a licence condition to the same effect as that provision; and
  - (b) any other reference to a provision of that Act shall be construed as a reference to the corresponding provision of this Part.
- (2) The Manx Radio agreement may be determined or varied by agreement between the parties thereto with the consent of the Commission (but not so as to remain in force after the 31st March 1995), and any reference in subsection (1) to any provision, term or condition of the Manx Radio agreement includes a reference to a provision, term or condition of the agreement as so varied.
- (3) In this section ‘the Manx Radio agreement’ means an agreement made the 1st April 1990 between (1) the Department of Home Affairs and (2) Radio Manx Limited.

**15 [Repeals section 4(1) of the Telecommunications Act 1984.]****PART 2 – MISCELLANEOUS AND SUPPLEMENTAL***Broadcasting***16 Foreign satellite services**

[P1990/42/177-178]

- (1) Subject to subsection (2), if the Commission is satisfied that a foreign satellite service is unacceptable because there is repeatedly contained in programmes included in the service matter which offends against good taste and decency or is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, the Commission may by order proscribe the service for the purposes of this section.
- (2) An order under subsection (1) –
- (a) may make such provision for the purpose of identifying a particular foreign satellite service as the Commission thinks fit;
  - (b) may not be made unless the Secretary of State has certified that the making of the order is not incompatible with any international obligation of the United Kingdom which extends to the Isle of Man; and
  - (c) shall not have effect unless it is approved by Tynwald;
- and a statement in such an order that the Secretary of State has certified as mentioned in paragraph (b) shall be conclusive evidence of the fact.
- (3) Any person who –
- (a) supplies any equipment or other goods for use in connection with the operation or day-to-day running of a proscribed service;
  - (b) supplies or offers to supply programme material to be included in any programme transmitted in the provision of a proscribed service;
  - (c) arranges for, or invites, any other person to supply programme material to be so included;
  - (d) advertises, by means of programmes transmitted in the provision of a proscribed service, goods supplied by him or services supplied by him;
  - (e) publishes the time or other details of any programmes which are to be transmitted in the provision of a proscribed service or (otherwise than by publishing such details) publishes an advertisement of matter calculated to promote a proscribed service (whether directly or indirectly);

- (f) supplies or offers to supply any decoding equipment which is designed or adapted to be used primarily for the purpose of enabling the reception of programmes transmitted in the provision of a proscribed service,
- shall be guilty of an offence and liable —
- (i) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000, or both;
- (ii) on conviction on information, to imprisonment for a term not exceeding 2 years or to a fine, or both.
- (4) In any proceedings against a person for an offence under this section, it is a defence for him to prove that he did not know, and had no reasonable cause to suspect, that the service in connection with which the act was done was a proscribed service.
- (5) For the purposes of this section a person exposing decoding equipment for supply or having such equipment in his possession for supply shall be deemed to offer to supply it.
- (6) Section 61 of the *Consumer Protection Act 1991* shall have effect for the purpose of construing references in this section to the supply of any thing as it has effect for the purpose of construing references in that Act to the supply of any goods.
- (7) In this section —
- ‘the Commission’ means the Communications Commission;
- ‘foreign satellite service’ means a service which consists wholly or mainly in the transmission by satellite from a place outside the Island of television or sound programmes which are capable of being received in the Island;
- ‘programme material’ includes —
- (a) a film (within the meaning of the *Copyright Act 1991*);
- (b) any other recording; and
- (c) any advertisement or other advertising material;
- ‘proscribed service’ means a foreign satellite service which is proscribed by an order under subsection (1).

*Copyright etc*

**17 [Inserts section 164A in the Copyright Act 1991.]**

**18 Use of sound recordings in broadcasts etc**

The *Copyright Act 1991* is further amended in accordance with Schedule 1.

## 19 Advance programme information

Schedule 3 has effect in relation to any information or future information which the person providing a programme service to which section 176 (duty to provide advance information) of the UK Act applies is or may be required to make available under that section.

## 20 Modification of copyright law

- (1) The Council of Ministers may by order provide that, for the purpose of giving effect in the law of the Island to —
  - (a) any international obligation of the United Kingdom which relates to programme services and extends to the Island, or
  - (b) any instrument of a legislative character which relates to programme services and is made by an institution of the European Union (whether or not it is applicable to the Island),<sup>14</sup>the *Copyright Act 1991* shall have effect subject to such modifications as are specified in the order.
- (2) An order under this section shall not have effect unless it is approved by Tynwald.
- (3) In this section ‘programme services’ has the same meaning as in Part 1.

### *Telecommunications*

## 21 [Inserts section 22A in the Telecommunications Act 1984.]

### *Supplemental*

## 22 Amendment etc of enactments

- (1) The enactments specified in Schedule 4 are amended in accordance with that Schedule.
- (2) The enactments specified in Schedule 5 are repealed to the extent specified in column 3 of that Schedule.

## 23 Short title and commencement

- (1) This Act may be cited as the Broadcasting Act 1993.
- (2) This Act shall come into operation on such day or days as the Department of Home Affairs may by order appoint.<sup>15</sup>

## SCHEDULE 1

### RESTRICTIONS ON THE HOLDING OF LICENCES

#### Section 3(1)

#### *General disqualifications*

1. The following persons are disqualified for holding a licence to provide a sound broadcasting service —

- (a) an individual who is neither —
  - (i) ordinarily resident in the Island, the United Kingdom or the Channel Islands, nor
  - (ii) a national of a Member State who is ordinarily resident within the European Union;<sup>16</sup>
- (b) a body corporate which is neither —
  - (i) a body incorporated under the law of the Island or the Channel Islands, nor
  - (ii) a body formed under the law of a member State which has its registered or head office or permanent place of business within the European Union;<sup>17</sup>
- (c) a Statutory Board;
- (d) a local authority;
- (e) a body whose objects are wholly or mainly of a political nature;
- (f) a body affiliated to a body falling within sub-paragraph (e);
- (g) an individual who is an officer of a body falling within sub-paragraph (e) or (f);
- (h) a body corporate which is an associate of a body corporate falling within sub-paragraph (e) or (f);
- (i) a body corporate in which a body falling within any of sub-paragraphs (c) to (f) and (h) is a participant with more than a 5 per cent interest;
- (j) a body which is controlled by a person falling within any of sub-paragraphs (a) to (h) or by 2 or more such persons taken together;
- (k) a body corporate in which a body corporate falling within sub-paragraph (j), other than one which is controlled —
  - (i) by a person falling within sub-paragraph (a), (b), or (g),
  - (ii) by 2 or more such persons taken together,is a participant with more than a 5 per cent. interest.

*Disqualification of religious bodies*

2. (1) Subject to sub-paragraph (2), the following persons are disqualified for holding a licence to provide a sound broadcasting service —

- (a) a body whose objects are wholly or mainly of a religious nature;
- (b) a body which is controlled by a body falling within paragraph (a) or by two or more such bodies taken together;
- (c) a body which controls a body falling within paragraph (a);
- (d) a body corporate which is an associate of a body corporate falling within paragraph (a), (b) or (c);
- (e) a body corporate in which a body falling within any of paragraphs (a) to (d) is a participant with more than a 5 per cent. interest;
- (f) an individual who is an officer of a body falling within paragraph (a); and
- (g) a body which is controlled by an individual falling within paragraph (f) or by 2 or more such individuals taken together.

(2) If on an application made to it under this sub-paragraph the Commission is satisfied that it is appropriate for a person to hold a licence to provide a sound broadcasting service, being a person who would, apart from this sub-paragraph, be disqualified by virtue of sub-paragraph (1), the Commission may make a determination to the effect that it is so satisfied; and so long as any such determination remains in force in relation to that person, sub-paragraph (1) shall not apply to him.

*Disqualification on ground of undue influence*

3. A person is disqualified for holding a licence to provide a sound broadcasting service if in the opinion of the Commission —

- (a) any body which —
  - (i) falls within paragraph 1(c) to (i) and (k), or
  - (ii) is controlled by a person falling within paragraph 1(c) to (h) or by 2 or more such persons taken together;is, by the giving of financial assistance or otherwise, exerting influence over the activities of that person, and
- (b) that influence has led, is leading or is likely to lead to results which are adverse to the public interest.

*Interests in newspapers*

4. (1) No proprietor of an Isle of Man newspaper, a north-west newspaper or a UK national newspaper shall be a participant with more than a 20 per cent interest in a body corporate which is the holder of a licence to provide a sound broadcasting service.

(2) No person who is the holder of a licence to provide a sound broadcasting service shall be a participant with more than a 20 per cent interest in an Isle of Man newspaper, a north-west newspaper or a UK national newspaper.

(3) Any restriction on participation imposed by sub-paragraph (1) or (2) on the proprietor of a newspaper or on the holder of a licence applies to him as if he and every person connected with him were one person.

(4) For the purpose of sub-paragraph (3) the following persons are connected with one another in relation to a particular newspaper —

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

(5) in this paragraph —

‘Isle of Man newspaper’ means a newspaper published and circulating in the Island;

‘north-west newspaper’ means a newspaper circulating wholly or mainly in the north-west of England;

‘UK national newspaper’ means a national newspaper circulating in the United Kingdom.

#### *Interests in other services*

5. (1) No person who is the holder of a licence under the UK Act to provide —
- (a) a Channel 3 service or Channel 5 (within the meaning of Part I of the UK Act), or
  - (b) a national service or local service (within the meaning of Part III of the UK Act),

shall be a participant with more than a 20 per cent. interest in a body corporate which is the holder of a licence to provide a sound broadcasting service.

(2) No person who is the holder of a licence to provide a sound broadcasting service shall be a participant with more than a 20 per cent. interest in a body corporate which is the holder of a licence under the UK Act to provide a service mentioned in sub-paragraph (1)(a) or (b).

(3) Any restriction on participation imposed by sub-paragraph (1) or (2) on the holder of a licence (including a licence under the UK Act) applies to him as if he and every person connected with him were one person.

*Amendment of percentage interest*

6. (1) The Council of Ministers may by order amend paragraph 1(i) or (k), 2(1)(e), 4(1) or (2) or 5(1) or (2) by substituting a different percentage for the percentage for the time being specified there.

(2) An order under sub-paragraph (1) shall not have effect unless it is approved by Tynwald.

*Interpretation*

7. Paragraphs 1, 2 and 3 of Part I of Schedule 2 to the UK Act (restrictions on the holding of licences) apply for the purposes of this Schedule as they apply for the purposes of that Schedule.

**SCHEDULE 2****AMENDMENTS OF COPYRIGHT ACT 1991**

## Section 18

[Sch 2 amends the following Act —

Copyright Act 1991 q.v.]

**SCHEDULE 3****ADVANCE PROGRAMME INFORMATION**

## Section 19 [P1990/42/Sch 17]

**GENERAL***Interpretation*

1. (1) This Schedule and the *Copyright Act 1991* shall have effect as if this Schedule were included in Part III of that Act, and that Act shall have effect as if proceedings under this Schedule were listed in section 144 of that Act (jurisdiction of Isle of Man Copyright Tribunal).

(2) References in this Schedule to anything done by the publisher include anything done on his behalf.

(3) References in this Schedule to works include future works, and references to the copyright in works include future copyright.

*Application*

2. (1) The information to which this Schedule applies is any information or future information which the person providing a programme service to which this Schedule applies is or may be required to make available under section 176 of the UK Act.

(2) The programme services to which this Schedule applies are those listed in column 1 of the table in section 176(7) of the UK Act, and references to the persons who provide or are to be treated as providing them are to the corresponding persons specified in column 2 of that table.

(3) For the purpose of section 176(7) of the UK Act any programme service licensed by the Communications Commission under Part 1 shall be treated as so licensed on behalf of the Department of Home Affairs.

*Copyright licensing*

3. (1) This paragraph applies where the person providing a programme service has assigned to another the copyright in works containing information to which this Schedule applies.

(2) The person providing the programme service, not the assignee, is to be treated as the owner of the copyright for the purpose of licensing any act restricted by the copyright done on or after the commencement of this paragraph.

(3) Where the assignment by the person providing the programme service occurred before 29th September 1989 then, in relation to any act restricted by the copyright so assigned —

- (a) sub-paragraph (2) does not have effect; and
- (b) references below in this Schedule to the person providing the programme service are to the assignee.

**USE OF INFORMATION AS OF RIGHT***Circumstances in which right is available*

4. (1) Paragraph 6 applies to any act restricted by the copyright in works containing information to which this Schedule applies done by the publisher if —

- (a) a licence to do the act could be granted by the person providing the programme service but no such licence is held by the publisher;
- (b) the person providing the programme service refuses to grant to the publisher a licence to do the act, being a licence of such duration, and of which the terms as to payment for doing the act are such, as would be acceptable to the publisher; and
- (c) the publisher has complied with paragraph 5.

(2) The reference in sub-paragraph (1) to refusing to grant a licence includes failing to do so within a reasonable time of being asked.

(3) References below in this Schedule to the terms of payment are to the terms as to payment for doing any act restricted by the copyright in works containing information to which this Schedule applies.

*Notice of intention to exercise right*

5. (1) A person intending to avail himself of the right conferred by paragraph 6 must —

- (a) give notice to the person providing the programme service, asking that person to propose terms of payment; and
- (b) after receiving the proposal or the expiry of a reasonable time, give reasonable notice to the person providing the programme service of the date on which he proposes to begin exercising the right and the terms of payment in accordance with which he intends to do so.

(2) Before exercising the right the publisher must —

- (a) give reasonable notice to the Tribunal of his intention to exercise the right, and of the date on which he proposes to begin to do so, and
- (b) apply to the Tribunal under paragraph 7 to settle the terms of payment.

*Conditions for exercise of right*

6. (1) A person who, on or after the date specified in a notice under paragraph 5(1)(b), does any act in circumstances in which this paragraph applies, shall, if he makes the payments required by this paragraph, be in the same position as regards infringement of copyright as if he had at all material times been the holder of a licence to do so granted by the person providing the programme service.

(2) Payments are to be made at not less than quarterly intervals in arrears.

(3) The amount of any payment is that determined in accordance with any order of the Tribunal under paragraph 7 or, if no such order has been made —

- (a) in accordance with any proposal for terms of payment made by the person providing the programme service pursuant to a request under paragraph 5(1)(a), or
- (b) where no proposal has been so made or the amount determined in accordance with the proposal so made appears to the publisher to be unreasonably high, in accordance with the terms of payment notified under paragraph 5(1)(b).

*Application to settle payments*

7. (1) On an application to settle the terms of payment, the Tribunal shall consider the matter and make such order as it may determine to be reasonable in the circumstances.

(2) An order under sub-paragraph (1) has effect from the date the applicant begins to exercise the right conferred by paragraph 6 and any necessary payments, or further payments, shall be made in respect of amounts that have fallen due.

*Application for review of order*

8. (1) A person exercising the right conferred by paragraph 6, or the person providing the programme service, may apply to the Tribunal to review any order under paragraph 7.

(2) An application shall not be made, except with the special leave of the Tribunal —

- (a) within 12 months from the date of the order, or of the decision on a previous application under this paragraph, or
- (b) if the order was made so as to be in force for 15 months or less, or as a result of a decision on a previous application is due to expire within 15 months of that decision, until the last 3 months before the expiry date.

(3) On an application the Tribunal shall consider the matter and make such order confirming or varying the original order as it may determine to be reasonable in the circumstances.

(4) An order under this paragraph has effect from the date on which it is made or such later date as may be specified by the Tribunal.

## SCHEDULE 4

### AMENDMENT OF ENACTMENTS

#### Section 22(1)

[Sch 4 amended by Law Reform Act 1997 Sch 2, by Children and Young Persons Act 2001 Sch 13 and by SD439/04, and amends the following Acts —

Defamation Act 1954 q.v.

Consumer Protection (Trade Descriptions) Act 1970 q.v.

Employment Agencies Act 1975 q.v.

Telecommunications Act 1984 q.v.

Radio Equipment Act 1986 q.v.

Summary Jurisdiction Act 1989 q.v.

Copyright Act 1991 q.v.

Sexual Offences Act 1992 q.v.]

## SCHEDULE 5

### ENACTMENTS REPEALED

#### Section 22(2)

[Sch 5 repeals the following Act wholly —

Broadcasting Commission (Isle of Man) Act 1965

and the following Acts and Order in part —

Defamation Act 1954

Children and Young Persons Act 1969

Governor's General Functions (Transfer) Act 1980

Telecommunications Act 1984

Treasury Act 1985

Statute Law Revision Act 1986

Department of Home Affairs Order 1986 (GC120/86)

Government Departments Act 1987

Summary Jurisdiction Act 1989

Consumer Protection Act 1991

Sexual Offences Act 1992.]

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement

### Table of Renumbered Provisions

Original	Current

### Table of Endnote References

- 
- <sup>1</sup> Para (a) amended by Broadcasting (Amendment) Act 2007 s 1.
- <sup>2</sup> Para (c) added by Broadcasting (Amendment) Act 2007 s 1.
- <sup>3</sup> Subs (2A) inserted by Broadcasting (Amendment) Act 2007 s 1.
- <sup>4</sup> Subs (3) amended by Broadcasting (Amendment) Act 2007 s 1.
- <sup>5</sup> Subs (3A) inserted by Broadcasting (Amendment) Act 2007 s 1.
- <sup>6</sup> Subs (6) amended by Statute Law Revision Act 1997 Sch 1.
- <sup>7</sup> Subs (7) added by Broadcasting (Amendment) Act 2007 s 1.
- <sup>8</sup> Subs (2) added by Broadcasting (Amendment) Act 2007 s 2.
- <sup>9</sup> Subss (6) to (8) repealed by Representation of the People Act 1995 Sch 8.
- <sup>10</sup> Para (a) amended by Statute Law Revision Act 1997 Sch 1.
- <sup>11</sup> Subs (1) amended by Broadcasting (Amendment) Act 2007 s 3.
- <sup>12</sup> Subs (3) substituted by Statutory Boards (Amendment) Act 2001 s 2.
- <sup>13</sup> S 12A inserted by Broadcasting (Amendment) Act 2007 s 4.
- <sup>14</sup> Para (b) amended by SD0606/12.
- <sup>15</sup> ADO (whole Act) 1/8/1993 (SD318/93).
- <sup>16</sup> Subpara (ii) amended by SD0606/12.
- <sup>17</sup> Subpara (ii) amended by SD0606/12.