



Broadcasting Act 1996

1996 CHAPTER 55

PART III

AMENDMENTS OF THE BROADCASTING ACT 1990

Sound broadcasting

92 **Renewal of licences to provide national radio services**

After section 103 of the 1990 Act there is inserted—

“103A Renewal of national licences

- (1) A national licence may (subject to the following provisions of this section) be renewed on one occasion for a period of eight years beginning with the date of renewal.
- (2) An application for the renewal of a national licence under subsection (1) may be made by the licence holder not earlier than three years before the date on which it would otherwise cease to be in force and not later than the relevant date.
- (3) Where any such application is made before the relevant date—
 - (a) if no simulcast radio service provided by the applicant is being broadcast in digital form when the application is made, the Authority shall postpone the consideration of the application until the relevant date or, if earlier, the date on which the broadcasting of such a service in that form begins, and
 - (b) in any other case, the Authority may postpone the consideration of the application for so long as they think appropriate having regard to subsection (8).
- (4) Where an application for the renewal of a national licence has been duly made to the Authority, they shall (subject to subsection (5)) grant the application if, but only if—

Status: This is the original version (as it was originally enacted).

- (a) the Authority are satisfied that the applicant would, if his licence were renewed, provide a national service which complied with the conditions included in the licence in pursuance of section 106 (whether as originally imposed or as varied under that section),
 - (b) the applicant has given notice to the Authority under section 41(2)(a) of the Broadcasting Act 1996 of his intention to provide a service for broadcasting in digital form, and
 - (c) a simulcast radio service provided by the applicant is being broadcast in digital form or the Authority are satisfied that by the relevant date the applicant has done all that it would in the circumstances be reasonable to expect him to do by that date to procure the broadcasting of such a service within such time as the Authority consider reasonable.
- (5) Section 100(4) to (6) shall apply in relation to an applicant for the renewal of a national licence as those provisions apply in relation to such an applicant as is mentioned in section 100(4), but as if any reference to the awarding of such a licence to the applicant were a reference to the renewal of the applicant's licence under this section.
- (6) On the grant of any application under this section the Authority—
- (a) may, in a case where a simulcast radio service provided by the applicant is not yet being broadcast in digital form on the relevant date, determine a date by which the broadcasting of such a service in that form must begin;
 - (b) shall determine an amount which is to be payable to the Authority by the applicant in respect of the first complete calendar year falling within the period for which the licence is to be renewed; and
 - (c) may specify a different percentage from that specified under section 98(1)(d)(ii) as the percentage of qualifying revenue for each accounting period of his that will be payable by the applicant in pursuance of section 102(1)(c) during the period for which the licence is to be renewed.
- (7) The amount determined by the Authority under subsection (6)(b) in connection with the renewal of a licence shall be such amount as would, in their opinion, be payable to them by virtue of section 102(1)(a) if they were granting a fresh licence to provide the national service in question.
- (8) Where the Authority have granted a person's application under this section they shall formally renew his licence not later than the relevant date or, if that is not reasonably practicable (whether because subsection (3)(a) precluded the consideration of the application before that date or for any other reason), as soon after that date as is reasonably practicable; and they shall not so renew his licence unless they have notified him of—
- (a) any date determined by them under subsection (6)(a),
 - (b) the amount determined by them under subsection (6)(b), and
 - (c) any percentage specified by them under subsection (6)(c),
- and he has, within such period as is specified in that notification, notified them that he consents to the licence being renewed on those terms.
- (9) Where a national licence has been renewed under this section—
- (a) any conditions included in it in pursuance of section 102 shall have effect during the period for which the licence has been renewed—

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

- (i) as if the amount determined by the Authority under subsection (6)(b) were an amount specified in a cash bid submitted by the licence holder, and
 - (ii) subject to any determination made under subsection (6)(c);
 - (b) (subject to paragraph (a)) that section shall have effect in relation to the period for which the licence has been renewed as it has effect in relation to the period for which a national licence is originally in force;
 - (c) where the Authority have determined a date under subsection (6)(a), they shall include in the licence as renewed a condition requiring a simulcast radio service to be broadcast in digital form throughout the period beginning with the date determined under subsection (6)(a) and ending with the date on which the licence (as renewed) is to expire; and
 - (d) the reference in section 111(4) to the end of the period for which a national licence is to continue in force shall, in relation to the licence, be construed as a reference to the end of the period for which it has been renewed.
- (10) Subsections (6)(a) and (9)(c) do not prejudice the generality of section 48(3)(b) of the Broadcasting Act 1996 (power to vary national licence to include conditions relating to digital broadcasting).
- (11) In this section—
- “simulcast radio service” has the same meaning as in Part II of the Broadcasting Act 1996;
 - “the relevant date”, in relation to a national licence, means the date which the Authority determine to be that by which they would need to publish a notice under section 98(1) if they were to grant, as from the date on which that licence would expire if not renewed, a fresh licence to provide the national service formerly provided under that licence.”

93 Variation of local radio licence following change of control

After section 106 of the 1990 Act there is inserted—

“106A Variation of local licence following change of control

- (1) Any local licence granted to a body corporate before the commencement of this section shall be taken to include—
- (a) a condition requiring the body to give the Authority advance notice of any proposals known to the body that may give rise to a relevant change of control, and
 - (b) a condition requiring the body to provide the Authority, in such manner and at such times as they may reasonably require, with such information as they may require for the purposes of exercising their functions under subsection (3).
- (2) Subsection (3) applies in relation to any local licence which—
- (a) was granted before the commencement of this section,
 - (b) is held by a body corporate, and
 - (c) has not previously been varied under that subsection.
- (3) Where, in relation to any local licence to which this subsection applies—

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

- (a) the Authority receive notice, in pursuance of a condition imposed under subsection (1) or section 88(2)(d), of any proposals that may give rise to a relevant change of control, or
- (b) a relevant change of control takes place (whether or not that change has been previously notified to the Authority),

the Authority may vary the licence, by a notice served on the licence holder, so as to include in the licence such conditions as they consider appropriate for the purpose of ensuring that the character of the local service is maintained after the relevant change of control.

- (4) Subject to subsection (5), any new or varied condition imposed under subsection (3) in relation to any matter may be more onerous than any existing condition imposed under section 106(1) in relation to that matter; and in this subsection “existing condition” means a condition of the licence as it has effect, or had effect, before the relevant change of control.
- (5) The Authority may not under subsection (3) include any new or varied condition in a licence unless the new condition or the condition as varied is one which (with any necessary modifications) would have been satisfied by the licence holder—
 - (a) during the three months immediately before the relevant date, or
 - (b) if the Authority consider that the performance of the licence holder during that period is not typical of its performance during the twelve months before the relevant date, during such other period of three months during those twelve months as they may notify in writing to the licence holder;

and for the purposes of this subsection “the relevant date” is the date of the relevant change of control or, if earlier, the date on which the Authority exercise their powers under subsection (3).

- (6) The Authority shall not serve a notice on any body under subsection (3) unless they have given it a reasonable opportunity of making representations to them about the variation.
- (7) Where, in any case falling within paragraph (a) of subsection (3), a notice under that subsection is served before the change to which it relates takes place, the variation shall not take effect until the change to which it relates takes place.
- (8) The power in subsection (1) of section 106 to vary conditions imposed under that subsection includes power to vary conditions imposed under subsection (3).
- (9) In this section “relevant change of control” means a change in the persons having control over the body holding the licence.”

94 Renewal of licences to provide local radio services

- (1) After section 104 of the 1990 Act there is inserted—

“104A Renewal of local licences

- (1) A local licence may (subject to the following provisions of this section) be renewed on one occasion for a period of eight years beginning with the date of renewal.
- (2) No application for the renewal of a local licence under subsection (1) may be made before the Authority first publish a notice pursuant to section 50(2) of the Broadcasting Act 1996 inviting applications for a licence to provide a relevant local radio multiplex service.
- (3) Subject to subsection (2), an application for the renewal of a local licence under subsection (1) may be made by the licence holder not earlier than three years before the date on which it would otherwise cease to be in force and not later than the relevant date.
- (4) The applicant must, in his application or at any time before the consideration of his application, nominate—
 - (a) a local digital sound programme service provided or to be provided by him, and
 - (b) a relevant local radio multiplex service,but may not nominate together a local digital sound programme service and a local radio multiplex service if another local licence held by him includes a condition in pursuance of subsection (12) relating to the broadcasting of that local digital sound programme service by that local radio multiplex service.
- (5) Where an application for the renewal of a local licence has been duly made to the Authority, they shall grant the application if—
 - (a) they are satisfied that the applicant would, if his licence were renewed, provide a local service which complied with the conditions included in the licence in pursuance of section 106 (whether as originally imposed or as varied under that section), and
 - (b) the nominated local digital sound programme service provided by the applicant is being broadcast by means of the nominated local radio multiplex service.
- (6) Where the condition specified in subsection (5)(a) is satisfied, the Authority may grant the application even though the condition specified in subsection (5)(b) is not satisfied if—
 - (a) the applicant holds a licence to provide local digital sound programme services,
 - (b) a licence to provide the nominated local radio multiplex service has been awarded, and
 - (c) it appears to the Authority that, under a contract between the applicant and the person to whom that licence has been awarded, the applicant is obliged to provide the nominated local digital sound programme service for broadcasting by means of the nominated local radio multiplex service.
- (7) The Authority may in any case postpone consideration of the application until the relevant date.

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- (8) If, at the relevant date, the condition specified in subsection (5)(b) is not satisfied, and any of the conditions specified in subsection (6) is not satisfied, the Authority may postpone consideration of the application for such period not exceeding twelve months as they think appropriate.
- (9) Where the Authority postpone consideration of an application under this section for any period beyond the relevant date (the “postponement period”), they shall extend the period for which the licence is in force by a period equal to the postponement period; and section 86(3) shall not limit the powers of the Authority under this subsection.
- (10) On the grant of any application under this section the Authority shall—
- (a) where the nominated local digital sound programme service provided by the applicant is not being broadcast by means of the nominated local radio multiplex service, determine a date by which that service must have begun to be so broadcast; and
 - (b) specify a fee payable to the Authority in respect of the renewal.
- (11) Where the Authority have granted a person’s application under this section they shall formally renew his licence as soon afterwards as is reasonably practicable; and they shall not so renew his licence unless they have notified him of—
- (a) any date determined by them under subsection (10)(a), and
 - (b) the renewal fee specified by them under subsection (10)(b),
- and he has, within such period as is specified in that notification, notified them that he consents to the licence being renewed on those terms.
- (12) Where the Authority renew a licence under this section they shall include in the licence as renewed a condition requiring the licence holder to do all that he can to ensure that the nominated local digital sound programme service is broadcast by means of the nominated local radio multiplex service throughout the period beginning with whichever is the later of—
- (a) the date on which the licence would expire if not renewed, and
 - (b) any date determined by them under subsection (10)(a),
- and ending with the date on which the licence (as renewed) is to expire.
- (13) In this section—
- (a) “local digital sound programme service” has the same meaning as in Part II of the Broadcasting Act 1996;
 - (b) “nominated” means nominated by the applicant under subsection (4);
 - (c) “relevant date”, in relation to a local licence, means the date which the Authority determine to be that by which they would need to publish a notice under section 104(1) if they were to grant, as from the date on which that licence would expire if not renewed, a fresh licence to provide the local service formerly provided under that licence; and
 - (d) “relevant local radio multiplex service”, in relation to a local licence, means a local radio multiplex service (within the meaning of Part II of the Broadcasting Act 1996) with a coverage area which to a significant extent includes the coverage area of the local service provided under the local licence; and for this purpose “coverage area”, in relation to a service, has the meaning given by paragraph 3A of Part I of Schedule 2.

104B Special application procedure for local licences

- (1) Where—
- (a) a local licence is due to expire (otherwise than by virtue of section 110),
 - (b) the local service provided under the licence falls within category B, C or D of the Table in paragraph 9 of Part III of Schedule 2, and
 - (c) the Authority propose to grant a further licence to provide the service in question,
- the Authority may if they think fit publish a notice under subsection (2) instead of a notice under section 104(1).
- (2) A notice under this subsection is a notice—
- (a) stating that the Authority propose to grant a further licence to provide a specified local service,
 - (b) specifying the area or locality in the United Kingdom for which the service is to be provided,
 - (c) inviting declarations of intent to apply for a licence to provide the service,
 - (d) specifying the closing date for such declarations, and
 - (e) specifying—
 - (i) the application fee payable on any declaration made in pursuance of the notice, and
 - (ii) a deposit of such amount as the Authority may think fit.
- (3) A declaration of intent made in pursuance of a notice under subsection (2) must be in writing and accompanied by the application fee and deposit specified under subsection (2)(e)(i) and (ii).
- (4) Where the Authority receive a declaration of intent in accordance with the provisions of this section from a person other than the licence holder in relation to the service in question, they shall—
- (a) publish a notice under section 104(1),
 - (b) specify—
 - (i) in relation to persons who have made a declaration of intent in accordance with the provisions of this section, no further application fee, and
 - (ii) in relation to all other applicants, an application fee of the same amount as the fee referred to in subsection (2)(e)(i), and
 - (c) repay the deposit referred to in subsection (2)(e)(ii) to every person—
 - (i) who has made a declaration of intent in accordance with the provisions of this section, and
 - (ii) who duly submits an application in pursuance of the notice referred to in paragraph (a).
- (5) Where the Authority receive a declaration of intent in accordance with the provisions of this section from the licence holder in relation to the service in question, and no such declaration from any other person, they shall—

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

- (a) invite the licence holder to apply for the licence in such manner as they may determine (but without requiring any further application fee), and
 - (b) on receiving an application duly made by him, repay to him the deposit referred to in subsection (2)(e)(ii).
- (6) The Secretary of State may by order amend subsection (1) by removing any of the categories of local service for the time being specified in that subsection, or by substituting for any of such categories any one or more categories of local service set out in the Table in paragraph 9 of Part III of Schedule 2.
- (7) Any order under subsection (6) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (2) In section 104 of the 1990 Act (applications for licences other than national licences), subsections (5) and (6)(a) shall cease to have effect.

95 Financing of Gaelic sound programmes

- (1) Section 183 of the 1990 Act (financing of television programmes in Gaelic out of Gaelic Television Fund) is amended as mentioned in subsections (2) to (6).
- (2) In subsection (2), for “Gaelic Television Fund” there is substituted “Gaelic Broadcasting Fund”.
- (3) In subsection (3), for “Comataidh Telebhisein Gaidhlig (the Gaelic Television Committee)” there is substituted “Comataidh Craolaidh Gaidhlig (the Gaelic Broadcasting Committee)”.
- (4) After subsection (3) there is inserted—
- “(3A) Before making any appointment under subsection (3) the Commission shall consult the Radio Authority.”.
- (5) In subsection (4), in each of paragraphs (a)(i) and (b), after “television” there is inserted “and sound”.
- (6) In subsection (6)—
- (a) after “will” there is inserted “—
 (a)”;
 and
 - (b) for “but” there is substituted—
 “(b) widen the range and improve the quality of sound programmes in Gaelic that are broadcast for reception in Scotland;
 but”.
- (7) In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified) there is inserted at the appropriate place—
- “Comataidh Craolaidh Gaidhlig”.

96 Power of Radio Authority to suspend licence to provide satellite service

After section 111A of the 1990 Act there is inserted—

“111B Power to suspend licence to provide satellite service

- (1) If the Authority are satisfied—
 - (a) that the holder of a licence to provide a satellite service has included in the service one or more programmes containing material likely to encourage or incite to crime or to lead to disorder,
 - (b) that he has thereby failed to comply with the condition included in the licence in pursuance of section 90(1)(a), and
 - (c) that the failure is such as to justify the revocation of the licence,they shall serve on the holder of the licence a notice under subsection (2).
- (2) A notice under this subsection is a notice—
 - (a) stating that the Authority are satisfied as mentioned in subsection (1),
 - (b) specifying the respects in which, in their opinion, the licence holder has failed to comply with the condition mentioned in paragraph (b) of that subsection,
 - (c) stating that the Authority may revoke his licence after the end of the period of twenty-one days beginning with the date on which the notice is served on the licence holder,
 - (d) informing the licence holder of his right to make representations to the Authority within that period about the matters complained of, and
 - (e) suspending the licence as from the time when the notice is served on the licence holder until the revocation takes effect or the Authority decide not to revoke the licence.
- (3) If the Authority, having considered any representations about the matters complained of made to them within the period referred to in subsection (2)(c) by the licence holder, are satisfied that it is necessary in the public interest to revoke the licence in question, they shall serve on the licence holder a notice revoking the licence.
- (4) A notice under subsection (3) shall not take effect until the end of the period of twenty-eight days beginning with the day on which that notice was served on the licence holder.
- (5) Section 111 shall not have effect in relation to the revocation of a licence in pursuance of a notice under subsection (1).”