



SEANAD ÉIREANN

**AN BILLE CRAOLACHÁIN 2008
BROADCASTING BILL 2008**

**LEASUITHE A RINNE AN DÁIL
AMENDMENTS MADE BY THE DÁIL**

SEANAD ÉIREANN

AN BILLE CRAOLACHÁIN 2008
[BILLE SEANAID ARNA LEASÚ AG AN DÁIL]

BROADCASTING BILL 2008
[SEANAD BILL AMENDED BY THE DÁIL]

Leasuithe a rinne an Dáil
Amendments made by the Dáil

SECTION 2

1. In page 12, lines 17 to 22 deleted and the following substituted:

“ “broadcasting service” means a service which comprises a compilation of programme material of any description and which is transmitted, relayed or distributed by means of an electronic communications network, directly or indirectly for simultaneous or near-simultaneous reception by the general public, whether that material is actually received or not, and where the programmes are provided in a pre-scheduled and linear order, but does not include:

- (a) a service provided in a non-linear manner where each user of the service chooses a programme from a catalogue of programmes, or
- (b) other audio and audiovisual services provided by way of the Internet;”.

2. In page 13, line 3, “18 December” deleted and “11 December” substituted.

3. In page 13, between lines 3 and 4, the following inserted:

“ “director general” means a person appointed as the director general of a corporation under *section 89(1)*;”.

4. In page 13, line 20, after “television”, “and internet protocol television” inserted.

5. In page 14, line 2, “6” deleted and “5” substituted.

6. In page 15, line 9, “or” deleted and the following substituted:

“(c) the processes by which individuals and communities can create and publish audio or audio-visual material by means of broadcast and related electronic media, and”.

7. In page 16, line 1, “Radio” deleted and “Raidió” substituted.

8. In page 16, line 3, “Radio” deleted and “Raidió” substituted.

9. In page 16, between lines 3 and 4, the following inserted:

“ “sectoral” means pertaining to the provision of broadcasting and broadcasting related services;”.

SECTION 3

10. In page 16, lines 40 to 41 deleted and the following substituted:

[No. 29b of 2008]

[30 June, 2009]

[SECTION 3]

“3.—The enactments mentioned in *Schedule 1* are repealed to the extent specified in the *third column* of *Schedule 1*.”.

SECTION 8

11. In page 17, lines 37 to 40 and in page 18, lines 1 to 3 deleted and the following substituted:

“8.—(1) The members of the Authority shall be 9 in number, of which—

(a) 5 of them shall be appointed by the Government on the nomination of the Minister, and

(b) subject to *subsection (2)*, 4 of them shall be appointed by the Government on the nomination of the Minister.

(2) Where an appointment is to be made by the Government under *subsection (1)(b)* or under that paragraph arising from a vacancy referred to in *section 10(11)*—

(a) the Minister shall inform the Joint Oireachtas Committee of the proposed appointment,

(b) the Minister in respect of an appointment under *subsection (1)(a)* shall provide a statement to the Joint Oireachtas Committee indicating the relevant experience and expertise of the persons or person nominated by the Minister for appointment or appointed by the Government on the nomination of the Minister, and such other matters as the Minister considers relevant,

(c) the Joint Oireachtas Committee shall within the period of 90 days of being so informed, advise the Minister of the names of the persons or name of the person it proposes that the Minister should nominate under *subsection (1)(b)* giving reasons, such as relevant experience and expertise, in relation to the proposed named persons or person,

(d) the Minister shall have regard to the advice and may accept the proposed named persons or some of them or the named person or decide to nominate as he or she sees fit other persons or another person, and

(e) inform the Joint Oireachtas Committee of his or her decision.”.

12. In page 18, subsection (7), line 27, “*subsection (1)(b)* and *section 10(11)*” deleted and “*subsection (2)*” substituted.

13. In page 18, lines 41 to 48 deleted.

SECTION 10

14. In page 20, subsection (4), line 18, after “Oireachtas”, “and published in the *Iris Oifigiúil*” inserted.

15. In page 21, subsection (10), line 18, after “member” the following inserted:

“(other than a member referred to in *subsection (11)*)”.

[SECTION 12]

SECTION 12

16. In page 23, between lines 27 and 28, the following subsection inserted:

“(7) A person who holds an interest in an undertaking which publishes a newspaper in the State shall be disqualified from becoming or ceases to be a member of the Authority or a statutory committee.”.

SECTION 13

17. In page 24, between lines 23 and 24, the following subsection inserted:

“(11) Subject to any rule made under *subsection (3)*, meetings of the Authority or a statutory committee shall be capable of being held by telephone or other suitable electronic means whereby all the members of the Authority or the relevant statutory committee can hear and be heard.”.

SECTION 15

18. In page 26, subsection (6), line 18, “the provisions of this Act” deleted and “this section” substituted.

SECTION 20

19. In page 29, subsection (4), line 26, after “committee”, “to” inserted.

20. In page 29, subsection (5), line 32, after “committee”, “to” inserted.

SECTION 21

21. In page 30, subsection (1)(a), line 15, “concerns” deleted and “concern” substituted.

SECTION 22

22. In page 31, subsection (1), line 19, “in any” deleted and “, in any contract” substituted.

23. In page 31, subsection (1), line 20, “or any proposed” deleted and “or in any agreement or arrangement or proposed” substituted.

24. In page 31, between lines 35 and 36, the following subsection inserted:

“(3) *Subsection (1)* does not apply to a person as regards a contract or proposed contract for services in respect of that person.”.

SECTION 25

25. In page 32, subsection (2), between lines 25 and 26, the following inserted:

“(d) provide a regulatory environment that will sustain independent and impartial journalism,

(e) provide a regulatory environment that will sustain compliance with applicable employment law,

(f) protect the interests of children taking into account the vulnerability of children and childhood to undue commercial exploitation,”.

[SECTION 25]

26. In page 32, subsection (2)(e), line 30, “facilitate” deleted and “promote and stimulate” substituted.

SECTION 26

27. In page 33, subsection (1), lines 4 to 35 deleted and the following substituted:

“26.—(1) The principal functions of the Authority are to—

- (a) prepare a strategy for the provision of broadcasting services in the State additional to those provided by RTÉ, TG4, the Houses of the Oireachtas Channel and the Irish Film Channel,
- (b) prepare a statement under *section 29(1)*,
- (c) liaise and consult with the Communications Regulator in the preparation of the allocation plan for the frequency range dedicated to sound and television broadcasting,
- (d) make a levy order under *section 33(1)*,
- (e) prepare or make broadcasting codes and rules,
- (f) prepare a scheme for the exercise of the right of reply,
- (g) direct the Contract Awards Committee to make arrangements, in accordance with *Parts 6 and 8*, to invite, consider and recommend to the Authority, and the Authority shall follow such recommendation, proposals for the provision of—
 - (i) broadcasting services additional to any broadcasting services provided by RTÉ, TG4, the Houses of the Oireachtas Channel and the Irish Film Channel under *Part 7*, and
 - (ii) multiplex services additional to any multiplex services provided by RTÉ under *Parts 7 and 8*,
- (h) prepare rules and enter into contracts in respect of electronic programme guides,
- (i) determine disputes arising under *section 76(2)* and *section 77(5)*,
- (j) make a report to the Minister under *section 77(15)*,
- (k) consult with the Minister under *sections 101(3), 102(3), 103(4), 104(1), (2) and (3), 106(3), 107(3), 111(4), 112(2), (7) and (11), 116(5), 127(6)#, 130(1) and 130(12)*,
- (l) prepare and issue guidance to RTÉ and TG4 as to the fulfilment of their obligations under *sections 109(11) and 112(2)*,
- (m) undertake a review under *section 124(2) and (8) and section 128(3)*,
- (n) make a recommendation under *section 124(5) and (12)*,
- (o) make a request under *section 115, section 130(10), section 132(3) or section 133(3) or (4)*,

[SECTION 26]

- (p) make a report to the Minister under *section 139(1)* in respect of preparedness for analogue switch-off,
- (q) provide information to the public on the availability of services by means of television multiplexes, and
- (r) prepare and implement schemes for the granting of funds under *Part 10*.”.

[# *This is a reference to the subsection inserted by amendment No.224.*]

28. In page 34, between lines 10 and 11, the following subsection inserted:

“(3) In fulfilling its function under *subsection (1)(a)* the Authority shall consider the needs of community broadcasters in respect of digital broadcasting.”.

29. In page 34, lines 28 to 34 deleted and the following substitute:

“27.—The principal functions of the Contract Awards Committee, at the direction of the Authority, are to make arrangements in accordance with *Parts 6* and *8*, to invite, consider and recommend to the Authority, and the Authority shall follow such recommendation, proposals for the provision of—

- (a) broadcasting services additional to any broadcasting services provided by RTÉ, TG4, the Houses of the Oireachtas Channel and the Irish Film Channel under *Part 7*, and
- (b) multiplex services additional to any multiplex services provided by RTÉ under *Parts 7* and *8*.”.

SECTION 28

30. In page 34, line 46 and in page 35, lines 1 to 3 deleted and the following substituted:

- “(ii) RTÉ and TG4 with *section 106(3)*, and
- (iii) the Irish Film Channel with *section 127(6)#*,
- (d) enforce compliance by—
 - (i) broadcasters with *sections 39, 40* and *41*,
 - (ii) RTÉ and TG4 with *section 106(3)*, and
 - (iii) the Irish Film Channel with *section 127(6)#*.”.

[# *This is a reference to the subsection inserted by amendment No.224.*]

31. In page 35, subsection (2)(a), line 15, “with the requirements of” deleted and “under” substituted.

32. In page 35, between lines 41 and 42 the following subsection inserted:

“(7) The Minister shall cause a copy of the report referred to in *subsection (6)* to be laid before each House of the Oireachtas.”.

[SECTION 29]

SECTION 29

- 33.** In page 36, subsection (3), line 18, to delete “a strategy” and substitute “the strategy”.

SECTION 32

- 34.** In page 37, line 33, line 33 deleted and the following substituted:

“32.—(1) In this section “commercially sensitive information” means —

- (a) financial, commercial, technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the party to which it relates, or could prejudice the competitive position of that party in the conduct of its business, or
- (b) information whose disclosure could prejudice the conduct or outcome of contractual or other negotiations of the party to which it relates.

(2) It is the duty of the Authority to so conduct its affairs as”.

- 35.** In page 38, subsection (4), line 8, “day” deleted and “day and shall be for a period of 3 years” substituted.

- 36.** In page 38, between lines 22 and 23, the following subsections inserted:

“(9) The Authority shall not disclose commercially sensitive information obtained from a corporation or the holder of a contract under *Part 6 or 8* in pursuance of the Authority’s functions under this Act.

(10) The Authority is not contravening *subsection (9)* if the disclosure —

- (a) is made with the consent of the corporation or the holder of a contract under Part 6 or 8 to which it relates, or
- (b) is required by law.”.

SECTION 34

- 37.** In page 39, subsection (1), line 27, “its functions” deleted and “their functions” substituted.

SECTION 37

- 38.** In page 40, lines 25 to 33, subsection (1) deleted and the following substituted:

“37.—(1) The chief executive, following the agreement of the Authority, shall not later than 30 September in each year, submit estimates of income and expenditure to the Minister in respect of the subsequent three financial years, in such form as may be required by the Minister, and shall furnish to the Minister any information which the Minister may require in relation to such estimates, including proposals and future plans relating to the performance by the Authority, the Contract Awards Committee and the Compliance Committee of their functions, as required.”.

- 39.** In page 40, subsection (3)(a), lines 48 to 50, all words from and including “, and” in line 48 down to and including “Minister” in line 50 deleted.

[SECTION 37]

40. In page 41, subsection (7), lines 24 and 25, all words from and including “part” in line 24 down to and including “(1)” in line 25 deleted and the following substituted:

“such estimates of income and expenditure as are required to be prepared under subsection (1) or a summary of them”.

SECTION 38

41. In page 41, subsection (4), line 39, after “broadcasting”, “services” inserted.

42. In page 41, between lines 41 and 42 to insert the following new subsection inserted:

“(5) An annual report shall include a report to the Minister in respect of contracts entered into by the Authority under *section 67* and any consequent strategy the Authority proposes to adopt to encourage competition in respect of the award of sound broadcasting contracts, excluding contracts entered into under *sections 64* and *68*.”.

SECTION 39

43. In page 42, subsection (1)(d), lines 30 and 31, “offending against good taste or decency” deleted and “causing harm or offence” substituted.

SECTION 41

44. In page 44, lines 1 to 6, subsection (6) deleted.

SECTION 42

45. In page 44, subsection (2)(f), lines 37 and 38, all words from and including “that” in line 37 down to and including “particular,” in line 38 deleted and the following substituted:

“that in respect of programme material broadcast by a broadcaster that audiences are protected from harmful or offensive material, in particular, that programme material”.

46. In page 45, subsection (2)(j), line 16, “IIB,” deleted.
47. In page 45, subsection (3)(e), line 33, “services” deleted and “a broadcasting service” substituted.
48. In page 45, subsection (3)(e), line 35, “a service” deleted and “the service” substituted.

SECTION 43

49. In page 46, subsection (1), line 16, “make” deleted and the following substituted:

“prepare, and from time to time as occasion requires, revise”.

50. In page 47, subsection (4), line 17, “IIB,” deleted.

[SECTION 44]

SECTION 44

- 51.** In page 47, subsection (1), line 40, after “the”, “broadcasting” inserted.
- 52.** In page 47, subsection (1), line 43, after “the”, “broadcasting” inserted.

SECTION 46

- 53.** In page 48, lines 28 to 32 deleted and the following substituted:

“46.—(1) In this section “self-regulatory system” means a system whereby the members of a group of persons with a shared interest voluntarily adhere to rules or code of conduct established by that group.

(2) The Authority may co-operate with or give assistance to one or more persons (whether residing or having their principal place of business in the State or elsewhere) in—

- (a) the preparation by that person or those persons of standards, or
- (b) the establishment and administration by that person or those persons of a self-regulatory system,

in respect of broadcasting content or related electronic media.”.

SECTION 48

- 54.** In page 50, subsection (3), line 13, “its” deleted and “their” substituted.
- 55.** In page 50, subsection (4), line 20, “not exceeding 21 days” deleted.
- 56.** In page 50, subsection (5), line 34, “not exceeding 21 days” deleted.
- 57.** In page 51, subsection (6), line 1, “not exceeding 21 days” deleted.

SECTION 49

- 58.** In page 54, subsection (17), lines 13 and 14, “may as soon as may be but not later than” deleted and “shall endeavor to within” substituted.
- 59.** In page 54, subsection (17), line 16, “it considers” deleted and “they consider” substituted.
- 60.** In page 54, subsection (21), line 42, after “opinion”, “*inter alia*” inserted.
- 61.** In page 55, subsection (21)(c), line 1, “a proposed” deleted and “the proposed” substituted.
- 62.** In page 55, subsection (21)(d), line 3, “a proposed” deleted and “the proposed” substituted.
- 63.** In page 55, subsection (21)(g), lines 8 and 9, “transgress standards of public decency” deleted and “be harmful or offensive” substituted.
- 64.** In page 55, subsection (22)(b), line 43, “such” deleted and “the end of such longer” substituted.
- 65.** In page 56, subsection (23), line 3, “not complied with such notification” deleted and “not remedied its non-compliance” substituted.

[SECTION 49]

66. In page 56, subsection (23), line 7, “with the notification” deleted and “with a decision under *subsection (17)*” substituted.

67. In page 56, lines 8 to 13, subsection (24) deleted and the following substituted:

“(24) The High Court may, as it thinks fit, on the hearing of the application make an order—

(a) compelling compliance with a decision under *subsection (17)*,

(b) varying a requirement under *subsection (17)*, or

(c) refusing the application.”.

68. In page 56, subsection (26)(a), line 21, “made” deleted and “prepared” substituted.

SECTION 50

69. In page 57, lines 1 to 17, subsection (2) deleted and the following substituted:

“(2) The Compliance Committee may conduct by appointing as an investigator a member of the staff of the Authority or another person the Committee considers to be suitably qualified to conduct, an investigation under this section if it has reasonable grounds for believing that a contractor is not providing a service in accordance with the terms of the contractor’s contract.”.

70. In page 57, lines 34 to 42, subsection (5) deleted and the following substituted:

“(5) Where an investigator, having conducted an investigation under *subsection (2)*, forms a view that a contractor is not providing the service referred to in that subsection in accordance with the terms of the contractor’s contract, then he or she shall notify the finding to the contractor and afford that contractor an opportunity to make submissions in accordance with any rules made under *subsection (8)* at a hearing before the Compliance Committee in respect of the matter under investigation.”.

71. In page 58, subsection (7)(a), lines 2 and 3, all words from and including “*subsection*” in line 2 down to and including “both” in line 3 deleted and the following substituted:

“*subsection (2)* in accordance with the terms of the contractor’s contract”.

72. In page 58, between lines 10 and 11, the following subsection inserted:

“(9) In this section “investigator” means a person appointed as such under *subsection (2)*.”.

SECTION 51

73. In page 58, subsection (1)(b), lines 25 to 27, all words from and including “or”, where it secondly occurs in line 25 down to and including “be,” in line 27 deleted and “and the nature of that failure” substituted.

[SECTION 52]

SECTION 52

- 74.** In page 59, line 22, “failure” deleted and “serious or repeated failure” substituted.
- 75.** In page 59, line 26, “55(2)” deleted and “55(3)” substituted.

SECTION 53

- 76.** In page 59, subsection (1), line 38, “, 106(3) or (4)” deleted and “or 106(3) or 127(6)#” substituted.

[# This is a reference to the subsection inserted by amendment No.224.]

- 77.** In page 59, subsection (2), line 40, after “particular”, “apparent” inserted.
- 78.** In page 60, subsection (5), line 14, “a breach” deleted and “an apparent breach” substituted.
- 79.** In page 60, subsection (5), line 26, “they are” deleted and “the Committee is” substituted.

SECTION 55

- 80.** In page 62, subsection (1), line 32, “54(3)(i)” deleted and “54(5)” substituted.

SECTION 56

- 81.** In page 63, line 36, “comply with an” deleted and “co-operate with the” substituted.
- 82.** In page 64, paragraph (g), line 4, after “programme”, “material” inserted.
- 83.** In page 64, paragraph (i), lines 9 and 10, “a programme’s content” deleted and “the programme material” substituted.
- 84.** In page 64, paragraph (o), line 28, “has” deleted and “had” substituted.
- 85.** In page 64, paragraph (r), line 38, “Authority or another person” deleted and “Court or Authority” substituted.
- 86.** In page 64, paragraph (s) line 40, “comply” deleted and “co-operate” substituted.

SECTION 57

- 87.** In page 65, subsection (3), line 41, “investigations officer” deleted and the following substituted:

“investigator under *Chapter 1* or investigating officer under *Chapter 2*, as the case may be”.

SECTION 61

- 88.** In page 68, subsection (1), line 32 deleted and the following substituted:

“(1) In this section “network provider” means a person providing or operating an electronic communications network which is used for the distribution, transmission or retransmission of broadcasting services to the public.

[SECTION 61]

(2) During the continuance of any national emergency, the”.

- 89.** In page 68, subsection (2), line 38, “power” deleted and “the power” substituted.
- 90.** In page 68, subsection (2), line 39, “to” deleted and “and network providers to” substituted.
- 91.** In page 69, subsection (4), line 11, to delete “Government, and the” and substitute “Government. The”.
- 92.** In page 69, between lines 12 and 13, the following subsection inserted:

“(5) At the request of the Minister, the Authority shall direct a network provider, in a manner to be specified by the Authority, to carry broadcast announcements for and on behalf of any Minister of the Government, in the event of a major emergency, in connection with the functions of that Minister of the Government. The network provider shall comply with the direction.”.

- 93.** In page 69, subsection (5), line 13, “*subsection (4)*” deleted and “*subsection (5) or (6)*” substituted.
- 94.** In page 69, subsection (5), line 14, to delete “contractor” and “contractor or network provider” substituted.

SECTION 62

- 95.** In page 69, line 19, “*section 179(2)*” deleted and “*section 180(3)*” substituted.
- 96.** In page 69, line 20, “5 years” deleted and “12 months” substituted.

SECTION 64

- 97.** In page 69, paragraph (a), line 37, after “of” “, and accountable to,” inserted.
- 98.** In page 69, paragraph (b)(i) line 41, after “of”, “, and seeking to provide a social benefit to,” inserted.

SECTION 65

- 99.** In page 70, subsection (5), line 30, “will” deleted and “shall” substituted.

SECTION 67

- 100.** In page 74, subsection (4)(i), lines 1 and 2, “sound broadcasting contracts” deleted and “a sound broadcasting contract” substituted.
- 101.** In page 74, subsection (4)(i), line 2, “*section 65(9)*” deleted and “*section 65 (8)*” substituted.
- 102.** In page 74, subsection (6)(c), line 16, “to” deleted and “of” substituted.
- 103.** In page 74, subsection (9), line 32, “7 years” deleted and “10 years” substituted.

[SECTION 68]

SECTION 68

104. In page 75, line 1, “applicant” deleted and “application” substituted.

SECTION 70

105. In page 78, subsection (5), line 3, “Commission” deleted and “BCI” substituted.

SECTION 71

106. In page 78, subsection (2)(b), lines 20 and 21, “other than the Internet, but” deleted.

107. In page 78, subsection (2)(b), line 23, after “network”, “, an internet protocol television network” inserted.

108. In page 78, subsection (4), line 33, “other” deleted.

SECTION 72

109. In page 79, subsection (1), line 26, “community” deleted and “community or community of interest” substituted.

110. In page 79, subsection (1), line 29, “under *section 77(2)*” deleted and “referred to in *section 77(1)*” substituted.

111. In page 79, subsection (2)(a), line 36, after “of”, “, and accountable to,” inserted.

112. In page 79, subsection (2)(b)(i) line 40, after “of”, “, and seeking to provide a social benefit to,” inserted.

113. In page 80, subsection (3), line 1, “77(6)” deleted and “77(7)” substituted.

114. In page 80, subsection (6), line 17, “community” deleted and “community or community of interest” substituted.

115. In page 80, subsection (7), line 38, “*subsection (6)*” deleted and “*subsection (7)*” substituted.

SECTION 74

116. In page 82, subsection (9), line 7, “a contractor” deleted and “the contractor” substituted.

SECTION 76

117. In page 82, subsection (2), line 41, “(a)” deleted.

118. In page 82, subsection (4), line 50, “*subsection (3)*” deleted and “*subsection (1)*” substituted.

119. In page 83, subsection (4), line 2, “community” deleted and “community or community of interest” substituted.

120. In page 83, subsection (7), line 9, “*subsection (3)*” deleted and “*subsection (1)*” substituted.

[SECTION 77]

SECTION 77

121. In page 83, lines 37 to 40, paragraph (e) deleted.

122. In page 83, subsection (2), line 47, “*subsections (4)*” deleted and “*subsections (3), (4)*” substituted.

123. In page 83, after line 49, the following subsection inserted:

“(3) In the case where the appropriate network is a digital system, the appropriate network provider shall ensure the re-transmission, by or through his or her appropriate network, of the Houses of the Oireachtas Channel and the Irish Film Channel.”.

124. In page 84, subsection (3), line 3, “service” deleted and “television service” substituted.

125. In page 84, subsection (6), line 23, “*subsection (4)*” deleted and “*subsection (3), (4)*” substituted.

126. In page 84, subsection (7), lines 28 and 29, “the appropriate network,” deleted and the following substituted:

“specified appropriate networks (whether analogue or digital) maintained by the appropriate network provider,”.

127. In page 84, subsection (7), line 31, “community” deleted and “community or community of interest” substituted.

128. In page 84, subsection (8), line 36, “(6)” and “(7)” substituted.

129. In page 84, subsection (9), line 39, to delete “(6)” deleted and “(7)” substituted.

130. In page 84, between lines 43 and 44, the following subsections inserted:

“(10) Without prejudice to the requirements imposed under *subsection (4)*, RTÉ, TG4 and the television service programme contractor shall ensure that their must-offer services are at all times offered for re-transmission (subject to agreement as to fair, reasonable and non-discriminatory terms of use) by means of any appropriate network that is available for reception in an intelligible form by members of the public in the whole of or in part of the State.

(11) RTÉ, TG4 and the television service programme contractor shall ensure that their must-offer services are at all times offered for broadcast or re-transmission (subject to agreement as to fair, reasonable and non-discriminatory terms of use) by means of every satellite television service.

(12) Arrangements entered into under *subsection (11)* shall not result in an additional charge on any subscriber to a satellite television service by reason of the making available to that subscriber of any must-offer service by way of the satellite television service.

[SECTION 77]

(13) Subject to the requirements of any contract made under *section 74* any arrangement entered into under *subsection (11)* shall ensure that the electronic programme guide by which members of the public access the satellite television service shall prioritise the positioning of the must-offer service for the purposes of that satellite television service and for the purposes of any other satellite television service which also utilises the same electronic programme guide for the purposes of making a satellite television service available for reception in an intelligible form by members of the public in the whole of or in part of the State.”.

131. In page 85, lines 5 and 6, subsection (12) deleted and the following substituted:

“(12) In this section—

“must-offer service” means a free-to-air television service provided for the time being by RTE, TG4 and the free-to-air service provided under *section 70* by the television service programme contractor;

“re-transmission” means near-simultaneous, unaltered and unabridged transmission;

“satellite television service” means a service which consists in or involves the distribution or transmission of television broadcasting services from a satellite, such services then offered to the public with the intention that such services be used by a significant number of the persons in the whole or part of the State by whom the broadcasts are received in an intelligible form as their principal means of receiving television programmes.”.

SECTION 81

132. In page 85, lines 33 to 41 and in page 86, lines 1 to 2, subsection (1) deleted and the following substituted:

“81.—(1) The number of members of the board of a corporation shall be 12 in number, of which—

- (a) 6 of them shall be appointed by the Government on the nomination of the Minister,
- (b) subject to *subsection (2)*, 4 of them shall be appointed by the Government on the nomination of the Minister,
- (c) one shall be appointed by the Government following an election in accordance with *section 83*, and
- (d) one shall be the director general of the corporation.

(2) Where an appointment is to be made by the Government under *subsection (1)* (b) or under that paragraph arising from a vacancy referred to in *section 84(12)*—

- (a) the Minister shall inform the Joint Oireachtas Committee of the proposed appointment,

[SECTION 81]

- (b) the Minister in respect of an appointment under *subsection (1)(a)* shall provide a statement to the Joint Oireachtas Committee indicating the relevant experience and expertise of the persons or person nominated by the Minister for appointment or appointed by the Government on the nomination of the Minister, and such other matters as the Minister considers relevant,
- (c) the Joint Oireachtas Committee shall within the period of 90 days of being so informed, advise the Minister of the names of the persons or name of the person it proposes that the Minister should nominate under *subsection (1)(b)* giving reasons, such as relevant experience and expertise, in relation to the proposed named persons or person,
- (d) the Minister shall have regard to the advice and may accept the proposed named persons or some of them or the named person or decide to nominate as he or she sees fit other persons or another person, and
- (e) inform the Joint Oireachtas Committee of his or her decision.”.

133. In page 86, subsection (3), line 6, “*subsection (1)(b)* and *section 84(12)*” deleted and “*subsection (2)*” substituted.

134. In page 86, lines 24 to 30, subsections (7) and (8) deleted.

SECTION 82

135. In page 87, subsection (2), line 7, after “of” “the board of” inserted.

SECTION 83

136. In page 88, subsection (12), line 38 “expressly” deleted.

SECTION 84

137. In page 89, subsection (3), line 30, after “of” “the board of” inserted.

138. In page 88, subsection (4), line 37, after “Oireachtas”, “and published in the *Iris Oifigiúil*” inserted.

139. In page 89, subsection (5), line 38, after “of”, “the board of” inserted.

140. In page 89, subsection (5), line 39, after “of”, “the board of” inserted.

141. In page 90, subsection (8), line 12, after “of”, “the board of” inserted.

142. In page 90, subsection (10), line 33, after “of”, “the board of” inserted.

143. In page 90, subsection (10), line 34, after “Minister”, “under *section 81(1)(a)*” inserted.

144. In page 90, subsection (10), line 36, after “of”, “the board of” inserted.

145. In page 90, subsection (10), line 38, after “of”, “the board of” inserted.

146. In page 90, subsection (10), line 41, after “of”, “the board of” inserted.

147. In page 91, subsection (12), line 3, after “of”, “the board of” inserted.

[SECTION 84]

- 148.** In page 91, subsection (12), line 6, after “of”, “the board of” inserted.
- 149.** In page 91, subsection (12), line 9, after “of”, “the board of” inserted.
- 150.** In page 91, subsection (12), line 12, after “of”, “the board of” inserted.

SECTION 86

- 151.** In page 91, subsection (1)(b), line 40, “in” deleted.
- 152.** In page 92, subsection (2)(b), line 5, “in” deleted.
- 153.** In page 92, subsection (2), line 15, “in” deleted.
- 154.** In page 92, subsection (4), line 23, “and” deleted and “or” substituted.
- 155.** In page 92, subsection (4), line 24, after “of”, “the board of” inserted.
- 156.** In page 92, subsection (5), line 29, after “of”, “the board of” substituted.

SECTION 88

- 157.** In page 93, subsection (1), line 12, “A board” deleted and “The board” substituted.
- 158.** In page 93, subsection (2), line 15, “a board” deleted and “the board” substituted.
- 159.** In page 93, subsection (3), line 23, “a board” deleted and “the board” substituted.
- 160.** In page 93, lines 32 and 33 deleted, and the following subsections substituted:
- “(6) The quorum for a meeting of the board of a corporation shall be 7.
- (7) Subject to any rule made under *subsection (5)* meetings of the board of a corporation shall be capable of being held by telephone or other suitable electronic means whereby all the members of the board can hear and be heard.
- (8) The board of a corporation may delegate any of its functions to a subcommittee of the board of the corporation subject to such conditions as the board of the corporation considers appropriate.”.

SECTION 93

- 161.** In page 97, subsection (2)(iv), line 30, “a corporation” deleted and “the corporation” substituted.

SECTION 94

- 162.** In page 98, subsection (1), line 12, “in any” deleted and “, in any contract, agreement or arrangement” substituted.

SECTION 96

- 163.** In page 99, lines 17 to 18, subsection (7) deleted.

[SECTION 96]

164. In page 100, subsection (16), line 9, “subsection” deleted and “section” substituted.

SECTION 97

165. In page 100, subsection (2), line 30, after “and”, “allowances for” inserted.

SECTION 99

166. In page 100, subsection (1), line 42, “3 years” deleted and “5 years” substituted.

167. In page 100, subsection (1), line 44, “a strategic development plan” deleted and “statement of strategy” substituted.

168. In page 100, subsection (2), line 45, “strategic development plan” deleted and “statement of strategy” substituted.

169. In page 101, subsection (2), line 1, “plan” deleted and “statement” substituted.

170. In page 101, subsection (3), lines 3 and 4, “strategic development plan” deleted and “statement of strategy” substituted.

SECTION 101

171. In page 101, subsection (1), line 28, “broadcasting charter (“broadcasting charter”)” deleted and “statement” substituted.

172. In page 101, lines 31 to 43 and in page 102, lines 1 to 3 subsection (2) deleted.

173. In page 102, subsection (3), line 4, “broadcasting charter” deleted and “public service statement” substituted.

174. In page 102, subsection (4), line 7, “broadcasting charter” deleted and “public service statement” substituted.

175. In page 102, subsection (4), line 9, “broadcasting charter” deleted and “public service statement” substituted.

176. In page 102, subsection (5), lines 11 and 12, all words from and including “broadcasting” in line 11 down to and including “charter” in line 12 deleted and the following substituted:

“public service statement, or any revision to it cause a copy of the public service statement”.

SECTION 102

177. In page 102, lines 13 to 17, subsection (1) deleted and substitute the following substituted :

“102.—(1) A corporation shall, by 31 January in each year, prepare an annual statement of performance commitments, in accordance with—

- (a) its objects,

[SECTION 102]

- (b) any extant statement of strategy prepared under *section 99*, and
- (c) any extant public service statement prepared under *section 101*,

and including the activities to which the corporation intends to commit in that financial year and associated performance indicators.

(2) An annual statement of performance commitments prepared by a corporation under *subsection (1)* shall address, *inter alia*—

- (a) original children’s programming, commissioned or produced by the corporation, relevant to the social and cultural needs and interests of children in Ireland and including animation and children’s programming in the Irish language, to be broadcast by the corporation,
- (b) Irish language programming to be broadcast by the corporation,
- (c) science and technology programming to be broadcast by the corporation,
- (d) magazines and books to be prepared, published and distributed in pursuance of the corporation’s public service objects, and
- (e) the recorded audio material to be compiled, published and distributed in pursuance of the corporation’s public service objects.”.

178. In page 102, subsection (2), line 19, “commitments” deleted and “performance commitments” substituted.

179. In page 102, subsection (2), line 20, “*subsection (1)*” deleted and “*subsection (1)*, or a summary thereof” substituted.

180. In page 102, lines 21 to 24, subsection (3) deleted and the following substituted:

“(3) As soon as may be after 31 January in each year a corporation shall submit to the Minister and the Authority an annual statement of performance commitments prepared under *subsection (1)* and, having consulted with the Minister and the Authority, shall publish the statement, or a summary of it, as soon as practicable, thereafter.

(4) A corporation shall by 31 March in each year submit to the Minister and the Authority a report on the fulfilment or otherwise of any commitments made in a statement prepared under *subsection (1)* for the previous financial year and an explanation of any difference arising.

(5) A corporation shall include within a report required under section 110 a report on the fulfilment or otherwise of any commitments published under *subsection (3)* for the period concerned and an explanation of any difference arising.”.

SECTION 106

181. In page 105, lines 8 to 22, subsections (3) and (4) deleted and the following substituted:

“(3) Subject to the requirements of *section 41(2)*, a corporation in providing a broadcasting service under this Part shall, subject to the approval of the Minister following consultation with the Authority, fix—

- (a) the total daily time for broadcasting advertisements, and

[SECTION 106]

(b) the maximum period given to advertisements in any hour.”.

- 182.** In page 105, subsection (5), line 24, “with the” deleted and “with a” substituted.
- 183.** In page 105, subsection (5), line 25, “a corporation” deleted and “the corporation” substituted.
- 184.** In page 105, subsection (5), line 27, “a corporation” deleted and “the corporation” substituted.
- 185.** In page 105, subsection (5), line 29, “a corporation” deleted and “the corporation” substituted.

SECTION 108

- 186.** In page 106, subsection (2), line 30, after “length”, “and on commercial terms” inserted.

SECTION 109

- 187.** In page 107, subsection (7)(a), lines 32 to 34, all words from and including “examination,” in line 32 down to and including “Minister” in line 34 deleted and “examination” substituted.
- 188.** In page 108, subsection (9)(b)(ii), line 7, “opportunity” deleted and “opportunities” substituted.

SECTION 110

- 189.** In page 108, subsection (2), line 38, “its” deleted and “the corporation’s” substituted.

SECTION 111

- 190.** In page 109, between lines 13 and 14, the following subsection inserted:

“(3) A corporation may enter into an arrangement with a public service broadcaster for the reuse with or without charge by the public service broadcaster, in pursuance of its public service objects and functions under this Part, of items contained in any archive or library maintained by the corporation, such charge not to exceed the estimated cost of the search and retrieval of such items.”.

- 191.** In page 109, subsection (5), lines 25 and 26, “the corporation” deleted and “a corporation” substituted.

SECTION 112

- 192.** In page 110, subsection (1), line 11, “18” deleted and “15” substituted.

- 193.** In page 110, between lines 32 and 33, the following subsection inserted:

“(6) In meeting the requirements of *subsection (5)(b)* the corporation shall address the arrangements it proposes to adopt in respect of the duration and exclusivity of the various categories of rights it intends to acquire.”.

- 194.** In page 110, subsection (7), line 35, “a code” deleted and “the code” substituted.

[SECTION 112]

195. In page 110, subsection (7), line 36, “a corporation” deleted and “the corporation” substituted.

196. In page 110, after line 46, the following subsection inserted:

“(11) RTÉ shall co-operate with independent producers in the marketing outside the State of sound broadcasting and television programmes commissioned by RTÉ from independent producers.”.

SECTION 113

197. In page 111, subsection (1), line 5, “Radio” deleted and “Raidió” substituted.

198. In page 111, subsection (2), line 7, “Radio” deleted and “Raidió” substituted.

199. In page 111, subsection (2), line 7, after “continues” , “in being” inserted.

SECTION 114

200. In page 112, subsection (4), line 42, “shall be” deleted and “are” substituted.

201. In page 113, subsection (4)(j), line 24 “companies” deleted and “organisations” substituted.

202. In page 113, subsection (4)(l), line 29, “provide” deleted and “to provide” substituted.

203. In page 113, subsection (4)(l), line 32, “and” where it secondly occurs. deleted.

204. In page 113, subsection (4)(m), line 33, “facilitate” deleted and “to facilitate” substituted.

205. In page 113, subsection (4)(q), line 42, “in” deleted and “of” substituted.

206. In page 114, lines 20 to 22, subsection (8) deleted.

207. In page 114, subsection (9), line 27, “television” deleted and “television and sound” substituted.

SECTION 116

208. In page 114, lines 44 to 48 deleted and the following substituted:

“(i) commissioning the making of independent television or sound broadcasting programmes,

(ii) procuring the formulation by persons of proposals for the commissioning by RTÉ of the making of the above programmes, and

(iii) assisting the completion of independent television or sound broadcasting programmes the making of which has not been commissioned by RTÉ.”.

209. In page 115, subsection (2)(c), line 7, “*subparagraph (ii)*” deleted and “*subparagraphs (ii) and (iii)*” substituted.

[SECTION 116]

210. In page 115, subsection (5), line 24, “these monies or a specified portion of it” deleted and “those monies or a specified portion of them” substituted.

211. In page 116, subsection (11), line 35, “television” deleted.

212. In page 117, lines 47 to 48 and in page 118, lines 1 to 11, deleted and the following substituted:

“(a) commissioning the making of independent sound broadcasting programmes,

(b) procuring the formulation by persons of proposals for the commissioning by RTÉ of the making of the above programmes, and

(c) assisting the completion of independent sound broadcasting programmes the making of which has not been commissioned by RTÉ,

and for no other purpose.

(16) A minimum of 95 per cent of the monies paid into the account shall be used by RTÉ for the purpose of—

(a) commissioning the making of independent television programmes,

(b) procuring the formulation by persons of proposals for the commissioning by RTÉ of the making of the above programmes, and

(c) assisting the completion of independent television broadcasting programmes the making of which has not been commissioned by RTÉ.”.

213. In page 118, line 19, column (1), “2008” deleted and “2009” substituted.

SECTION 117

214. In page 118, line 37, after “continues” , “in being” inserted.

SECTION 118

215. In page 121, subsection (4)(j), line 11, “companies” deleted and “organisations” substituted.

216. In page 121, subsection (4)(g), lines 27 and 28, all words from and including “to” in line 27 down to and including “service” in line 28 deleted and the following substituted:

“to establish and maintain an “electronic communications service” meaning a service”.

SECTION 120

217. In page 122, subsection (1), line 24, “and” deleted and “and at” substituted.

SECTION 122

218. In page 122, subsection (1), line 47, “and (2) and section 133(1) and” deleted and “or (2) or section 133(1) or” substituted.

[SECTION 123]

SECTION 123

219. In page 124, between lines 9 and 10, the following subsection inserted:

“(5) The Minister in making a determination under *subsection (4)* shall consider the multi-annual funding needs of TG4.”.

SECTION 124

220. In page 124, subsection (2), lines 20 and 21, all words from and including “commitments” in line 20 down to and including “commitments” in line 21 a deleted and the following substituted:

“commitments in respect of its public service objects stated in an annual statement of performance commitments”.

221. In page 125, subsection (9) between lines 8 and 9, the following inserted:

“(c) the multi-annual nature of public funding requirements.”.

222. In page 125, subsection (9)(e), line 13, “broadcasting charter” deleted and “public service statement” substituted.

SECTION 125

223. In page 126, subsection (4), line 23 “in” deleted and “of” substituted.

SECTION 127

224. In page 129, lines 17 to 20, subsection (4) deleted and the following substituted:

“(4) The Irish Film Channel may broadcast advertisements, broadcast acknowledgements of sponsorship, may fix charges and conditions for such broadcasts and, in fixing the charges, may provide for different circumstances and for additional special charges to be made in special cases.

(5) The Irish Film Channel may reject any advertisement presented for broadcast in whole or in part.

(6) The Irish Film Channel in providing a broadcasting service under this section shall, subject to the consent of the Minister and the Minister for Arts, Sport and Tourism following consultation with the Authority, fix—

(a) the total daily time for broadcasting advertisements, and

(b) the maximum period given to advertisements in any 3 hour period.

(7) Film and cinema works broadcast by the Irish Film Channel shall be broadcast uninterrupted by advertisements or acknowledgements of sponsorship.

(8) The Minister, if so requested by the Referendum Commission following consultation by the Referendum Commission with the Irish Film Channel and consideration of any proposals of the Irish Film Channel for broadcasts in connection with the referendum that it communicates to the Referendum Commission, shall direct the Irish Film Channel in writing to allocate broadcasting time to facilitate the Referendum Commission in performing its functions, and the Irish Film Channel shall comply with a direction under this subsection.

[SECTION 127]

(9) Charges and conditions referred to in *subsection (4)* may be fixed subject to variations benefiting advertisers who use the Irish language in their advertisements.

(10) A power under this section to fix charges and conditions shall be read as including a power to cancel or vary any charges or conditions fixed under such power and, where charges or conditions are cancelled, to fix other charges or conditions in lieu of those cancelled.

(11) In this section references to advertisements shall be read as including references to teleshopping material and to advertising matter in sponsored programmes, that is to say, programmes supplied for advertising purposes by or on behalf of an advertiser.”.

SECTION 128

225. In page 127, subsection (1), line 27, “broadcasting charter” deleted and “public service statement” substituted.

226. In page 127, subsection (2), line 33, “broadcasting charter” deleted and “public service statement” substituted.

SECTION 129

227. In page 128, lines 6 and 7 deleted and the following substituted:

“ “Acts of 1926 to 2009” means *Wireless Telegraphy Acts 1926 to 2009*;”.

228. In page 128, lines 12 and 13, “and (2) and *section 133(1)* and” deleted and “or (2), *section 133(1)* or” substituted.

229. In page 128, line 18, “(3) or (4)” deleted and “(3), (4) or (5)” substituted.

SECTION 130

230. In page 129, lines 4 to 25 deleted and the following substituted:

“(i) ensure that the national television multiplex referred to in *paragraph (a)* is established as a matter of priority, and—

(I) on such date as may be specified by the Minister by order, is operational and available free-to-air to approximately 90 per cent of the population, and

(II) by 31 December 2011, or such later date as may be specified by the Minister by order, is operational, available free-to-air and capable of providing coverage to the same extent as is, on the passing of this Act, available by free-to-air analogue means,

and

(ii) at the request of the Minister, report to the Minister on its progress in relation to the activities set out in *subparagraph (i)*.

(c) RTÉ shall take steps to promote the availability of equipment capable of receiving, identifying, decoding and displaying a national television multiplex operated by RTÉ under *section 114(1)(i)*.

[SECTION 130]

(d) Nothing in this subsection precludes RTÉ from making provision in a multiplex established, maintained and operated by RTÉ under *section 114(1)(i)* for the broadcasting by digital means of programme material and related and other data other than that broadcast as part of a service specified in *paragraph (a)*.

(e) Without prejudice to the requirements of this section, RTÉ may, with the consent of the Minister, the Minister having consulted with the Authority, in respect of the use of spare capacity on a multiplex established, maintained and operated by RTÉ under *section 114(1)(i)*, broadcast programme material in pursuance of its exploitation of commercial opportunities object.”.

231. In page 130, subsection (9), lines 19 and 20, “a provider of such television service” deleted and “the provider” substituted.

232. In page 130, subsection (15)(a), lines 52 and 53, “*subsection (1)(a)(iv)* or *subsection (13)*” deleted and “this section” substituted.

SECTION 131

233. In page 131, subsection (4), line 22, “Contract Awards Committee” deleted and “Authority” substituted.

SECTION 132

234. In page 131, subsection (3), line 49, “1988” deleted and “2009” substituted.

235. In page 132, subsection (4), line 8, “1988” deleted and “2009” substituted.

236. In page 132, subsection (5), line 17, “1988” deleted and “2009” substituted.

237. In page 132, subsection (5), line 19, to delete “and” and “or” substituted.

SECTION 133

238. In page 132, subsection (3), line 37, “1988” deleted and “2009” substituted.

239. In page 132, subsection (3), line 38, “sound broadcasting multiplex licences” deleted and “a sound broadcasting multiplex licence” substituted.

240. In page 132, subsection (4), line 45, “1988” deleted and “2009” substituted.

241. In page 133, subsection (5), line 1, “1988” deleted and “2009” substituted.

242. In page 133, subsection (6), line 12, “1988” deleted and “2009” substituted.

243. In page 133, subsection (6), line 14, “and” deleted and “or” substituted.

SECTION 134

244. In page 135, subsection (5), line 47, “multiplex contracts” deleted and “multiplexes” substituted.

245. In page 134, subsection (7)(d), lines 20 to 21, all words from and including “sound” in line 20 down to and including “contractors” in line 21 deleted and the following substituted:

[SECTION 134]

“sound broadcasting multiplex contractor or contractors”.

246. In page 134, subsection (8), line 24, “4 years” deleted and “6 years” substituted.

247. In page 134, subsection (9), line 26, “and” deleted and “or” substituted.

SECTION 136

248. In page 135, subsection (1), line 2, “and subject to *subsection (2)*,” deleted.

249. In page 135, subsection (1), lines 3 and 4, all words from and including “as” where it firstly occurs in line 3 down to and including “thereafter,” in line 4 deleted.

SECTION 138

250. In page 137, subsection (2)(b)(ii), line 33, “multiplexes” deleted and “multiplex or multiplexes” substituted.

251. In page 138, subsection (4)(b), line 23, “and” deleted and “or” substituted.

SECTION 139

252. In page 139, subsection (4), line 37, “after” deleted and “with effect from” substituted.

253. In page 140, between lines 15 and 16, the following new subsection inserted:

“(9) The Minister, for the purpose of ensuring a smooth and efficient interchange between the provision of analogue and digital television services in the context of analogue switch-off, shall have the power by himself or herself, or in conjunction with any other person, to—

- (a) promote cooperation and coordination between broadcasters, multiplex contractors and other interested parties in relation to analogue switch-off,
- (b) commission research on matters relating to analogue switch-off,
- (c) promote public awareness and the dissemination of coordinated information to the public in relation to analogue switch-off, and
- (d) operate, manage or sponsor, whether in whole or in part, measures, aimed at alleviating the effects of analogue switch-off on classes of communities or persons adversely affected.

(10) The Minister has all such incidental, supplemental, ancillary and consequential powers as are necessary or expedient for the purpose of the exercise by him or her of the above powers.

(11) The Minister may, after consultation with the Authority, the Communications Regulator, RTÉ and such other persons (if any) as he or she considers appropriate, by order—

- (a) confer on the Authority, the Communications Regulator or RTÉ such additional functions connected with preparation for analogue switch-off, as the Minister considers appropriate, subject to the conditions (if any) that may be specified in the order, and

[SECTION 139]

(b) make such provision as he or she considers necessary or expedient in relation to matters ancillary to or arising out of the conferral of those additional functions.

(12) (a) An order made under *subsection (11)* shall be laid before each House of the Oireachtas as soon as practicable after it is made.

(b) Either House of the Oireachtas may, within 21 sitting days after the day on which an order was laid before it in accordance with *paragraph (a)*, pass a resolution annulling the order.

(c) The annulment under *paragraph (b)* of an order takes effect immediately on the passing of the resolution concerned, but does not affect anything that was done under the order before the passing of the resolution.”.

254. In page 140, subsection (9), line 17, “after” deleted and “with effect from” substituted.

SECTION 140

255. In page 140, subsection (1), lines 24 to 28 deleted.

256. In page 140, subsection (1), between lines 37 and 38, the following inserted:

“ “reminder notification” has the meaning assigned to it in *section 149(1)*;”.

257. In page 140, subsection (1), lines 40 to 47 deleted.

258. In page 141, subsection (1), line 3, “broadcasts” deleted and “broadcasting services” substituted.

SECTION 142

259. In page 141, subsection (1), line 28, “below” deleted and “in *subsection (3)*” substituted.

SECTION 147

260. In page 144, subsection (1), lines 22 and 23, all words from and including “or,” in line 22 down to and including “person” in line 23 deleted and the following substituted:

“, or be served by registered post on, any person requiring that person”.

261. In page 144, subsection (2)(d), lines 39 and 40, “, and office of issue” deleted and “or other identifying information in respect” substituted.

262. In page 144, subsection (2)(e), line 42, after “set”, “or any apparatus used in conjunction with it” inserted.

SECTION 149

263. In page 145, subsection (1), line 22, “by post” deleted.

264. In page 145, subsection (2), lines 39 to 43, paragraph (c) deleted and the following substituted:

[SECTION 149]

“(c) a prosecution in respect of the alleged offence shall not be instituted during the period specified in the notice, and—

- (i) if the payment specified in the notice is made during that period, and
- (ii) evidence of having obtained a valid television licence in respect of a specified premises or place to which the notice relates is given,

no prosecution in respect of the alleged offence shall be instituted.”.

265. In page 145, subsection (3)(a), line 45, “a person” deleted and substitute “the person” substituted.

266. In page 146, subsection (3), lines 7 to 11, paragraph (c) deleted and the following substituted:

“(c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and—

- (i) if the payment specified is made during that period, and
- (ii) evidence of having obtained a valid television licence in respect of a specified premises or place to which the notice relates is given,

no prosecution in respect of the alleged offence shall be instituted.”.

267. In page 146, lines 12 to 18, subsection (4) deleted and the following substituted:

“(4) A fixed payment notice shall not be served on the person unless at least 2 reminder notifications have issued to the person and until—

- (a) a period of 28 days has elapsed since the issue of the first reminder notification, and
- (b) subsequent to that period, a period of 28 days has elapsed since the issue of the second reminder notification.”.

SECTION 150

268. In page 146, before section 150, the following new section inseted:

“Reminder notification - effective date of television licence and recovery of licence fees.

150.—(1) Where a person has received a first reminder notification and the person

- (a) has held a television licence, within the 12 month period previous to the reminder notification, in respect of keeping or possessing a television set at the premises or place to which the notification relates, any renewal of the licence takes effect from the expiration of the previous licence, unless the person can satisfy the issuing agent that he or she was not in possession of a television set at the premises or place during the material time after the expiration of the previous licence, or
- (b) has not held such a licence, any television licence obtained by the person to keep or have possession of a television set at the premises or place takes effect from the date of the notification or such later date as the issuing agent may decide.

[SECTION 150]

(2) Where a person having received a first reminder notification obtains a television licence after the notification, which is not in accordance with *subsection (1)*, to keep and have possession of a television set at the premises or place specified in the notification, the licence is deemed to have effect from the date of expiration of the previous licence or the first notification or such later date as the issuing agent may decide, as the case may be. The issuing agent may alter accordingly any licence so obtained.

(3) An issuing agent may recover, as a simple contract debt in any court of competent jurisdiction, any fee owing by a person in respect of a television licence which has not been obtained by the person to keep or possess a television set at a specified premises or place at any material time.”.

SECTION 151

269. In page 147, lines 18 to 23, subsection (1) deleted.

270. In page 147, after line 27, the following subsection inserted:

“(3) Section 2(1) of the Communications Regulation Act 2002 is amended by substituting for the definition of “television set” the following:

“ ‘television set’ has the meaning assigned to by *section 140* of the *Broadcasting Act 2009*;”.

SECTION 153

271. In page 148, subsection (1)(a), line 2, “films” deleted and “feature films, animation and drama” substituted.

272. In page 148, subsection (1)(b), line 15, after “adult”, “or media” inserted.

273. In page 148, subsection (1), between lines 15 and 16, to insert the following:

“(c) new television or sound broadcasting programmes which raise public awareness and understanding of global issues impacting on the State and countries other than the State,”.

274. In page 148, subsection (1)(c), lines 16 and 17, “and (b) in the Irish language, and” deleted and “, (b) and (c) in the Irish language,” substituted.

275. In page 148, subsection (1)(d), line 19, “State.” deleted and the following substituted:

“State, and

(e) such ancillary measures as are necessary to support schemes prepared under *paragraphs (a), (b), (c) or (d)*.”

276. In page 149, between lines 19 and 20, the following subsection inserted:

“(5) The Authority in preparing a scheme, may have regard to the developmental needs of community broadcasters.”.

SECTION 155

277. In page 150, subsection (2), line 40, “5 per cent” deleted and “7 per cent” substituted.

[SECTION 173]

SECTION 173

278. In page 160, subsection (2), line 7, after “continues”, “in being” inserted.

SECTION 174

279. In page 160, subsection (2), line 16, after “continues”, “in being” inserted.

SECTION 178

280. In page 161, subsection (3), line 47, “member” deleted and “member of the board of the corporation” substituted.

SECTION 179

281. In page 162, before section 179, the following new section inserted:

“Collective citations
— Wireless
Telegraphy Acts.

179.—(1) The Wireless Telegraphy Acts 1926 to 1988 and *sections 180(1) to (11) and (13) and section 181* may be cited together as the Wireless Telegraphy Acts 1926 to 2009.

(2) The Broadcasting (Offences) Acts 1968 and 1988, sections 9 to 16 of the Broadcasting Act 1990 and *section 179(12), (14) and (15)* may be cited together as the Broadcasting (Offences) Acts 1968 to 2009.”.

282. In page 162, lines 3 to 9 subsection (1) deleted.

283. In page 162, lines 11 to 18 deleted and the following substituted:

“(a) by substituting for the definition of “the appropriate authority” (inserted by Part 1 of Schedule 1 of the Act of 2007) the following:

“except as provided by section 9, ‘appropriate authority’—

(a) in relation to wireless telegraphy apparatus in ships and vessels associated with safety and security on board them and their operation (including the certificates of competency for the operation of apparatus for wireless telegraphy on ships and vessels), means the Minister for Transport, and

(b) in relation to any other matter, means the Commission;”,

(b) by deleting the definition of “broadcast matter”, and

(c) by inserting after the definition of “signalling station” the following:

“ ‘television set’ has the meaning assigned to it by *section 140* of the *Broadcasting Act 2009*.”.”.

284. In page 162, subsection (3), lines 22 to 41 deleted and the following substituted:

“(3) A person who keeps, has in his or her possession, installs, maintains, works or uses any apparatus (other than a television set) in contravention of this section commits an offence and is liable—

(a) on summary conviction, to a fine not exceeding €5,000, or

(b) on conviction on indictment, to a fine not exceeding €250,000.”.”.

[SECTION 179]

- 285.** In page 163, subsection (8), line 6, “12(1)(b)” deleted and “12(1)(f)” substituted.
- 286.** In page 163, subsection (8)(b), line 10, “pounds.” deleted and “pounds” substituted.
- 287.** In page 163, subsection (9), lines 11 to 14 deleted and the following substituted:
- “(9) Section 12 of the Act of 1926 is amended in subsection (1) (as amended by section 34(e) of the Broadcasting Authority Act 1960) by substituting “under the *Broadcasting Act 2009*” for “under Part II of this Act or under the Broadcasting Authority Act, 1960.”.
- 288.** In page 163, subsection (13), line 42, after “5,” “or” inserted.
- 289.** In page 164, subsection (14), lines 28 to 30 deleted and “not exceeding €5,000.” substituted.

SECTION 180

- 290.** In page 164, before section 180, the following new section inserted:

“Matters relating to wireless telegraphy. 180.—The Act of 1926 is amended by substituting for sections 5 to 9 the sections set out in Schedule 2.”.

- 291.** In page 164, before section 180, the following new section inserted:

“Amendment to definitions in Copyright and Related Rights Act 2000.

180.—(1) Section 2 of the Copyright and Related Rights Act 2000 is amended—

- (a) by substituting for the definition of “broadcast” the following:

“ ‘broadcast’ means a transmission by wireless means, including by terrestrial or satellite means, whether digital or analogue, for direct public reception or for presentation to members of the public of sounds, images or data or any combination of sounds, images or data, or the representations thereof, but does not include transmission by means of MMDS or digital terrestrial retransmission;”,

- (b) in the definition of “cable programme service” by substituting “including MMDS and digital terrestrial retransmission” for “including MMDS”,

- (c) by inserting after the definition of “database” the following:

“ ‘digital terrestrial retransmission’ means the reception and immediate retransmission on an encrypted basis without alteration by means of a multiplex of a broadcast or a cable programme initially transmitted from another Member State of the EEA;”,

and

- (d) by inserting after the definition of “MMDS” the following:

“ ‘multiplex’ has the meaning assigned to it in *section 129* of the *Broadcasting Act 2009*;”.

[SECTION 181]

SECTION 181

292. In page 165, line 22, “they” deleted and “RTÉ or TG4” substituted.

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293. In page 166, column 3, lines 4 to 9 deleted and the following substituted:

“Section 3A (inserted by section 17 of No. 37 of 1976) and Part II.”.

294. In page 166, column 3, line 21, “9(1), (2) and (4), 14” deleted and “9, 12 and 14” substituted.

295. In page 166, column 3, line 27, “16” deleted and “17” substituted.

296. In page 169, column 3, lines 34 and 35, “11, 18 and 19” deleted and “11 and 17 to 20” substituted.

SCHEDULE

297. In page 167, after line 7, the following inserted:

“Section 180

SCHEDULE 2

Grant of licences.

5.—(1) The appropriate authority may, subject to this Act and on payment of the prescribed fee (if any) grant to any person a licence to keep and have possession of apparatus for wireless telegraphy in any specified place in the State or to keep and have possession of apparatus for wireless telegraphy in any specified ship or other vessel or aircraft.

(2) Every licence granted under this section shall be in such form, continue in force for such period and be subject to such conditions and restrictions (including conditions as to suspension and revocation) as shall be prescribed in regard to it by regulations made by the appropriate authority under section 6.

(3) Where it appears appropriate to the appropriate authority, it may, in the interests of the efficient and orderly use of wireless telegraphy, limit the number of licences for any particular class or classes of apparatus for wireless telegraphy granted under this section.

(4) This section does not apply to television sets.

(5) For the purposes of this Act and any regulations under section 6, a vehicle is itself deemed to be a place separate and distinct from the premises in which the vehicle is ordinarily kept, and place and specified place shall in this Act and in any such regulations be read accordingly.

Regulations in regard to licences.

6.—(1) The appropriate authority may make regulations prescribing in relation to all licences granted by it under section 5 or any particular class or classes of such licences all or any of the matters following that is to say—

(a) the form of such licences,

(b) the period during which such licences continue in force,

(c) the manner in which, the terms on which, and the period or periods for which such licences may be renewed,

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- (d) the circumstances in which or the terms under which such licences are granted,
- (e) the circumstances and manner in which such licences may be suspended or revoked by that authority,
- (f) the terms and conditions to be observed by the holders of such licences and subject to which such licences are deemed to be granted,
- (g) the fees to be paid on the application, grant or renewal of such licences or classes of such licences, subject to such exceptions as the appropriate authority may prescribe, and the time and manner at and in which such fees are to be paid,
- (h) matters which such licences do not entitle or authorise the holder to do.

(2) Regulations made under this section may authorise and provide for the granting of a licence under section 5 subject to special terms, conditions, and restrictions to any person who satisfies the appropriate authority that the person requires the licence solely for the purpose of conducting experiments in wireless telegraphy.

(3) If it appears to be expedient to the appropriate authority to do so it may by instrument in writing recognise as valid a licence issued by another country or state in respect of a class or classes of apparatus for wireless telegraphy subject to such conditions or restrictions as to the use of such apparatus as that authority sees fit.

- (4) (a) Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made.
- (b) Either House of the Oireachtas may, within 21 sitting days after the day on which a regulation was laid before it in accordance with paragraph (a), pass a resolution annulling the regulation.
- (c) The annulment under paragraph (b) of a regulation takes effect immediately on the passing of the resolution concerned, but does not affect anything that was done under it before the passing of the resolution.

Obligation to furnish certain information.

7.—(1) The appropriate authority may, whenever it considers it appropriate to do so, serve on a person a special notice, accompanied by or including a form of declaration, requiring the person—

- (a) to state on the form of declaration such one or more of the matters specified in subsection (2) as is specified in the notice,
- (b) to complete and sign the declaration, and
- (c) to give or send the completed declaration by post to a specified officer of that authority.

The special notice is required to be in writing and to be sent by registered post.

(2) The matters which a person may be required under this section to state in a declaration are—

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- (a) whether he or she does or does not keep or has or has not in his or her possession any apparatus for wireless telegraphy (other than television sets),
- (b) if he or she keeps or has in his or her possession any such apparatus, the nature of such apparatus, the name and address of the person by whom such apparatus was sold, let, hired or otherwise supplied to him or her and the place at which he or she keeps or has the same,
- (c) whether he or she has or has not a licence granted under section 5 and then in force,
- (d) if he or she has such a licence, the number, date, and office of issue of such licence,
- (e) any matter which the Commission may require for the purpose of an order under section 5 of the Wireless Telegraphy Act 1972, and
- (f) any other matter relating to wireless telegraphy (other than television sets).

(3) Every person on whom a special notice is duly served under this section shall, within 14 days after service, duly and correctly complete in accordance with the notice and this section the form of declaration to the officer named in that behalf in the notice. If the person fails or neglects so to complete and give or send the declaration or makes in the declaration any statement which is to his or her knowledge false or misleading he or she commits an offence and is liable on summary conviction to a fine not exceeding €1,000.

(4) In a prosecution for an offence under subsection (3) in which it is shown that a specific notice has been sent by registered post, it shall be presumed, until the contrary is shown, that the person to whom the notice was sent has not complied with the requirements of that subsection.

Issue of search warrants.

8.—(1) A judge of the District Court may, upon the information on oath of an officer of the appropriate authority or of a member of the Garda Síochána that there is reasonable ground for believing that apparatus for wireless telegraphy is being kept or is being worked or used at any specified place, specified vehicle or in any specified ship or other vessel in contravention of the *Wireless Telegraphy Acts 1926 to 2009* or any regulation made or condition imposed under those Acts or the *Broadcasting (Offences) Acts 1968 to 2009*, issue to such officer or (with the consent of the appropriate authority) to such member of the Garda Síochána (as the case may be) a search warrant which shall be expressed and shall operate to authorise the officer of that authority or member of the Garda Síochána to whom the same is granted—

- (a) to enter, within one month from the date of issue of the warrant, on production of the warrant, if so requested, and if need be by force, the place, vehicle, ship or other vessel named in the information,
- (b) there to search for apparatus for wireless telegraphy and to examine all such apparatus or any such vehicle found there, and
- (c) to seize and take away all or any part of such apparatus which appears to such officer or member to be kept, worked or used in contravention of the *Wireless Telegraphy Acts 1926 to 2009* or any regulation made or condition imposed under those Acts or the *Broadcasting (Offences) Acts 1968 to 2009*.

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(2) A search warrant granted under this section shall operate to authorise any one or more of the following, namely, any member of the Garda Síochána or officer of the appropriate authority or other person authorised by the person to whom the warrant is granted to accompany and assist him or her in the exercise of the powers conferred on him or her by the warrant.

(3) An officer of the appropriate authority may retain anything seized under this section which he or she believes to be evidence of any offence or suspected offence under the *Wireless Telegraphy Acts 1926 to 2009* or the *Broadcasting (Offences) Acts 1968 to 2009*, for use as evidence in proceedings in relation to any such offence, for such period from the date of seizure as is reasonable, or, if proceedings are commenced in which the thing so seized is required for use in evidence, until the conclusion of the proceedings.

(4) The appropriate authority shall, as soon as may be after the conclusion of any proceedings, deliver any thing seized and retained under this section to the person who in its opinion is the owner of it, unless—

(a) the appropriate authority decides it is unable to ascertain who owns the thing, in which case the Police (Property) Act 1897 applies to the thing so seized and retained, or

(b) such delivery would result in a contravention of the *Wireless Telegraphy Acts 1926 to 2009* or the *Broadcasting (Offences) Acts 1968 to 2009*, in which case the Police (Property) Act 1897 applies to the thing so seized and retained as though the appropriate authority could not ascertain the owner of the thing.

(5) (a) A person who by act or omission impedes or obstructs an officer of the appropriate authority or a member of the Garda Síochána or any other person in the exercise of a power conferred by a search warrant issued under this section commits an offence.

(b) A person who with intent to impede or obstruct an officer of the appropriate authority or a member of the Garda Síochána or any other person in the exercise of a power conferred by a search warrant issued under this section places, erects, installs, keeps or maintains any thing commits an offence.

(c) A person guilty of an offence under this subsection is liable on summary conviction to a fine not exceeding €2,000.

Regulations as to wireless telegraphy in ships and aircraft.

9.—(1) The appropriate authority may make regulations in respect of all or any of the following matters, that is to say:

(a) requiring operators and other persons engaged in the working of apparatus for wireless telegraphy on—

(i) all or any ships registered under the Mercantile Marine Act 1955, or

(ii) all or any classes or class of ships or vessels navigating or operating in the State,

to hold certificates of competency;

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- (b) requiring operators and other persons engaged in the working of apparatus for wireless telegraphy on all or any classes of aircraft owned or leased by persons in the State to hold certificates of competency;
 - (c) the grant and renewal of such certificates of competency, the terms and conditions on which such certificates will be granted, and the qualifications to be possessed and the examinations and other tests to be undergone by persons to whom such certificates are granted;
 - (d) the duration, revocation and suspension of certificates of competency granted under the regulations;
 - (e) the validity, duration, renewal, revocation, and suspension of certificates of competency granted otherwise than under the regulations whether by the appropriate authority or any other person;
 - (f) the fees to be charged for or in connection with the granting and renewal of any such certificates of competence as aforesaid and the collection and disposal of such fees;
 - (g) regulating and controlling the times and manner of working apparatus for wireless telegraphy in ships registered under the Mercantile Marine Act 1955 and, while they are in the State, ships registered outside the State and unregistered ships and other vessels;
 - (h) regulating and controlling the times and manner of working apparatus for wireless telegraphy in aircraft owned or leased by persons in the State and, while they are in or over the State or the territorial waters thereof, aircraft not so owned;
 - (i) giving effect to and securing compliance with the provisions (save in so far as the same relate to ships to which this section and regulations made under it do not apply) of any international convention in relation to wireless telegraphy entered into by the Government.
- (2) Regulations made under this section may—
- (a) provide that a breach or contravention of any specified such regulation shall be an offence, and
 - (b) in relation to convictions on indictment for such an offence, provide that the court by whom the defendant is convicted may order the interest of the defendant, whether as owner or otherwise, in all or any apparatus in respect of or by means of which the court is satisfied a breach or contravention of a specified such regulation was committed to be forfeited.
- (3) (a) Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made.
- (b) Either House of the Oireachtas may, within 21 sitting days after the day on which a regulation was laid before it in accordance with paragraph (a), pass a resolution annulling the regulation.
 - (c) The annulment under paragraph (b) of a regulation takes effect immediately on the passing of the resolution concerned, but does not affect anything that was done under it before the passing of the resolution.

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(4) A person guilty of an offence by reason of a breach or contravention of a regulation specified, by virtue of paragraph (a) of *subsection (2)*, in regulations made under this section is liable—

- (a) on summary conviction, to a fine not exceeding €5,000, or
- (b) on conviction on indictment, to a fine not exceeding €250,000.

(5) For the purposes of this section—

- (a) a ship is deemed to be navigating or operating in the State if it is usually kept in Irish waters (within the meaning of section 2 of the Maritime Safety Act 2005), and
- (b) an aircraft is deemed to be owned or leased by a person in the State if but only if it is owned or leased by a person who—
 - (i) in the case of an individual, has his or her place of residence in the State, or
 - (ii) in the case of an association, company (within the meaning of the Companies Acts) or other body (whether corporate or unincorporate) has its principal office in the State.

(6) In this section, ‘appropriate authority’—

- (a) in relation to apparatus for wireless telegraphy on ships or other vessels, means the Minister for Transport, and
- (b) in relation to apparatus for wireless telegraphy on aircraft, means the Commission.”.”.