

Number 20 of 1988.

No. 20/1988: RADIO AND TELEVISION ACT, 1988.

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Interpretation.

PART II

THE INDEPENDENT RADIO AND TELEVISION COMMISSION

3. Establishment of Commission.
4. Functions of Commission.

PART III

SOUND BROADCASTING SERVICES

5. Applications for sound broadcasting contracts.
6. Determination of applications for award of sound broadcasting contracts.
7. Variation of licence for sound broadcasting transmitter.
8. Contracts for temporary or institutional sound broadcasting services.
9. Duty of sound broadcasting contractor in relation to programmes.
10. Advertisements.
11. Complaints by public.
12. Application of orders, under section 31 (1) of Broadcasting Authority Act, 1960.
13. Investigation into affairs of sound broadcasting contractor.
14. Terms and conditions, of sound broadcasting contract.
15. Derogation from requirements relating to news and current affairs programming.
16. Co-operation with Radio Telefís Éireann in use of broadcasting installation.

PART IV

TELEVISION PROGRAMME SERVICE

17. Applications for television programme service contract.
18. Application of certain provisions of Part III to television programme service contract.

PART V

MISCELLANEOUS

19. Amendment of Wireless Telegraphy Act, 1926.
20. Amounts to be paid to Commission by Minister.
21. Expenses.

SCHEDULE

ACTS REFERRED TO

Broadcasting Authority Act, 1960¹⁹⁶⁰, No. 10
Broadcasting Authority (Amendment) Act, 1976¹⁹⁷⁶, No. 37
Broadcasting Authority Acts, 1960 to 1979
Companies Act, 1963¹⁹⁶³, No. 33
Wireless Telegraphy Act, 1926¹⁹²⁶, No. 45
Wireless Telegraphy Acts, 1926 to 1972
Performers Protection Act., 1968¹⁹⁶⁸, No. 19
European Assembly Elections Act, 1977¹⁹⁷⁷, No. 30
European Assembly Elections Act, 1984¹⁹⁸⁴, No. 6

Number 20 of 1988

RADIO AND TELEVISION ACT, 1988

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF AN INDEPENDENT RADIO AND TELEVISION COMMISSION HAVING THE FUNCTION OF ENTERING INTO CONTRACTS FOR THE PROVISION OF SOUND BROADCASTING SERVICES AND A TELEVISION PROGRAMME SERVICE ADDITIONAL TO SERVICES PROVIDED BY RADIO TELEFÍS ÉIREANN; TO AMEND THE WIRELESS TELEGRAPHY ACT, 1926; AND TO PROVIDE FOR OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID.

[3rd July, 1988]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

PRELIMINARY

Short Title

1.—This Act may be cited as the Radio and Television Act, 1988.

Interpretation

2.—(1) In this Act—

"apparatus for wireless telegraphy" has the meaning specified in the Wireless Telegraphy Act, 1926;

"broadcast" means the transmission, relaying or distribution by wireless telegraphy of communications, sounds, signs, visual images or signals, intended for direct reception by the general public whether such communications, sounds, signs, visual images or signals are actually received or not;

"the Commission" means the Commission established by Part II;

"company" has the meaning assigned to it by the Companies Act, 1963;

"the Minister" means the Minister for Communications;

"sound broadcasting service" means a broadcasting service which transmits, relays or distributes, by wireless telegraphy, communications, sounds, signs or signals intended for direct reception by the general public whether such communications, sounds, signs or signals are actually received or not;

"television programme service" means a service which comprises a compilation of audio-visual programme material of any description and is transmitted or relayed by means of wireless telegraphy directly or indirectly for reception by the general public.

(2) A reference in this Act to a section is a reference to a section of this Act, unless it is indicated that a reference to some other enactment is intended.

(3) A reference in this Act to a subsection or to a paragraph or to a subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that a reference to some other provision is intended.

(4) A reference in this Act to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment (including this Act).

PART II

THE INDEPENDENT RADIO AND TELEVISION COMMISSION

Establishment of Commission.

3.— (1) There shall stand established, on such day as the Minister by order appoints, a body to be known as An Coimisiún Um Raidió agus Telefís Neamhspleách-The Independent Radio and Television Commission.

(2) The Commission shall be a body corporate with perpetual succession and power to sue and be sued in its corporate name and to acquire, hold and dispose of land.

(3) The provisions of the Schedule to this Act shall apply to the Commission.

Functions of Commission.

4.— (1) It shall be the function of the Commission to arrange, in accordance with the provisions of this Act, for the provision of sound broadcasting services (including a national sound broadcasting service) and one television programme service additional to any broadcasting services provided by Radio Telefís Éireann pursuant to the Broadcasting Authority Acts, 1960 to 1979.

(2) (a) The Commission shall enter into contracts (in this Act referred to as "sound broadcasting contracts") with persons (in this Act referred to as "sound broadcasting contractors") under which the sound broadcasting contractors have, subject to the provisions of this Act, the right and duty to establish, maintain and operate sound broadcasting transmitters serving the areas specified in the sound broadcasting contract and to provide, as the sound broadcasting contract may specify, a sound broadcasting service.

(b) The Commission shall also enter into a contract (in this Act referred to as a "television programme service contract") with a person or persons (in this Act referred to as a "television programme service contractor") who shall have the right and duty to provide a television programme service.

(3) The Commission shall not authorise a sound broadcasting contractor to operate a sound broadcasting transmitter and provide a sound broadcasting service pursuant to a sound broadcasting contract unless and until the Minister has issued pursuant to this subsection to the Commission a licence in respect of the sound broadcasting transmitter to which the contract relates.

(4) Any licence issued under subsection (3) shall be valid only for such period of time as a sound broadcasting contract between the Commission and a sound broadcasting contractor is extant.

(5) Every sound broadcasting contract shall contain a condition requiring the sound broadcasting contractor concerned to establish, maintain and operate the sound broadcasting transmitter concerned in accordance with such terms and conditions as the Minister sees fit to attach to the licence referred to in subsection (3), (including any variations made thereto in accordance with the provisions of section 7 of this Act) and so long as the terms and conditions are complied with, the contract shall have the effect of conveying the benefits of the licence to the sound broadcasting contractor and any such transmitter so established, maintained and operated shall be deemed to be licensed for the purposes of section 3 of the Wireless Telegraphy Act, 1926.

(6) Every licence issued by the Minister to the Commission under subsection (3) shall be open to inspection by members of the public at the Commission's registered offices.

(7) It shall be the duty of the Commission to ensure that every sound broadcasting contractor and the television programme service contractor complies with the provisions of this Act.

(8) The Commission shall have all such powers as are necessary for or incidental to the performance of its functions under this Act including, in particular, the power to require sound broadcasting contractors and the television programme service contractor to enter into financial bonds with the Commission and to direct a contractor to record any or all of the programmes broadcast by him in the case of a sound broadcasting contract or provided by him in the case of a television programme service contract and to retain such recordings for a period of 30 days after the recording is made and to submit the recordings to the Commission, if the Commission so requires.

(9) The making of a recording by a contractor pursuant to a direction of the Commission pursuant to subsection (8) and the use by the Commission of any such recording exclusively for the purposes of its functions under this Act shall not constitute—

- (a) an infringement of the copyright in any work, sound recording or cinematograph film, or
- (b) an offence under any of the provisions of the Performers Protection Act, 1968.

(10) Without prejudice to the generality of subsection (8), the Commission shall have power—

- (a) to make such contracts, agreements and arrangements and do all such other things as are incidental or conducive to the objects of the Commission;
- (b) to acquire and make use of copyrights, patents, licences, privileges and concessions;
- (c) to compile, prepare, publish and distribute, with or without charge, such magazines, books and other printed material and such aural and visual material as may seem to the Commission to be incidental or conducive to its objectives;
- (d) subject to the consent of the Minister, to arrange for the provision of services with or without charge for and on behalf of any Minister of the Government by a sound broadcasting contractor or the television programme service contractor;
- (e) to require sound broadcasting contractors and the television programme service contractor to co-operate with the Garda Síochána, local

authorities and health boards in the dissemination of relevant information to the public in the event of major emergencies.

(11) During the continuance of any emergency declared under section 10 of the Wireless Telegraphy Act, 1926, the Minister may suspend any licence issued under subsection (3) and, while any such suspension continues, the Minister may. operate any service which was provided under the suspended licence or require such service to be operated as he directs.

PART III

SOUND BROADCASTING SERVICES

Applications for sound broadcasting contracts.

5.— (1) In order to secure the orderly development of sound broadcasting services and, having regard to the availability of radio frequencies for sound broadcasting, to allow for the establishment of a diversity of services in an area catering for a wide range of tastes including those of minority interests, the Commission shall as soon as may be after it has been established and may thereafter from time to time by notice published in at least one national newspaper, invite expressions of interest in the securing of contracts for sound broadcasting services under this Act. Such expressions of interest shall indicate in general terms the type of service that would be provided and shall not be regarded as an application for a sound broadcasting contract.

(2) The Commission shall make a report of its findings under subsection (1) to the Minister who, having considered the report and after consultation with the Commission, shall specify the area (which area may consist of the whole or any part of the State) in relation to which applications for a sound broadcasting contract are to be invited and the Commission shall comply with such direction.

(3) The Minister, having regard to the report furnished by the Commission under subsection (2) and having regard to the availability of radio frequencies for sound broadcasting, may limit the number of areas which he may specify under that subsection.

(4) The Commission shall, subject to the provisions of this Act, invite applications for a sound broadcasting contract for the provision of a sound broadcasting service in each area specified by the Minister under subsection (2) and, subject to the provisions of this Act, may enter into such contracts.

(5) Where the Commission invites applications for a sound broadcasting contract for the provision of a sound broadcasting service it shall by public notice specify the area in relation to which the sound broadcasting service is to be provided pursuant to such contract and by such notice shall invite persons interested in providing such a service to apply for such contract.

(6) Having regard to the findings of the Commission under subsection (1) the Commission may, in considering applications for the award of a sound broadcasting contract, place greater emphasis on one or more of the criteria specified in section 6 (2) of this Act and whenever it is the Commission's intention to so do it shall specify such intention to each person who has indicated his intention of being an applicant for a contract.

- (7) Every notice under subsection (5) shall—
- (a) be published in at least one national newspaper, and where appropriate, in one local newspaper circulating in the area to be served;
 - (b) specify the procedure to be followed in order to make an application;
 - (c) specify any other matters which appear to the Commission to be necessary or relevant.

6 Determination of applications for award of sound broadcasting contracts.

6.— (1) The Commission shall, in accordance with the provisions of this Act, consider every application for a sound broadcasting contract received by it pursuant to a notice under section 5 (5) for the purpose of determining the most suitable applicant, if any, to be awarded a sound broadcasting contract.

(2) In the consideration of applications received by it and in determining the most suitable applicant to be awarded a sound broadcasting contract, the Commission shall have regard to—

- (a) the character of the applicant or, if the applicant is a body corporate, the character of the body and its directors, manager, secretary or other similar officer and its members and the persons entitled to the beneficial ownership of its shares;
- (b) the adequacy of the expertise and experience and of the financial resources that will be available to each applicant and the extent to which the application accords with good economic principles;
- (c) the quality, range and type of the programmes proposed to be provided by each applicant or, if there is only one applicant, by that applicant;
- (d) the quantity, quality, range and type of programmes in the Irish language and the extent of programmes relating to Irish culture proposed to be provided;
- (e) the extent to which the applicant will create within the proposed sound broadcasting service new opportunities for Irish talent in music, drama and entertainment;
- (f) the desirability of having a diversity of services in the area specified in the notice under section 5 (5) catering for a wide range of tastes including those of minority interests;
- (g) the desirability of allowing any person, or group of persons, to have control of, or substantial interests in, an undue number of sound broadcasting services in respect of which a sound broadcasting contract has been awarded under this Act;
- (h) the desirability of allowing any person, or group of persons, to have control of, or substantial interests in, an undue amount of the communications media in the area specified in the notice under section 5 (5);
- (i) the extent to which the service proposed—
 - (i) serves recognisably local communities and is supported by the various interests in the Community, or
 - (ii) serves communities of interest, and
- (j) any other matters which the Commission considers to be necessary to secure the orderly development of sound broadcasting services.

(3) In considering the suitability of any applicant for the award of a sound broadcasting contract to provide a sound broadcasting service in respect of an area which includes a Gaeltacht area, the Commission shall have particular regard to the preservation as a spoken language of the Irish language.

7 Variation of licence for sound broadcasting transmitter.

7.— (1) The Minister may, if it seems necessary to him so to do for any of the reasons specified in subsection (2), vary any term or condition of a licence issued pursuant to section 4 (3).

(2) The Minister may vary any term or condition of a licence issued pursuant to section 4 (3)-

- (a) if it appears to him to be necessary so to do in the interest of good radio frequency management;
- (b) for the purpose of giving effect to any international agreement to which the State is a party and which has been ratified by the State and which relates to sound broadcasting;
- (c) if it appears to him to be in the public interest so to do;
- (d) if it appears to him to be necessary for the safety or security of persons or property so to do;
- (e) on request from the Commission after consultation with any affected sound broadcasting contractor;
- (f) on request from the Commission on behalf of a sound broadcasting contractor.

(3) (a) If the Minister, for any reason specified in paragraph (a), (b) or (c) of subsection (2) proposes to vary, pursuant to this section, any term or condition of a licence issued pursuant to section 4 (3), he shall, by notice in writing, inform the Commission of his intention and of the reasons therefor and the Commission shall, within 7 days of receiving that notification, give notice to the sound broadcasting contractor accordingly.

(b) The sound broadcasting contractor shall have the right to make representations in writing to the Commission in respect of the Minister's intentions, within 21 days after the service of the notice by the Commission.

(c) The Commission shall transmit any such representations to the Minister within a further 7 days and the Minister, having considered the representations, may make such decision thereon as seems to him to be appropriate.

(4) (a) If, having considered the representations (if any) which have been notified to him by the Commission by or on behalf of a sound broadcasting contractor, the Minister decides to vary any term or condition of a licence, he shall, by notice in writing, inform the Commission of his decision.

(b) The Commission shall, within 7 days of receipt of the Minister's decision by notice in writing inform the sound broadcasting contractor of that decision. (c) On and from the day following service on the contractor of notice of the Minister's decision the licence shall have effect subject to the variation thereof by that decision.

(5) A notice under subsection (3) or (4) may be served on the Commission and by the Commission on a sound broadcasting contractor, by leaving it at, or sending it by prepaid post to, the Commission's address and the sound broadcasting contractor's last known address respectively or if, in the latter case, the sound broadcasting contractor is a company, by leaving it at, or sending it by prepaid post to, the registered office of the company.

8 Contracts for temporary or institutional sound broadcasting services.

8.— (1) The Commission may, in any period of twelve months, enter into a sound broadcasting contract with an applicant therefor for the provision in such area as may be specified in the contract of a sound broadcasting service for a period of not more than fourteen days (whether consecutive days or otherwise) in that period of twelve months.

(2) The Commission may enter into a sound broadcasting contract with an applicant therefor for the provision of a low-power sound broadcasting service which is intended to serve only such single educational institution, hospital, or other similar establishment as may be specified in the contract.

(3) Section 9 (1) (c) shall not apply to a contract awarded for the provision of a sound broadcasting service under this section.

(4) Sections 5 and 6 shall not apply in the case of a contract applied for, or awarded, for the provision of a sound broadcasting service under this section.

9 Duty of sound broadcasting contractor in relation to programmes.

9.— (1) Every sound broadcasting contractor shall ensure that—

(a) all news broadcast by him is reported and presented in an objective and impartial manner and without any expression of his own views;

(b) the broadcast treatment of current affairs, including matters which are either of public controversy or the subject of current public debate, is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of his own views: Provided that should it prove impracticable in relation to a single broadcast to apply this paragraph, two or more related broadcasts may be considered as a whole, if the broadcasts are transmitted within a reasonable period of each other;

(c) a minimum of—

(i) not less than 20 per cent. of the broadcasting time, and

(ii) if the sound broadcasting service is provided for more than 12 hours in any one day, two hours of broadcasting time between 07.00 hours and 19.00 hours, is devoted to the broadcasting of news and current affairs programmes; provided a derogation from this provision is not authorised by the Commission under section 15;

(d) anything which may reasonably be regarded as offending against good taste or decency, or as being likely to promote, or incite to, crime or as tending to undermine the authority of the State, is not broadcast by him;

(e) in programmes broadcast by him, and in the means employed to make such programmes, the privacy of any individual is not unreasonably encroached upon.

(2) Nothing in subsection (1) (a) or (1) (b) shall prevent a sound broadcasting contractor from transmitting political party broadcasts: Provided that a sound broadcasting contractor shall not, in the allocation of time for such broadcasts, give an unfair preference to any political party.

(3) The Commission shall draw up, and may, from time to time as occasion requires, revise a code governing standards and practice (hereinafter referred to as a code of practice) in relation to any matter specified in subsections (1) and (2).

(4) Whenever the Commission draws up pursuant to subsection (3) a code of practice relating to the matter in question every sound broadcasting contractor shall comply with such code and any revision thereof.

10 Advertisements.

10. (1) Programmes broadcast in a sound broadcasting service provided pursuant to any sound broadcasting contract may include advertisements inserted therein.
- (2) The Commission shall draw up, from time to time as it thinks proper, a code governing standards and practice in advertising and every sound broadcasting contractor shall comply with the code in respect of advertisements broadcast by it.
- (3) No advertisement shall be broadcast which is directed towards any religious or political end or which has any relation to an industrial dispute.
- (4) The total daily times for broadcasting advertisements in a sound broadcasting service provided pursuant to a sound broadcasting contract shall not exceed a maximum of 15 per cent. of the total daily broadcasting time and the maximum time to be given to advertisements in any hour shall not exceed a maximum of ten minutes.
- (5) In this section, references to advertisements shall be construed as including references to advertising matter contained in sponsored programmes, that is to say, in programmes supplied for advertising purposes by or on behalf of an advertiser.
- (6) It shall be the duty of the Commission to ensure that sound broadcasting contractors comply with the requirements of subsections (2), (3) and (4).

11 Complaints by public.

- 11.— (1) A sound broadcasting contractor shall give due and adequate consideration to any complaint, which is not of a frivolous or vexatious nature, made by a member of the public in respect of the sound broadcasting service provided by the contractor and shall, whilst his contract is in force, keep due and proper records of all such complaints and of any reply made thereto or of any action taken on foot thereof.
- (2) A sound broadcasting contractor shall, if requested by the Commission make available for inspection by the Commission all records kept by him pursuant to subsection (1).
- (3) The Minister may, by regulations, direct that complaints made by members of the public in respect of a sound broadcasting service provided under this Act be investigated by the Broadcasting Complaints Commission established by section 18A (inserted by the Broadcasting Authority (Amendment) Act, 1976) of the Broadcasting Authority Act, 1960.
- (4) For the purposes of an investigation by the Broadcasting Complaints Commission pursuant to regulations under this section—
- (a) the Broadcasting Authority Act, 1960, shall have effect subject to the following modifications—
- (i) a reference in sections 18B and 18C (inserted by the Broadcasting Authority (Amendment) Act, 1976), other than in section 18B (1) (e), to the Authority shall be construed as a reference to the sound broadcasting contractor concerned;
- (ii) a reference in section 18B (7) (as so inserted) to the Authority shall be construed as referring to the sound broadcasting contractor concerned and to the Commission established by this Act;
- (iii) a reference in section 18B (as so inserted) to section 18 (1), section 18 (1A) or section 18 (1B) of the Broadcasting Authority Act, 1960, shall be construed as a reference to section 9;

- (iv) a reference in section 18B (as so inserted) to a complaint that an advertisement contravened a code drawn up by Radio Telefís Éireann governing standards in broadcast advertising, or prohibiting either certain methods of advertising in broadcasting or a broadcast in particular circumstances of advertising, shall be construed as a reference to section 10 (2);
 - (v) a reference in section 18B (as so inserted) to section 31 (1) of the Broadcasting Authority Act, 1960, shall be construed as a reference to section 12.
- (b) Section 6 of the Broadcasting Authority (Amendment) Act, 1976, shall have effect as if a reference therein to the Authority were a reference to the sound broadcasting contractor concerned.

12 Application of orders under section 31 (1) of Broadcasting Authority Act, 1960.

12.—Every direction given to Radio Telefís Éireann pursuant to section 31 (1) of the Broadcasting Authority Act, 1960, by the Minister which is in force on the commencement of this Act or which is given by him after such commencement, shall, for so long as the direction remains in force, apply to a sound broadcasting service provided pursuant to a sound broadcasting contract and shall be complied with by a sound broadcasting contractor as if the direction were given to him, and the said section 31 (1) shall be construed and have effect accordingly.

13 Investigation into affairs of sound broadcasting contractor.

- 13.— (1) The Commission may, for any of the reasons in subsection (2) conduct an investigation into the operational, programming, financial, technical or other affairs of a sound broadcasting contractor and the sound broadcasting contractor concerned shall co-operate in any such investigation.
- (2) The Commission may conduct, or appoint any other person to conduct, an investigation under this section—
- (a) if it has reasonable grounds for believing that the sound broadcasting contractor is not providing a sound broadcasting service in accordance with the terms of his contract; or
 - (b) if, because of the manner in which the sound broadcasting service is being operated—
 - (i) there is interference with the working of any apparatus for wireless telegraphy in respect of which a licence has been granted under this or any other Act and is in force, or with any apparatus for wireless telegraphy which is lawfully maintained and worked without such a licence, or
 - (ii) any apparatus for wireless telegraphy referred to in subparagraph (i) is thereby injuriously affected.
- (3) All expenses reasonably incurred in relation to an investigation under this section conducted by the Commission or by any person appointed under subsection (2) shall be borne by the sound broadcasting contractor concerned.
- (4) (a) If the Commission considers it necessary or desirable so to do, it may require a sound broadcasting contractor to carry out a market research survey (such market research survey to be carried out by a person approved of by the Commission).
- (b) A market research survey carried out pursuant to paragraph (a) shall be of such scope as appears to the Commission to be reasonable, having regard to the extent and nature of the sound broadcasting service being provided by the sound broadcasting contractor.
- (c) A market research survey carried out pursuant to a requirement of the Commission under this subsection shall be a survey of the audience reaction to

the broadcasting service provided by the sound broadcasting contractor concerned or any particular aspect thereof.

(d) A sound broadcasting contractor shall furnish the Commission with the results of any market research survey carried out in compliance with a requirement of the Commission under this subsection.

14 Terms and conditions of sound broadcasting contract.

14.— (1) Every sound broadcasting contract may contain such terms and conditions as the Commission thinks appropriate and specifies in the contract.

(2) Without prejudice to the generality of subsection (1), the Commission may specify in a sound broadcasting contract all or any of the following terms or conditions:

- (a) the period during which the contract shall continue in force;
- (b) whether the contract may be renewed and, if so, the manner in which, the terms on which, and the period for which, the contract may be so renewed;
- (c) a condition prohibiting the assignment of the contract or of any interest therein;
- (d) if the sound broadcasting contractor be a company, a condition prohibiting any alteration in the Memorandum or Articles of Association of the company or in so much of that Memorandum or of those Articles as may be specified or prohibiting any material change in the ownership of the company;
- (e) a condition requiring the sound broadcasting contractor to provide the quality, range and type of programmes which he proposed to offer in his application for the award of the contract.

(3) If a sound broadcasting contract does not contain a condition of the type specified in paragraph (c) or (d) of subsection (2), the following provisions shall have effect:

- (a) a sound broadcasting contract, or any interest in a sound broadcasting contract, shall not be assignable, nor shall any alteration be made in the Memorandum or Articles of Association of any company which is a sound broadcasting contractor, nor shall there be any material change in the ownership of such a company, without the previous consent in writing of the Commission, and the Commission may, if it considers it reasonable so to do, refuse such consent;
- (b) in considering whether to grant its consent to an assignment of a sound broadcasting contract, a change in the Memorandum or Articles of Association of a company which is a sound broadcasting contractor, or a material change in the ownership of such a company, the Commission shall have regard to the criteria specified in section 6 (2) and, where applicable, section 6 (3).

(4) Every sound broadcasting contract shall—

- (a) provide that the Commission may, at its discretion, suspend or terminate the contract—
 - (i) if any false or misleading information was given to the Commission by or on behalf of the sound broadcasting contractor prior to the making of the contract,
 - (ii) if the sound broadcasting contractor has, in the opinion of the Commission, committed serious or repeated breaches of his obligations under the sound broadcasting contract or under this Act;
- (b) provide that a sound broadcasting contractor shall pay to the Commission the fees, shares of profits or royalties specified therein;
- (c) provide that the sound broadcasting contractor shall provide such information (including copies of his accounts) which the Commission considers it requires in order to enable it carry out its functions under this Act.

(5) Every sound broadcasting contract shall be open to inspection by members of the public at the Commission's registered office and the Commission shall, on request made by any person and on payment of such sum (if any) as the Commission may reasonably require, furnish to that person a copy of that contract.

15 Derogation from requirements relating to news and current affairs programming.

15.—Notwithstanding section 9 (1) (c), the Commission may authorise a derogation from the requirement in question in whole or in part in the case of sound broadcasting services which it contracts to provide in any area to meet specific special interests, provided it is satisfied that there is a reasonable plurality of sources of news and current affairs programming available to the public in question from other sound broadcasting services.

16 Co-operation with Radio Telefís Éireann in use of broadcasting installation.

16.— (1) The Minister may, at the request of the Commission and after consultation with Radio Telefís Éireann, require the latter to co-operate with sound broadcasting contractors in the use of any mast, tower, site or other installation or facility needed in connection with the provision of transmission facilities for sound broadcasting services to be established under this Act.

(2) A sound broadcasting contractor shall make to Radio Telefís Éireann such periodical or other payments in respect of any facilities provided in pursuance of subsection (1) as the Minister, after consultation with Radio Telefís Éireann and the Commission, directs.

PART IV

TELEVISION PROGRAMME SERVICE

17 Applications for television programme service contract.

17.—The Commission shall, on being directed to do so by the Minister, invite applications for a television programme service contract for the provision of a television programme service which shall be distributed using channel capacity on wired broadcast relay systems and television programme retransmission systems licensed under regulations made under section 6 of the Wireless Telegraphy Act, 1926.

18 Application of certain provisions of Part III to television programme service contract.

18.— (1) The provisions of Part III of this Act, other than sections 7, 8 and 15, relating to the powers, duties, functions, obligations and responsibilities of the Minister, the Commission and sound broadcasting contractors respectively, shall apply with respect to the television programme service contract entered into by the Commission and the television programme service provided under this Part, and any reference in Part III of this Act to a sound broadcasting contractor shall for the purposes of this Part be construed as a reference to the television programme service contractor.

(2) Notwithstanding the generality of subsection (1), section 9 (1) (c) shall not apply in the case of the television programme service provided under the television programme service contract.

(3) The Commission shall ensure that the television programme service provided under this Act shall in its programming—

(a) be responsive to the interests and concerns of the whole community, be mindful of the need for understanding and peace within the whole island of Ireland, ensure that the programmes reflect the varied elements which make up the culture of the people of the whole island of Ireland, and have special regard for the elements which distinguish that culture and in particular for the Irish language;

- (b) uphold the democratic values enshrined in the Constitution, especially those relating to rightful liberty of expression;
 - (c) have regard to the need for the formation of public awareness and understanding of the values and traditions of countries other than the State, including in particular those of such countries which are members of the European Community; and
 - (d) includes a reasonable proportion of news and current affairs programmes;
- and the television programme service contractor shall comply with any requirements of the Commission in respect of such matters.

(4) For the purpose of ensuring compliance with subsection (3) the Commission shall ensure that a reasonable proportion of the programme service—

- (a) is produced in the State or in another Member State of the European Communities, and
- (b) is devoted to original programme material produced therein by persons other than the contractor, his subsidiary, his parent or existing broadcasting organisations.

PART V

MISCELLANEOUS

19 Amendment of Wireless Telegraphy Act, 1926.

19.—Section 2 of the Wireless Telegraphy Act, 1926, is hereby amended by the substitution for the definition of "broadcast" therein of the following definition:

"'broadcast' means the transmission, relaying or distributing by wireless telegraphy of communications, sounds, signs, visual images or signals, intended for direct reception by the general public whether such communications, sounds, signs, visual images or signals are actually received or not;"

20 Amounts to be paid to Commission by Minister.

20.— (1) The Minister, with the approval of the Minister for Finance, may in respect of each of the two consecutive financial years beginning with that in which the establishment day occurs, pay to the Commission such amount as he considers reasonable in respect of its initial expenses.

(2) The total of the amounts paid pursuant to subsection (1) shall not exceed £500,000.

(3) The amounts paid to the Commission pursuant to subsection (1) in respect of a year to which that subsection relates shall be deducted from the receipts in that year in respect of wired broadcast relay licence fees and section 8 (b) of the Broadcasting Authority (Amendment) Act, 1976, which provides for payment of money out of such receipts to Radio Telefís Éireann, shall be modified accordingly.

21 Expenses.

21.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

SCHEDULE

Membership of Commission.

1. (1) The members of the Commission shall be appointed by the Government and shall be not less than seven nor more than ten in number.
 - (2) The period of office of a member of the Commission shall be such period, not exceeding five years, as the Government may determine when appointing him.
 - (3) A member of the Commission whose term of office expires by effluxion of time shall be eligible for reappointment.
 - (4) A member of the Commission may resign his membership by letter sent to the Government and the resignation shall take effect on and from the date of receipt of the letter.
 - (5) A person shall not be appointed to be a member of the Commission unless he has had experience of, or shown capacity in, media or commercial affairs, radio communications engineering, trade union affairs, administration or social, cultural, educational or community activities.

Chairman of Commission.

2. (1) The Government shall from time to time as occasion requires appoint a member of the Commission to be chairman thereof.
 - (2) The chairman of the Commission shall, unless he sooner dies, resigns the office of chairman or ceases to be chairman under subparagraph (4) of this paragraph, hold office until the expiration of his period of office as a member of the Commission.
 - (3) The chairman of the Commission may at any time resign his office as chairman by letter sent to the Government and the resignation shall take effect at the commencement of the meeting of the Commission held next after the Commission has been informed by the Government of the resignation.
 - (4) Where the chairman of the Commission ceases during his term of office as chairman to be a member of the Commission, he shall also then cease to be chairman of the Commission.

Removal of member of Commission.

3. A member of the Commission may be removed from office by the Government for stated reasons, if, but only if, resolutions are passed by both Houses of the Oireachtas calling for his removal.

Remuneration and terms of office of members of Commission.

4. (1) A member of the Commission shall be paid out of funds at the disposal of the Commission—
 - (a) such remuneration as may be fixed from time to time by the Minister, with the consent of the Minister for Finance, and
 - (b) such amounts in respect of expenses as the Commission, with the approval of the Minister given with the consent of the Minister for Finance, considers reasonable.
- (2) Subject to the provisions of this Act, a member of the Commission shall hold office upon and subject to such terms and conditions as may, from time to time, be determined by the Minister, with the consent of the Minister for Finance.

(3) The Minister shall cause a statement in writing specifying the terms of office and the remuneration of the members of the Commission to be laid before both Houses of the Oireachtas.

Disclosure by member of Commission of interest in proposed contract.

5. A member of the Commission who has—
- (a) any interest in any company or concern with which the Commission proposes to make any contract, or
 - (b) any interest in any contract which the Commission proposes to make,
- shall disclose to the Commission the fact of the interest and the nature thereof, and shall take no part in any deliberation or decision of the Commission relating to the contract, and the disclosure shall be recorded in the minutes of the Commission.

Seal of Commission.

6. (1) The Commission shall as soon as may be after its establishment provide itself with a seal.
- (2) The seal of the Commission shall be authenticated by the signature of the chairman of the Commission or some other member thereof authorised by the Commission to act in that behalf and the signature of an officer of the Commission authorised by the Commission to act in that behalf.
- (3) Judicial notice shall be taken of the seal of the Commission, and every document purporting to be an instrument made by the Commission and to be sealed with the seal (purporting to be authenticated in accordance with this paragraph) of the Commission shall be received in evidence and be deemed to be such instrument without further proof unless the contrary is shown.

Meetings and procedure of Commission.

7. (1) The Commission shall hold such and so many meetings as may be necessary for the due fulfilment of its functions.
- (2) The Minister may fix the date, time and place of the first meeting of the Commission.
- (3) Subject to the provisions of this Act, the Commission shall regulate its procedure by rules made under this subparagraph.
- (4) At a meeting of the Commission—
- (a) the chairman of the Commission shall, if present, be chairman of the meeting,
 - (b) if and so long as the chairman is not present or the office of chairman is vacant, the members of the Commission who are present shall choose one of their number to be chairman of the meeting.
- (5) Every question at a meeting of the Commission shall be determined by a majority of the votes of the members present and voting on the question, and in the case of an equal division of votes, the chairman of the meeting shall have a second or casting vote.
- (6) The Commission may act notwithstanding one or more vacancies among its members.
- (7) The quorum for a meeting of the Commission shall be fixed by rules made under subparagraph (3) of this paragraph, but—
- (a) it shall not be less than five, and

(b) until it is so fixed, it shall be five.

Officers and servants of commission.

8. (1) The Commission shall, with the approval of the Minister, from time to time appoint a person to be the chief executive officer of the Commission, and such person shall be known, and in this Act is referred to, as the chief executive.

(2) The Commission may, as well as appointing the chief executive, appoint so many other persons to be members of the staff of the Commission, and to serve in such grades, as the Commission, with the approval of the Minister, given with the consent of the Minister for Finance, from time to time determines.

(3) The Commission may exercise all or any of its functions through or by such members of its staff as may be duly authorised in that behalf by the Commission.

Conditions of service, remuneration etc., of officers and servants of Commission.

9. (1) A member of the staff of the Commission, (including the chief executive) shall hold his office or employment on such terms and conditions as the Commission, with the approval of the Minister given with the consent of the Minister for Finance, may from time to time determine.

(2) There shall be paid by the Commission to its staff (including the chief executive) such remuneration and allowances as the Commission, with the approval of the Minister given with the consent of the Minister for Finance, thinks fit.

(3) In determining the remuneration or allowances to be paid to its staff or the terms or conditions subject to which such staff hold or are to hold their employment, the Commission shall comply with any directive with regard to such remuneration, allowances, terms and conditions which the Minister, with the consent of the Minister for Finance, may give from time to time, to the Commission.

(4) The Commission may at any time remove any member of the staff of the Commission from being a member of its staff.

(5) Notwithstanding the foregoing provisions of this paragraph, the chief executive shall not be removed without the consent of the Minister.

Membership of either House of Oireachtas or of European Parliament.

10. (1) Where a member of the Commission is—

- (a) nominated as a member of Seanad Éireann, or
- (b) nominated as a candidate for election to either House of the Oireachtas or to the European Parliament, or
- (c) regarded pursuant to section 15 (inserted by the Act of 1984) of the Act of 1977, as having been elected to the European Parliament to fill a vacancy, he shall thereupon cease to be a member of the Commission.

(2) Where a person employed by the Commission is—

- (a) nominated as a member of Seanad Éireann, or
- (b) nominated as a candidate for election to either House of the Oireachtas or to the European Parliament, or
- (c) regarded pursuant to section 15 (inserted by the Act of 1984) of the Act of 1977 as having been elected to the European Parliament to fill a vacancy, he shall stand seconded from employment by the Commission and shall not be paid by, or entitled to receive from, the Commission any remuneration or allowances—

- (i) in case he is nominated as a member of Seanad Éireann or is regarded as having been elected to the European Parliament, in respect of the period commencing on such nomination or election, as the case may be, and ending when he ceases to be a member of Seanad Éireann or the European Parliament,
- (ii) in case he is nominated as a candidate for election to either House of the Oireachtas or to the European Parliament, in respect of the period commencing on his nomination and ending when he ceases to be a member of such House or the European Parliament, as the case may be, or withdraws his candidature or fails to be elected, as may be appropriate.

(3) A person who is, for the time being, entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament shall, while he is so entitled or is such a member, be disqualified from becoming a member of the Commission or from employment in any capacity by the Commission.

(4) Without prejudice to the generality of subparagraph (2) of this paragraph, that subparagraph shall be construed as prohibiting the reckoning of a period mentioned in clause (i) or (ii) of that subparagraph, as service with the Commission for the purpose of any pensions, gratuities or other allowances payable on retirement or death.

(5) In this paragraph—

"the Act of 1977" means the European Assembly Elections Act, 1977;

"the Act of 1984" means the European Assembly Elections Act, 1984.

Superannuation of staff of Commission.

11. (1) The Commission may prepare a scheme or schemes for the granting of pensions, gratuities and other allowances on retirement or death to or in respect of such members of the staff of the Commission (including the chief executive) as it may think fit and the Commission shall submit any such scheme to the Minister for his approval.
- (2) Every such scheme shall fix the time and conditions of retirement for all persons to or in respect of whom pensions, gratuities or allowances on retirement or death are payable under the scheme, and different times and conditions may be fixed in relation to different classes of persons.
- (3) The Commission may at any time prepare and submit to the Minister a scheme amending a scheme previously submitted and approved of under this paragraph.
- (4) A scheme submitted to the Minister under this paragraph shall provide that if any dispute arises as to the claim of any person to, or the amount of, any pension, gratuity or other allowance payable in pursuance of a scheme under this paragraph, such dispute shall be submitted to the Minister who shall refer it to the Minister for Finance, whose decision shall be final.
- (5) A scheme submitted to the Minister under this paragraph shall, if approved of by the Minister with the consent of the Minister for Finance, be carried out by the Commission in accordance with its terms.
- (6) No pension, gratuity or other allowance shall be granted by the Commission on the resignation, retirement or death of a member of the staff of the Commission (including the chief executive) otherwise than in accordance with a scheme under this paragraph.
- (7) Every scheme submitted and approved of under this paragraph shall be laid before each House of the Oireachtas as soon as may be after it is approved of and if either

House, within the next twenty one days on which that House has sat after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

General duty of Commission with respect to its revenue.

12. (1) It shall be the duty of the Commission so to conduct its affairs as to secure that its revenue becomes as soon as possible, and thereafter continues to be, at least sufficient to meet its expenses.

(2) Any excess of the revenue of the Commission over its expenditure shall be applied in such manner as the Minister, after consultation with the Commission and with the approval of the Minister for Finance, may direct, and any such direction may require that all, or part as may be specified in the direction, of such excess be paid into the Central Fund.

Temporary borrowings.

13. The Commission may, with the approval of the Minister, given with the consent of the Minister for Finance, borrow temporarily by arrangement with bankers such sums (including sums in a currency other than the currency of the State) as it may require for the purpose of providing for current expenditure.

Borrowing powers for general purposes.

14. (1) The Commission may, with the approval of the Minister, given with the consent of the Minister for Finance, borrow money (including money in a currency other than the currency of the State) by means of the creation of stock or other forms of security to be issued, transferred, dealt with and redeemed in such manner and on such terms and conditions as the Commission, with the consents aforesaid, may determine.

(2) The borrowing powers conferred by this paragraph on the Commission may, subject to the consent of the Minister, be exercised for any purpose arising in the performance of its functions, but there may be attached to a consent to borrow the condition that the moneys shall be utilised only for the purpose of a programme of capital works approved by the Minister.

(3) The terms upon which moneys are borrowed under this paragraph may include provisions charging the moneys and interest thereon upon all property of whatsoever kind for the time being vested in the Commission or upon any particular property of the Commission and provisions establishing the priority of such charges amongst themselves.

Investment by Commission.

15. The Commission may invest any of its funds in any manner in which a trustee is empowered by law to invest trust funds.

Accounts and audits.

16. (1) The Commission shall keep in such form as shall be approved by the Minister, after consultation with the Minister for Finance, all proper and usual accounts of all moneys received or expended by it, including an income and expenditure account and a balance sheet.

(2) Accounts kept in pursuance of this paragraph shall be submitted annually by the Commission to the Comptroller and Auditor General for audit at such time as the Minister, with the concurrence of the Minister for Finance, directs.

(3) Immediately after every audit under this paragraph of its accounts, the Commission shall send to the Minister—

- (a) a copy of the income and expenditure account and balance sheet as certified by the Comptroller and Auditor General,
- (b) a copy of the report of the Comptroller and Auditor General, and
- (c) copies of such of the accounts submitted for audit as the Minister may appoint as accounts of which copies are to be furnished to him.

(4) As soon as may be after he has received the documents required to be furnished to him under this paragraph, the Minister shall cause such documents to be laid before each House of the Oireachtas.

Annual report and information to Minister.

17. (1) The Commission shall, in each year, at such date as the Minister may direct, make a report to the Minister of its proceedings under this Act during the preceding year, and the Minister shall cause copies of the Report to be laid before each House of the Oireachtas.

(2) Whenever the Minister so directs, the annual report shall also include information on such particular aspects of the Commission's proceedings under this Act as the Minister may specify.

(3) The Commission shall submit to the Minister such information regarding the performance of its functions as the Minister may from time to time require.