

General Scheme for the  
Broadcasting Bill 2006

5 September 2006

Broadcasting Bill 2006

Arrangement of Sections

**PART 1 – Preliminary and general matters**

Head

- 1 Short title and commencement
- 2 General interpretation
- 3 Repeals
- 4 Expenses

**PART II – Broadcasting Authority of Ireland**

- 5 Establishment of the Authority
- 6 Body corporate and seal
- 7 Appointment of Authority, Contract Awards Committee and Compliance Committee
- 8 Criteria for membership
- 9 Terms and removal
- 10 Chairperson of the Authority, Contract Award Committee or Compliance Committee
- 11 Exclusions from membership of the Authority, Contract Awards Committee or Compliance Committee
- 12 Meetings of the Authority, Contract Awards Committee or Compliance Committee
- 13 Chief executive officer of the Authority
- 14 Staff
- 15 Superannuation
- 16 Advisory committees
- 17 Consultants and advisers
- 18 Accountability of the chief executive officer to Committee of Public Accounts
- 19 Accountability of the chief executive officer to other Oireachtas Committees
- 20 Code of conduct
- 21 Declaration of interests
- 22 Disclosure by members of the Authority, Contract Awards Committee and Compliance Committee of certain interests
- 23 Disclosure by staff of the Authority of certain interests
- 24 Objectives of the Authority
- 25 Functions of the Authority
- 26 Functions of the Contract Awards Committee
- 27 Functions of the Compliance Committee

**PART II – Broadcasting Authority of Ireland (continued)**

Head

- 28 Independence
- 29 Powers
- 30 Duties of the Authority and its statutory committees
- 31 Emergencies
- 32 Policy directives
- 33 Borrowings
- 34 Strategy statements
- 35 Investments
- 36 Levy, charges and fees
- 37 Exchequer funding
- 38 Accounts and audits
- 39 Reports to the Minister

**PART III - Duties, codes and rules**

- 40 Duties of broadcasters
- 41 Codes and Rules
- 42 Co-operation with other parties

**PART IV - Redress**

- 43 Code of practice – complaints handling
- 44 Complaints process
- 45 Right of reply

**PART V - Enforcement of regulatory decisions**

- 46 Investigating officers
- 47 Investigation and decision making process
- 48 Financial sanctions
- 49 Financial sanction guidelines
- 50 Amendment of section 14(4)(a) of the Act of 1988 and section 55 of the Act of 2001

**PART VI - Television licence**

Head

- 51 Interpretation
- 52 Regulations designating an apparatus to be a television set
- 53 Restrictions on possession of a television set
- 54 Grant of television licences
- 55 Regulations in regard to television licences
- 56 Ministerial power to appoint an agent to act on his or her behalf
- 57 Statutory declaration
- 58 Issue of search warrants
- 59 Penalty for not having a television licence
- 60 Prosecution of offences
- 61 Amendment of section 1 of the Act of 1972
- 62 Amendment of section 9 of the Broadcasting and Wireless Telegraphy Act 1988
- 63 Amendment of section 4(1) of the Act of 2003

**PART VII - Contract award**

- 64 Restriction on the award of a sound broadcasting contract
- 65 Amendment of section 5 of the Act of 1988
- 66 Amendment of section 6(5) of the Act of 1988
- 67 Amendment of section 6(1) and (2) of the Act of 1988
- 68 Amendment of section 6(4) of the Act of 1988
- 69 Fast track procedure

**PART VIII - Public service broadcasters – common provisions**

- 70 Formation of the company
- 71 Vesting day
- 72 Name and capital formation
- 73 Membership of the company
- 74 Form of memorandum of association of the company
- 75 Supplementary services, variation in channels and “sub-contracting”
- 76 Duty of the company with respect to its revenue
- 77 Duty to maintain archives
- 78 Independence
- 79 Emergencies

**PART VIII - Public service broadcasters (continued)**

Head

- 80 Articles of association – approval of form
- 81 Chairperson and directors
- 82 Appointment of staff director
- 83 Exclusions from directorship
- 84 Director general
- 85 Directorship of director general
- 86 Meetings
- 87 Establishment of subsidiaries, investments and joint ventures
- 88 Restriction on alteration of memorandum or articles of association
- 89 Duties of directors
- 90 Seals of the companies
- 91 Staff
- 92 Superannuation
- 93 Code of conduct
- 94 Declaration of interests
- 95 Disclosure by members of companies of certain interests
- 96 Disclosure by staff and contractors for services of certain interests
- 97 Accountability of director general to Committee of Public Accounts
- 98 Accountability of director general to other Oireachtas Committees
- 99 Power to borrow
- 100 Accounts and Audit
- 101 Transactions between public service and non-public service activities
- 102 Strategic plans
- 103 Public service broadcasting charter
- 104 Annual statement of commitments
- 105 Reports and information
- 106 Advertisements and sponsorship
- 107 Code of fair trading practice
- 108 Audience council

**PART IX - Provisions specific to Radio Teilifís Éireann**

- 109 Principal objects and associated powers of Radio Teilifís Eireann
- 110 Alterations by Minister to the remit of Radio Teilifís Eireann
- 111 Duty to supply one hour of programme material daily to Teilifís na Gaeilge
- 112 Spectrum licence
- 113 Independent television programme account

**PART X - Provisions specific to Teilifís na Gaeilge**

Head

- 114 Principal objects and associated powers of Teilifís na Gaeilge
- 115 Alterations by Minister to the remit of Teilifís na Gaeilge

**PART XI – Allocation of public funding**

- 116 Allocation of public funding
- 117 Recommendations as to changes to public funding
- 118 Amendment of section 2(2) of the Act of 2003

**PART XII - Transitional provisions**

- 119 Dissolution of the BCI
- 120 Dissolution of the BCC
- 121 Dissolution of the RTÉ Authority
- 122 Transitional provisions – general
- 123 Transitional provisions – BCI
- 124 Transitional provisions – BCC
- 125 Transitional provisions – broadcasting codes
- 126 Transitional provisions - RTÉ
- 127 Final accounts of the BCI
- 128 Final accounts of RTÉ Authority
- 129 Exemption from stamp duty

Schedule

5 September 2006

ACTS REFERRED TO

Broadcasting Act, 1990	1990, No. 24
Broadcasting Act, 2001	2001, No. 4
Broadcasting Authority Acts,	1960 to 1999
Broadcasting (Funding) Act, 2003	2003, No. 43
Communications Regulation Act, 2002	2002, No. 20
Companies Acts, 1963 to 2005	
Copyright and Related Rights Act, 2000	2000, No. 28
European Parliament Elections Act, 1997	1997, No. 2
Ethics in Public Office Act, 1995	1995, No. 22
Finance Act, 1895	58 & 59 Vic., c. 16
Police (Property) Act, 1897	Ch. 30
Public Office Fees Act 1879	1879, c. 58
Radio and Television Act, 1988	1988, No. 20
Referendum Act, 1998	1998, No. 1
Wireless Telegraphy Act, 1926	1926, No. 45
Wireless Telegraphy Act 1972	1972, No. 5

**PART 1 – Preliminary and general matters**

**Head 1 – Short title and commencement**

1. This Act shall be cited as the Broadcasting Act 2006.
2. This Act shall come into operation on such day or days as may be appointed by order or orders of the Minister, either generally or with reference to a particular purpose or provision, and different days may be so appointed for different purposes and different provisions of this Act.

**Notes**

Subhead (1) contains the standard citation clause.

Subhead (2) allows the Minister to bring the Act into operation on a phased basis.

---

**Head 2 – General interpretation**

1. In this Act, unless the context otherwise requires-

“Act of 1976” means the Broadcasting Authority (Amendment) Act 1976

“Act of 1988” means the Radio and Television Act 1988

“Act of 1990” means the Broadcasting Act 1990

“Act of 1998” means the Referendum Act 1998

“Act of 2001” means the Broadcasting Act 2001

“Act of 2003” means the Broadcasting (Funding Act) 2003

“Authority” means the Broadcasting Authority of Ireland

“Broadcaster” shall mean a person who supplies a compilation of programme material for the purpose of its being transmitted or relayed as a broadcasting service (whether that person transmits or relays that material as such a service or not)

“Commercial broadcaster” means a broadcaster who is not a community broadcaster or a public service broadcaster

“Commission” means the Broadcasting Commission of Ireland

“Companies Acts” means the Companies Acts 1963 to 2005

“Community broadcaster” means a broadcaster providing a broadcasting service that:

- (a) is provided for local or community of interest purposes; and
- (b) is not operated for profit or as part of a profit-making enterprise
- (c) is representative of the locality or community of interest concerned

“Compliance Committee” means a committee of the Authority established to undertake the functions set out in *section 27*

“Contract Awards Committee” means a committee of the Authority established to undertake the functions set out in *section 26*

"Council Directive" means Council Directive 89/552/EEC of 3 October 1989<sup>(1)</sup> on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities as amended by Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997<sup>(2)</sup>;

<sup>(2)</sup> O.J. No. L. 202/60, 30 July 1997

<sup>(1)</sup> O.J. No. L. 298/23, 17 October 1989

“employment” includes—

- (a) full-time employment,
- (b) part-time paid employment, where such employment is ongoing in the year of appointment or which arises in subsequent years,
- (c) temporary paid employment, being for a period of 16 weeks or more in the year of appointment or in subsequent years, or
- (d) being retained under contract, directly or indirectly, in any capacity as an adviser, consultant or lobbyist, or for the provision of services, by or in any business related to the functions of the public body concerned.

“executive” means senior managers of the Authority including but not limited to the chief executive officer of the Authority

“interests” includes—

- (a) employment by or on behalf of—
  - (i) any business related to the functions of the public body concerned.
  - (ii) any organisation representative of any business related to the functions of the public body concerned,
- (b) ownership of any business related to the functions of the public body concerned,
- (c) shares in, bonds or debentures of, or other like investments in any business related to the functions of the public body concerned, where the aggregate of such holdings exceeds €13,000,
- (d) a directorship or shadow directorship (within the meaning of the Companies Acts 1963 to 2005) in any business related to the functions of the public body concerned, held currently or during the previous two years, or
- (e) gifts of travel, holidays, transport or other benefits (in excess of €650), including benefits from any beneficial interest in or connected with any business related to the functions of the public body concerned, during the previous two years which were received by the person being appointed or by his or her spouse

“ownership” includes any proprietary interest in any business related to the functions of the public body concerned, whether that interest is freehold, leasehold or beneficial, and applies where the interest—

- (a) is held solely by the person being appointed or shared with one or more persons, and
- (b) at the time of his or her appointment, has a value of €5,000 or more.

“public service broadcaster” means Radio Teilifís Éireann and Teilifís na Gaeilge.

“Radio Éireann” shall mean the Authority established under section 3 of the Broadcasting Authority Act 1960.

“Statutory committee of the Authority” shall mean the Contract Awards Committee or the Compliance Committee.

"Superannuation benefits" means pensions, gratuities or other allowances payable on resignation, retirement or death.

"television broadcaster" means Radio Teilifís Éireann or Teilifís na Gaeilge in so far as it provides a television broadcast service or any person who is entitled to provide a television programme service by virtue of a contract with the Authority under section 4 (amended by section 6(1) of the Act of 1990) of the Act of 1988 or a contract with the Authority under the Act of 2001.

2. In this Act, unless otherwise specified in the section concerned, "the company" shall mean Radio Teilifís Éireann or Teilifís na Gaeilge.

**Notes**

The definition of broadcaster is based on section 2 of the Broadcasting Act 2001.

The definition of community broadcaster is based on section 15 of the Australian Broadcasting Services Act 1992.

The definitions of "interests", "employment" and "ownership" are based on Section 24(5) of the Digital Hub Development Agency Act 2003.

The definition of "superannuation benefits is based on section 5(2)(g) of the Ombudsman for Children Act 2002.

The definition of a television broadcaster is based on S.I. 251 of 1991.

---

**Head 3 – Repeals**

1. The enactments specified in column (2) of Schedule 1 are hereby repealed to the extent specified in column (3) of that Schedule.
2. The repeals effected by this section shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or enactment and different days may be so appointed for different purposes or enactments.

**Notes**

This head makes the standard provision in relation to repeals.

---

**Head 4 – Expenses**

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

**Notes**

This is a standard provision.

---

**PART II – Broadcasting Authority of Ireland**

**Head 5 - Establishment of the Authority**

1. There shall stand established, on such day as the Minister by order appoints, a body to be known as The Broadcasting Authority of Ireland, or in the Irish language, An t-Údarás Craolacháin na hÉireann.

**Notes**

This provision is based on Section 3(1) of the Radio and Television Act 1988.

-----

**Head 6 - Body corporate and seal**

1. The Authority is to be a body corporate, with perpetual succession and with the power to sue and be sued, and to acquire, hold and dispose of land and other property.
2. The Authority shall, as soon as may be after its establishment, provide itself with a seal.
3. The seal of the Authority shall be authenticated by the signature of—
  - (a) the chairperson of the Authority or another member of the Authority
  - (b) a member of the staff of the Authority,authorised by the Authority to act in that behalf.
4. Judicial notice shall be taken of the seal of the Authority and every document purporting to be an instrument made by the Authority and to be sealed with the seal of the Authority shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown.
5. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of the Authority by any person generally or specially authorised by the Authority in that behalf.
6. The Contract Awards Committee and Compliance Committee shall perform their functions and exercise their powers under the seal of the Authority.

**Notes**

This head provides that the BAI and each of its statutory committees shall operate under the seal of the BAI.

Subsections (2) to (5) mirror section 36 of the Digital Hub Development Agency Act 2003.

Subsection (6) is intended to address the issue of under whose seal the actions of the Contract Awards Committee and the Compliance Committee will be executed.

-----

**Head 7 - Appointment of Authority, Contract Awards Committee and Compliance Committee**

1. The members of the Authority shall be appointed by the Government on the nomination of the Minister and shall be not less than eight nor more than ten in number.
2. Not less than 4 of the members of the Authority shall be men and not less than 4 of them shall be women.
3. The members of the Contract Awards Committee shall be appointed by the Government on the nomination of the Minister and shall be not less than six nor more than eight in number.
4. Not less than 3 of the members of the Contracts Awards Committee shall be men and not less than 3 of them shall be women.
5. The members of the Compliance Committee shall be appointed by the Government on the nomination of the Minister and shall be not less than six nor more than eight in number.
6. Not less than 3 of the members of the Compliance Committee shall be men and not less than 3 of them shall be women.

**Notes**

This head outlines the method of appointment and number of members of the BAI and its statutory committees. The provision is based on section (1) of the Schedule to the Radio and Television Act 1988.

---

**Head 8 - Criterion for membership**

1. A person shall not be appointed to be a member of the Authority, the Contract Awards Committee or the Compliance Committee unless he or she has had experience of or shown capacity in-
  - (i) media or commercial affairs,
  - (ii) broadcast or digital media technologies,
  - (iii) legal matters,
  - (iv) trade union affairs, or
  - (v) social, cultural, educational or community activities.
2. Each member of the Authority, the Contract Awards Committee or the Compliance Committee shall be appointed for a period not exceeding four years.
3. The Government in setting a term of appointment under *subsection (2)* shall consider the need for continuity of membership of the Authority or a statutory committee.
4. A member of the Authority, the Contract Awards Committee or the Compliance Committee whose term of office expires by the effluxion of time shall be eligible for re-appointment.
5. A member of the Authority, the Contract Awards Committee or the Compliance Committee shall not serve more than two terms of office.
6. Within two years of the establishment day and, every two years thereafter-
  - (a) not less than four members of the Authority,
  - (b) not less than three members of the Contract Awards Committee, and
  - (c) not less than three members of the Compliance Committeeshall retire from office.
7. The members required to retire by virtue of *subsection (5)* in any year shall be those who have served longest as a member of the Authority, Contract Awards Committee or Compliance Committee since last appointed.
8. Where in determining which member or members are required to retire by virtue of *subsection (6)* there is more than one member who was appointed to the Authority, Contract Awards Committee or Compliance Committee on the same day then as respects such members appointed on the same day the member or members to retire shall be determined by lot unless such members otherwise agree.
9. A member of the Authority, Contract Awards Committee or Compliance Committee may at any time resign his or her office by letter addressed to the Government and the resignation shall take effect on the date specified therein or upon receipt of the letter by the Government, whichever is the later.

**Notes**

This head provides for the selection criteria and length of term of office for the members of the BAI and its statutory committees. The head proposes a staggered approach to the retirement of members for continuity purposes.

Subsection (1) is based on section (1) of the Schedule to the Radio and Television Act of 1988.

Subsection (4) is based on section (1) of the Schedule to the Radio and Television Act of 1988.

Subsection (5) is based on section 15(4) of the Communications Regulations Act 2002 and section 10(12) of the Sustainable Energy Act 2002.

Subsections (6), (7) and (8) are based on subsections (9) to (11) of section 10 of the Sustainable Energy Act 2002.

Subsection (9) is based on section (1) of the Schedule to the Radio and Television Act of 1988.

---

**Head 9 - Terms and removal**

1. There shall be paid to members of the Authority, Contract Awards Committee or Compliance Committee, out of moneys at the disposal of the Authority, such remuneration (if any) and allowances for expenses incurred by them as the Minister, with the consent of the Minister for Finance, from time to time determines.
2. Subject to the provisions of this Act, a member of the Authority, Contract Awards Committee or Compliance Committee shall hold office on such terms (other than the payment of remuneration and allowances for expenses) as the Minister determines at the time of his or her appointment.
3. The Minister shall cause a statement in writing specifying the terms of office and remuneration of the members of the Authority, Contract Awards Committee or Compliance Committee to be laid before both Houses of the Oireachtas.
4. A member of the Authority, Contract Awards Committee or Compliance Committee may at any time be removed from membership of the Authority, Contract Awards Committee or Compliance Committee by the Government if, in the Government's opinion, the member has become incapable through ill-health of performing his or her functions, or has committed stated misbehaviour, or his or her removal appears to the Government to be necessary for the effective performance by the Authority, Contract Awards Committee or Compliance Committee of its functions, and only if, resolutions are passed by each House of the Oireachtas calling for his or her removal.
5. A member of the Authority, Contract Awards Committee or Compliance Committee shall cease to be and shall be disqualified from being a member of the Authority, Contract Awards Committee or Compliance Committee where such member —
  - (a) is adjudicated bankrupt,
  - (b) makes a composition or arrangement with creditors,
  - (c) on conviction on indictment by a court of competent jurisdiction is sentenced to a term of imprisonment,
  - (d) is convicted of an offence involving fraud or dishonesty, or
  - (e) is disqualified or restricted from being a director of any company.

6. Where a member of the Authority, Contract Awards Committee or Compliance Committee fails —
  - (a) to attend three consecutive meetings of the Authority, the Contract Awards Committee or the Compliance Committee, and no satisfactory reason can be given for such non-attendance.
  - (b) to make a declaration in accordance with the requirements of *subsections (1) and (3) of section 21*
  - (c) to comply with the requirements of *subsection (1) of section 22*
  - (d) to make a declaration in accordance with the requirements of *Section 17 of the Ethics in Public Office Act 1995.*the Minister may with the consent of the Government by order remove the member from office.
7. Every order under *subsection (6)* shall be laid by the Minister before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.
8. If a member of the Authority, Contract Awards Committee or Compliance Committee dies, resigns, becomes disqualified or is removed from office or for any other reason ceases to be a member of the Authority, Contract Awards Committee or Compliance Committee, the Government on the nomination of the Minister, may appoint a person to be a member of the Authority, Contract Awards Committee or Compliance Committee to fill the casual vacancy so occasioned and the person so appointed shall be appointed for the unexpired period of the term of membership of, and in the same manner as, the member of the Authority, Contract Awards Committee or Compliance Committee who occasioned the casual vacancy.

### Notes

This head outlines the process by which the terms and conditions for members of the BAI and its statutory committees are set. It also provides for the grounds and processes by which members of the BAI and its statutory committees may be disqualified or removed from office.

Subsections (1) and (2) are based on section 15(7)-(8) of the Digital Hub Development Agency Act 2003.

Subsection (3) is based on section 4 of the Schedule to the Radio and Television Act 1988.

Subsection (4) is based on section 3 of the Schedule to the Radio and Television Act 1988 and section 10(15) of the Sustainable Energy Act 2002.

Subsection (5) is based on section 15(11) of the Digital Hub Development Agency Act 2003.

Subsection (6) draws from section 24(8) of the Digital Hub Development Agency Act 2003.

Subsection (8) is based on section 15(12) of the Digital Hub Development Agency Act 2003.

---

**Head 10 - Chairperson of the Authority, Contract Awards Committee or the Compliance Committee**

1. The Government shall from time to time as occasion requires appoint, on the nomination of the Minister, a member of the Authority to be chairperson thereof.
2. The Government shall from time to time as occasion requires appoint, on the nomination of the Minister, a member of the Contract Awards Committee to be chairperson thereof.
3. The Government shall from time to time as occasion requires appoint, on the nomination of the Minister, a member of the Compliance Committee to be chairperson thereof.
4. The chairperson of the Authority, the Contract Awards Committee or the Compliance Committee shall, unless he or she sooner dies, resigns the office of chairperson or ceases to be chairperson under *subsection (6)*, hold office until the expiration of his or her period of office as a member of the Authority, the Contract Awards Committee or the Compliance Committee.
5. The chairperson of the Authority, the Contract Awards Committee or the Compliance Committee may at any time resign his or her office as chairperson by letter sent to the Government and the resignation shall, unless it is previously withdrawn in writing, take effect at the commencement of the meeting of the Authority, the Contract Awards Committee or the Compliance Committee held next after the body has been informed by the Government of the resignation.
6. Where the chairperson of the Authority, the Contract Awards Committee or the Compliance Committee ceases during his or her term of office as chairperson to be a member of the Authority, the Contract Awards Committee or the Compliance Committee he or she shall also cease to be chairperson of the body.

**Notes**

This head provides for process of appointment of the chairpersons of the BAI and its statutory committees. The provision is based on Section 2 of the Schedule to the Radio and Television Act 1988.

---

**Head 11 - Exclusions from membership of the Authority, Contract Awards Committee or Compliance Committee**

1. Where a member of the Authority, Contract Awards Committee or Compliance Committee is nominated as a candidate for election to the European Parliament or either House of the Oireachtas, he or she shall thereupon stand suspended from membership of the Authority, Contract Awards Committee or Compliance Committee and shall not be entitled to participate in meetings of the Authority, Contract Awards Committee or Compliance Committee or receive from, the Authority any remuneration or allowances in respect of the period commencing on such nomination and ending when such person is so regarded as not having been elected as the case may be.
2. Where a member of the Authority, Contract Awards Committee or Compliance Committee is—
  - (a) is nominated as a member of Seanad Éireann,
  - (b) elected as a member of either House of the Oireachtas or as a representative in the European Parliament; or
  - (c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament to fill a vacancy.

he or she shall thereupon cease to be a member of the Authority, Contract Awards Committee or Compliance Committee.

3. Where the person who is the chief executive officer or a member of the staff of the Authority is—
  - (a) nominated as a member of Seanad Éireann; or
  - (b) nominated as a candidate for election to either House of the Oireachtas or the European Parliament, or
  - (c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament to fill a vacancy,

he or she shall thereupon stand seconded from employment by the Authority and shall not be paid by, or be entitled to receive from, the Authority any remuneration or allowances in respect of the period commencing on such nomination or election, or when he or she is so regarded as having been elected as the case may be, and ending when such person ceases to be a member of either such House or a representative in that Parliament.

4. 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 so entitled or such a member, be disqualified from becoming a member of the Authority, Contract Awards Committee or Compliance Committee or the chief executive officer or a member of staff of the Authority.

5. Without prejudice to the generality of *subsection (3)*, that subsection shall be construed as prohibiting, *inter alia*, the reckoning of a period mentioned in that subsection as service with the Authority for the purposes of any superannuation benefits.
6. A person who holds employment or an interest in a broadcast undertaking, including but not limited to Radio Teilifís Eireann, Teilifís na Gaeilge, an undertaking holding a contract to broadcast under the Act of 1988, the Act of 1990 or the Act of 2001 or this Act, shall be disqualified from becoming a member of the Authority, Contract Awards Committee or Compliance Committee.
7. A person who holds employment or an interest in an undertaking which publishes a newspaper in the State and which has ownership of an undertaking holding a contract to broadcast under the Act of 1988, the Act of 1990, the Act of 2001 or this Act, shall be disqualified from becoming a member of the Authority, Contract Awards Committee or Compliance Committee.
8. A person who holds membership of the Authority shall be disqualified from becoming a member of the Contract Awards Committee or Compliance Committee.
9. A person who holds membership of the Contract Awards Committee shall be disqualified from becoming a member of the Authority or the Compliance Committee.
10. A person who holds membership of the Compliance Committee shall be disqualified from becoming a member of the Authority or the Contract Awards Committee.

**Notes**

This head provides for the cessation from membership of the BAI and its statutory committees of persons elected to the Houses of the Oireachtas or the European Parliament, and for the suspension from membership, for the period of an election, of persons nominated for election. The head also provides that there be no commonality of membership between the BAI and its statutory committees. For the purposes of avoiding conflicts of interest, the head excludes persons who hold a defined interest or employment in a broadcaster or a newspaper from membership of the BAI or its statutory committees.

Subsection (2) is based on section 14(1) of the Sustainable Energy Act 2002.

Subsection (3) is based on section 22(2) of the Digital Hub Development Agency Act and section 10(2) of the Schedule to the Radio and Television Act 1988.

Subsection (4) is based on section 22(3) of the Digital Hub Development Agency Act 2003.

Subsection (5) is based on section 22(4) of the Digital Hub Development Agency Act 2003.

Subsections (6) and (7) draw from on Section 10(3) of the Dutch Media Act and section 2 of the Defamation Bill 2005.

---

**Head 12 - Meetings of the Authority, Contract Awards Committee or Compliance Committee**

1. The Authority, Contract Awards Committee and Compliance Committee shall hold such and so many meetings as may be necessary for the due fulfilment of their functions.
2. The Minister may fix the date, time and place of the first meeting of the Authority, Contract Awards Committee and Compliance Committee.
3. Subject to the provisions of this Act, the Authority, Contract Awards Committee and Compliance Committee shall regulate their procedure and practice by rules made under this section.
4. Any rules made under this section shall be published on a website to be maintained by the Authority.
5. At a meeting of the Authority, Contract Awards Committee or Compliance Committee -
  - (a) the chairperson of the Authority, Contract Awards Committee or Compliance Committee shall, if present, be chairperson 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 Authority, Contract Awards Committee or Compliance Committee who are present shall choose one of their number to be the chairman of the meeting.
6. At a meeting of the Authority, Contract Awards Committee or Compliance Committee, each member of the Authority, Contract Awards Committee or Compliance Committee present, including the chairperson, shall have a vote and any question on which a vote is required in order to establish the Authority's, Contract Awards Committee's or Compliance Committee's view shall be determined by a majority of the votes of the members of the Authority, Contract Awards Committee or Compliance Committee present when the vote is called and voting on the question and, in the case of an equal division of votes, the chairperson of the meeting shall have a second and casting vote.
7. The quorum for a meeting of the Authority shall not be less than seven.
8. The quorum for a meeting of the Contract Awards Committee shall not be less than five.
9. The quorum for a meeting of the Compliance Committee shall not be less than five.
10. The Authority, Contract Awards Committee or Compliance Committee may act notwithstanding one or more vacancies among its members.

**Notes**

This head outlines procedures in relation to meetings of the BAI and its statutory committees. The head sets a quorum for meetings of the BAI and its statutory committees. The provision is based on section 7 of the Schedule to the Radio and Television Act 1988.

---

**Head 13 - Chief executive of the Authority**

1. There shall be a chief executive officer of the Authority (who shall be known and is referred to in this Act as the “chief executive”).
2. The chief executive shall carry on and manage, and control generally, the administration of the Authority, Contract Awards Committee and Compliance Committee and perform such other functions (if any) as may be determined by the Authority.
3. Subject to *subsections (5) and (6)*, the chief executive shall be appointed by the Authority with the consent of the Minister.
4. The chief executive may be removed from office by the Authority with the consent of the Minister for stated reasons.
5. The Minister may, before the establishment day, designate a person to be appointed to be the first chief executive.
6. If, immediately before the establishment day, a person stands designated by the Minister under *subsection (5)*, the Authority shall appoint that person to be the first chief executive.
7. The chief executive shall hold office under a written contract of service (which contract may be renewed) for such period as is specified in the contract, upon and subject to such terms and conditions (including terms and conditions relating to superannuation) as are so specified, being terms and conditions which are determined by the Authority with the consent of the Minister given with the concurrence of the Minister for Finance and shall be paid out of moneys at the disposal of the Authority.
8. The chief executive shall not hold any other office or employment or carry on any business without the consent of the Authority.
9. The chief executive shall furnish the Authority with such information (including financial information) in relation to the performance of his or her functions as the Authority may from time to time require.
10. The functions of the chief executive may be performed in his or her absence or when the position of chief executive is vacant by such member of the staff of the Authority as may, from time to time, be designated for that purpose by the Authority.

**Notes**

This head is based on section 63 of the Personal Injuries Assessment Board Act 2003. Subsection 4 has been modified to require Ministerial consent for the removal by the Authority of a chief executive. Subsection 7 has been modified with the addition of “and shall be paid out of moneys at the disposal of the Authority”. Subsection 9 has been modified with the substitution of “functions” for “executive function”. Subsection 10 is based on Section 19(8) of the Digital Hub Development Agency Act 2003.

---

**Head 14 - Staff**

1. The Authority shall, as well as appointing the chief executive officer, appoint such and so many other persons to be members of staff of the Authority as the Authority from time to time thinks proper, subject to the prior consent of the Minister and the Minister for Finance.
2. A person shall not be appointed under this section to be a member of staff of the Authority unless he or she has been selected by means of a public competition.
3. The requirement under *subsection (2)* of being selected by means of a public competition shall not apply in relation to:
  - (a) a person who, immediately before the establishment day, was a member of staff of the Commission,
  - (b) an appointment consisting of the promotion of a person who is already a member of staff of the Authority,
  - (c) an office for which, in the opinion of the Authority, specialised qualifications not commonly held are required, or
  - (d) an office to which appointments are made for limited periods only, being periods not exceeding two years.
4. A member of staff of the Authority shall hold his or her office or employment on such terms and conditions as the Authority from time to time determines, subject to the consent of the Minister and the Minister for Finance.
5. There shall be paid by the Authority to its members of staff such remuneration and allowances as the Authority from time to time determines, subject to the consent of the Minister and the Minister for Finance.
6. The Authority may at any time remove any member of staff of the Authority from being its member of staff.
7. The Authority may perform any of its functions through or by any of its members of staff duly authorised by the Authority in that behalf.
8. The Authority shall accept into its employment on the establishment day in accordance with the terms of this Act every person who immediately before the establishment day is a member of staff of the Commission.
9. Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a member of staff of the Commission who is transferred, on the establishment day to the Authority shall not, while in the service of the Authority, receive a lesser scale of pay or be brought to less beneficial conditions of service than the scale of pay to which he or she was entitled and the conditions of service to which he or she was subject immediately before the establishment day.

10. Until such time as the scales of pay and conditions of service of members of staff so transferred are varied by the Authority, following consultation with recognised trade unions and staff associations, the scales of pay to which they were entitled and the conditions of service, restrictions, requirements and obligations to which they were subject before their transfer shall continue to apply to them and may be exercised or imposed by the Authority or the chief executive officer, as the case may be, of the Authority while they are in its service. As provided in *subsection (9)*, no such variation shall operate to worsen the scales of pay and conditions of service applicable to such members of staff immediately before the establishment day, save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned.
  
11. The conditions in regard to tenure of office which are granted by the Authority in relation to a member of staff so transferred shall not, while he or she is in the service of the Authority, be less favourable to him or her than those prevailing on establishment day in the Commission; any alteration in the conditions in regard to tenure of office of any such member shall not be less favourable to him or her than the prevailing conditions in the Commission at the time of such alteration, save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned. If a dispute arises between the Authority and any such member of staff as to conditions, prevailing in the Commission, the matter shall be determined by the Minister for Finance.

**Notes**

This head provides that the BAI may, subject to the consent of the Minister and the Minister for Finance appoint staff by way of public competition and that the existing staff of the BCI would transfer to the BAI without adversely impacting on their existing pay and conditions. This provision mirrors sections 12 of the Broadcasting Authority Act 1960 (as amended by section 4 of the Broadcasting Authority (Amendment) Act, 1966), sections 13 and 14 of the Broadcasting Authority Act 1960 and section 45 of the Postal and Telecommunications Services Act, 1983. Subsection 3(a) ensures that there is certainty that it is not the intention of the legislature that existing staff of the Authority would have to reapply for their posts by way of public competition.

---

**Head 15 - Superannuation**

1. As soon as may be after the establishment day, the Authority, with the approval of the Minister and the consent of the Minister for Finance, shall make a scheme or schemes for the granting of superannuation benefits to or in respect of the members of staff, including the chief executive, of the Authority.
2. A scheme under this section shall fix the time and conditions of retirement of all persons to or in respect of whom superannuation benefits are payable under the scheme or schemes and different times and conditions may be fixed in respect of different classes of persons.
3. The Authority may, with the approval of the Minister and the consent of the Minister for Finance, make a scheme amending or revoking a scheme under this section including a scheme under this subsection.
4. A scheme submitted by the Authority under this section shall, if approved by the Minister with the consent of the Minister for Finance, be carried out by the Authority in accordance with its terms.
5. ~~Each~~ superannuation scheme shall include a provision for appeals from a decision relating to a superannuation benefit under the scheme.
6. No superannuation benefits shall be granted by the Authority to or in respect of a person on ceasing to be chief executive or a member of the staff of the Authority otherwise than-
  - (a) in accordance with a scheme or schemes under this section, or
  - (b) with the consent of the Minister and the Minister for Finance.
7. Every scheme under this section shall provide for not less favourable conditions in respect of persons who, immediately before establishment, were members of staff of the Commission than those to which they were entitled immediately before establishment.
8. Disbursement of superannuation benefits which may be granted to or in respect of persons who, immediately before establishment, were members of staff of the Commission or who, immediately before the establishment day of the Commission, were officers and servants of the Minister, shall not be on less favourable conditions than would apply if the benefits referred to had continued to be paid out of moneys provided by the Commission or the Oireachtas.

9. Where a superannuation benefit falls due for payment to or in respect of a person to whom *subsection (7)* applies in the period beginning on the establishment day and ending immediately before the coming into operation of a scheme submitted by the Authority and approved of under this section, the allowance shall be calculated and paid by the Authority in accordance with such superannuation scheme or such enactments in relation to superannuation, as applied to such person immediately before the establishment day and, for that purpose, his or her pensionable service with the Authority shall be aggregated with his or her previous pensionable service.
10. The Minister for Finance shall make such contribution as may, with his consent, be specified in a scheme or schemes under this section towards the superannuation benefits related to reckonable service given before the establishment day of the Commission which may be granted to or in respect of persons who, immediately before that day, were officers and servants of the Minister, and such scheme or schemes shall, with the like consent, fix the manner and times of the payment of such contribution.
11. Moneys required to be paid by the Minister for Finance under this section shall be advanced out of the Central Fund or the growing produce thereof.
12. A scheme under this section, including an amendment of a scheme, shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

**Notes**

This head provides for the establishment of a pension scheme for the staff of the BAI. The head also provides that the pension entitlements of existing staff should not be adversely impacted by the proposed change in corporate structure.

Subsection 1 is based on section 21(1) of the Digital Hub Development Agency Act 2003 and section 36 of the National Tourism Development Authority Act 2003.

Subsections 2-4 are based on section 21(2) to (4) of the Digital Hub Development Agency Act 2003.

Subsection 6 is based on section 21(6) of the Digital Hub Development Agency Act 2003.

Subsection 7 is based on section 44(4) of the Forestry Act 1988.

Subsection 8 is based on section 44(5) of the Forestry Act 1988.

Subsection 9 is based on section 44(8) of the Forestry Act 1988.

Subsection 10 is based on section 44(9) of the Forestry Act 1988.

Subsection 11 is based on section 44(11) of the Forestry Act 1988.

Subsection 12 is based on section 21(7) of the Digital Hub Development Agency Act 2003.

---

**Head 16 - Advisory Committees**

1. The Authority may establish advisory committees to advise and assist it in the performance of its functions.
2. Where advisory committees include members other than members of the Authority, Contract Awards Committee or Compliance Committee or staff of the Authority, such members may be paid such remuneration (if any) and expenses as the Authority considers reasonable subject to the consent of the Minister and the Minister for Finance.
3. The Authority may regulate the procedure of its committees, but subject to such regulation, a committee may regulate its own procedure.
4. The Authority and the chief executive shall have regard to, but shall not be bound by, the advice of any committee under this section.

**Notes**

This head empowers the BAI to establish advisory committees to assist it in its work. The provision draws from section 18 of the Digital Hub Development Agency Act 2003 and section 21 of the Broadcasting Authority Act 1960.

---

**Head 17 - Consultants and advisers**

1. The Authority may from time to time engage such consultants or advisers as it may consider necessary for the performance of the functions of the Authority, Contract Awards Committee or Compliance Committee, and any fees due to a consultant or adviser engaged under this section shall be paid by the Authority out of moneys at its disposal.
2. The Authority and the chief executive shall have regard to, but shall not be bound by, the advice of any consultant or adviser under this section.

**Notes**

This head empowers the BAI to engage advisers or consultants to assist it in its work. This provision is based on section 35 of the Digital Hub Development Agency Act 2003 and section 21 of the Broadcasting Authority Act 1960.

---

**Head 18 - Accountability of chief executive officer to Committee of Public Accounts**

1. The chief executive officer shall, whenever he or she is required to do so by a Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and the reports of the Comptroller and Auditor General, give evidence to that Committee on all matters pertaining to the expenditure of the Authority.
2. The chief executive officer, if required under *subsection (1)* to give evidence, shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

**Notes**

This head requires the chief executive officer of the BAI to give evidence to the Public Accounts Committee. The provision mirrors section 32 of the Digital Hub Development Agency Act 2003.

---

**Head 19 - Accountability of chief executive officer to other Oireachtas Committees**

1. In this section “Committee” means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann) or a subcommittee of such a Committee.
2. Subject to *subsection (3)*, the chief executive officer shall, at the request in writing of a Committee, attend before it to give account for the general administration of the Authority, the Contract Awards Committee and the Compliance Committee.
3. The chief executive officer shall not be required to give account before a Committee for any matter which is or has been or may at a future time be the subject of proceedings before a court or tribunal in the State.
4. Where the chief executive officer is of the opinion that a matter in respect of which the chief executive officer is requested to give an account before a Committee is a matter to which *subsection (3)* applies, he or she shall inform the Committee of that opinion and the reasons for the opinion and, unless the information is conveyed to the Committee at a time when the chief executive officer is before it, the information shall be so conveyed in writing.
5. Where the chief executive officer has informed a Committee of his or her opinion in accordance with *subsection (4)* and the Committee does not withdraw the request referred to in *subsection (2)* in so far as it relates to a matter the subject of that opinion—
  - (a) the chief executive officer may, not later than 21 days after being informed by the Committee of its decision not to do so, apply to the High Court in a summary manner for determination of the question whether the matter is one to which *subsection (3)* applies, or
  - (b) the chairperson of the Committee may, on behalf of the Committee, make such an application,and the High Court may determine the matter.
6. Pending the determination of an application under *subsection (5)*, the chief executive officer shall not attend before the Committee to give account for the matter the subject of the application.
7. If the High Court determines that the matter concerned is one to which *subsection (3)* applies, the Committee shall withdraw the request referred to in *subsection (2)*, but if the High Court determines that *subsection (3)* does not apply, the chief executive officer shall attend before the Committee to give account for the matter.

5 September 2006

**Notes**

This head requires the chief executive officer of the BAI to attend before Oireachtas committees to give evidence as to the administration of the BAI and its statutory committees. The provision mirrors section 33 of the Digital Hub Development Agency Act 2003.

---

**Head 20 - Code of conduct**

1. The Authority shall, as soon as may be, following consultation with the Minister, draw up a code of conduct in respect of controls on interests and ethical behaviour to apply to each member of the Authority, the Contract Awards Committee, the Compliance Committee, advisory committees and each member of the staff of the Authority.
2. The Authority shall, as soon as may be, following consultation with the Minister, draw up a code of conduct in respect of controls on interests and ethical behaviour to apply to such categories of contractors for services as the Authority may specify before engagement.
3. The Authority shall publish any code of conduct drawn up under *subsections (1) and (2)*.

**Notes**

This head requires the BAI to draw up a code of conduct with regard to conflicts of interest and ethical behaviour to apply to the membership of the BAI and its statutory and advisory committees, BAI staff and contractors. The head is based on section 23 of the Digital Hub Development Agency Act 2003.

---

**Head 21 - Declaration of interests**

1. On establishment of the Authority, the chief executive officer and each member of the Authority, Contract Awards Committee, Compliance Committee and advisory committees, shall make a declaration in writing of his or her interests to the Minister, in such form as the Minister, following consultation with the Minister for Finance, may specify.
2. On his or her appointment, each contractor for services and each member of the staff of the Authority at a grade or level specified before the appointment by the Authority, following consultation with the Minister, shall declare his or her interests in writing to the chairperson of the Authority and the chairperson shall inform the Authority at its next meeting of the interests declared and the names of those making the declarations.
3. A person to whom *subsection (1)* or *(2)* applies shall, throughout the tenure of his or her appointment, amend and update his or her declarations of interests as required by the Minister or the Authority, as the case may be, of any changes in the interests held by the person.
4. (a) A statement of the interests declared under *subsection (1)* shall be included in the next report prepared in accordance with *section 39* following the making of the declaration and any subsequent changes in a declaration shall also be included in a statement in the next available report.  
  
(b) The form and content of the statement to be included in such report shall be agreed between the chairperson of the Authority and the Minister.  
  
(c) Notwithstanding the provisions of *paragraph (a)*, it shall not be necessary to specify in a statement in such report the amount or monetary value of any interest, or the remuneration of any trade, profession, or employment included in the statement.
5. The Authority shall, for the purposes of this section, keep a register (which is in this section referred to as the “register of interests”) and shall enter therein the particulars contained in declarations given to the Minister or the Authority under this section.
6. The register of interests shall be available for inspection by any person at the Authority’s headquarters during office hours and a copy of the register or any entry in the register may be obtained by any person on the payment to the Authority of such fee (if any) as the Authority shall fix not exceeding the reasonable cost of making a copy.

7. Where a person to whom *subsection (2)* applies fails to make a declaration in accordance with that subsection or to update such declaration in accordance with *subsection (3)*, or where the chief executive officer or member of an advisory committee fails to make a declaration in accordance with *subsection (1)* or to update such declaration in accordance with *subsection (3)*, the Authority shall decide the appropriate course of action (including removal from office or termination of contract) to be taken.

**Notes**

This head requires the members, staff and contractors for services of the BAI and its statutory committees to make a declaration of their interests. The head also requires a register of such interests to be maintained by the BAI, and that such register be made publicly available. The head is based on section 24 of the Digital Hub Development Agency Act 2003.

---

**Head 22 - Disclosure by members of the Authority, Contract Awards Committee and Compliance Committee of certain interests**

1. Where at a meeting of the Authority, the Contract Awards Committee, the Compliance Committee or an advisory committee of the Authority, any of the following matters arise, namely—
  - (a) an arrangement to which the Authority, the Contract Awards Committee or the Compliance Committee is a party or a proposed such arrangement, or
  - (b) a contract or other agreement with the Authority or a proposed such contract or other agreement,then, any member of the Authority, the Contract Awards Committee, the Compliance Committee or an advisory committee of the Authority present at the meeting who otherwise than in his or her capacity as such a member has an interest in the matter shall—
  - (i) at the meeting disclose to the Authority, the Contract Awards Committee or the Compliance Committee the fact of such interest and the nature thereof,
  - (ii) neither influence nor seek to influence a decision to be made in relation to the matter,
  - (iii) absent himself or herself from the meeting or that part of the meeting during which the matter is discussed,
  - (iv) take no part in any deliberation of the Authority, the Contract Awards Committee, the Compliance Committee or advisory committee of the Authority relating to the matter, and
  - (v) not vote on a decision relating to the matter.
  
2. Where an interest is disclosed pursuant to this section, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being considered or discussed by the meeting, the member by whom the disclosure is made shall not be counted in the quorum for the meeting.

3. Where at a meeting of the Authority, the Contract Awards Committee the Compliance Committee or an advisory committee of the Authority a question arises as to whether or not a course of conduct, if pursued by a member of the Authority, the Contract Awards Committee, the Compliance Committee or an advisory committee of the Authority, would constitute a failure by him or her to comply with the requirements of *subsection (1)*, the question may be determined by the Authority, the Contract Awards Committee or the Compliance Committee, whose decision shall be final, and where such a question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.
4. For the purposes of this section and *section 23* a person shall not be regarded as having an interest in any matter by reason only of an interest of that person, or of any company in which he or she has an interest, which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering, discussing or in voting on, any question relating to the matter, or in performing any function in relation to that matter.

**Notes**

This head outlines the disclosure of interest requirements for members of the BAI and its statutory committees. The head mirrors section 25 of the Digital Hub Development Agency Act 2003.

---

**Head 23 - Disclosure by staff of the Authority of certain interests**

1. Where a member of the staff of the Authority or a consultant or adviser engaged under *section 17*, in a category specified before engagement by the Authority, has an interest, otherwise than in his or her capacity as such in any, or any proposed contract to which the Authority is or is proposed to be a party, or any proposed agreement or arrangement to which the Authority, the Contract Awards Committee or the Compliance Committee is or is proposed to be a party, that person—
  - (a) shall disclose to the Authority his or her interest and the nature thereof,
  - (b) shall take no part in the negotiation of the contract, agreement or arrangement or in any deliberation by members of the Authority, the Contract Awards Committee or the Compliance Committee or members of the staff of the Authority in relation thereto,
  - (c) shall not influence or seek to influence a decision to be made in the matter, and
  - (d) shall not make any recommendation in relation to the contract, agreement or arrangement.
2. *Subsection (1)* does not apply to a person as regards a contract or proposed contract of employment of that person as a member of the staff of the Authority.
3. In this section ‘‘member of staff’’ includes the chief executive officer.
4. Where a person to whom *subsection (1)* applies fails to comply with a requirement of this section, the Authority shall decide the appropriate action (including removal from office or termination of contract) to be taken.

**Notes**

This head outlines the disclosure of interest requirements for specified categories of staff, consultants and advisers of the BAI. The head mirrors section 26 of the Digital Hub Development Agency Act 2003.

---

**Head 24 - Objectives of the Authority**

1. The Authority, and the statutory committees of the Authority, in exercising their functions shall endeavour to ensure—
  - (a) that the number and categories of broadcasting services made available in the State by virtue of the Act of 1988, the Act of 1990, the Act of 2001 or this Act best serve the needs of the people of the island of Ireland, bearing in mind their languages and traditions and their religious, ethical and cultural diversity,
  - (b) that the democratic values enshrined in the Constitution, especially those relating to rightful liberty of expression are upheld, and
  - (c) the provision of open and pluralistic broadcasting services.
  
2. Without prejudice to the generality of *subsection (1)*, the Authority, and the statutory committees of the Authority, shall—
  - (a) stimulate the provision of high quality, diverse and innovative programming by commercial, community and public service broadcasters,
  - (b) promote diversity in control of the more influential commercial and community broadcasting services, and
  - (c) provide a regulatory environment that will facilitate the development of a broadcasting sector in Ireland that is responsive to audience needs.
  
3. The Authority, and the statutory committees of the Authority, in carrying out their functions shall seek to ensure that measures taken—
  - (a) are proportionate having regard to the objectives set out in this section,
  - (b) are applied across the range of broadcasting services according to the degree of influence that the different types of broadcasting services are able to exert to in shaping community views in Ireland,
  - (c) will produce regulatory arrangements that are stable and predictable, and
  - (d) will readily accommodate and encourage technological development, and its application, by the broadcasting sector.

**Notes**

This head sets out the core objectives of the BAI and its statutory committees.

Subsection (1)(a) is based on section 11(2) of the Broadcasting Act 2001.

Subsection (1)(b) is based on section 17 of the Broadcasting Authority Act 1960 as amended by section 13 of the Broadcasting Authority (Amendment) Act 1976.

Subsection (1)(c) is based on article 6 of the Polish Broadcasting Act 1992.

Subsections (2)(b) and (2)(c) are based on section 3(1)(b) and (c) of the Australian Broadcasting Services Act 1992.

Subsection 3 is based on section 12(3) of the Communications Regulation Act 2002 and sections 4 and 5 of the Australian Broadcasting Services Act 1992.

---

**Head 25 - Functions of the Authority**

1. It shall be a function of the Authority to-
  - (a) Prepare a strategy for the provision of broadcasting services in the State additional to those provided by Radio Teilifís Éireann and Teilifís na Gaeilge,
  - (b) Prepare a statement under *section 34(1)*,
  - (c) Direct the Contract Awards Committee to make arrangements, in accordance with the provisions of the Act of 1988, the Act of 1990, the Act of 2001 and this Act, to invite, consider and recommend to the Authority, and the Authority shall follow such recommendation, proposals for the provision of broadcasting services additional to any broadcasting services provided by Radio Teilifís Éireann or Teilifís na Gaeilge pursuant to this Act,
  - (d) Prepare or make codes or rules under *section 41*,
  - (e) Prepare and implement schemes for the granting of funds under the Act of 2003,
  - (f) Make an order under *section 36(1)*,
  - (g) Prepare a scheme under *section 45(3)*,
  - (h) Advise the Minister as to the sectoral impact of a proposal under *sections 77(3), 87(1),(2),(3) and (4), 88(1), 99(3),(6), 100(2), 102(1), 103(5), 104(3), 106(3),(4) and (5), 107(6) and (10), and 113(5)* of this Act,
  - (i) Consult with the Minister as to the public value and sectoral impact of a proposal under *section 75, paragraphs (g), (h) or (i) of section 109(1) or section 114(1), section 110(4) and section 115(4)* of this Act,
  - (j) Prepare and issue guidance to Radio Teilifís Éireann and Teilifís na Gaeilge as to the fulfilment of their obligations under *sections 100(8), 103(1), 104(1) and 107(2)* of this Act,
  - (k) Undertake a review under-
    - (i) *subsection (3) of section 117*, and
    - (ii) *subsection (9) of section 117*,
  - (l) Make a recommendation under
    - (i) *subsection (6) of section 117*, and
    - (ii) *subsection (13) of section 117*,
  - (m) Liaise and consult with the Commission for Communications Regulation in the preparation of the allocation plan for the frequency range dedicated to radio and television broadcasting, and
  - (n) Consult with the Commission for Communications Regulation as to the sectoral impact of the issue of a licence to Radio Teilifís Éireann under *section 112*.

2. The Authority shall have the following additional functions—
  - (a) To collect and disseminate information on the broadcasting sector in Ireland,
  - (b) To monitor developments in broadcasting internationally,
  - (c) To initiate, organise and facilitate research relating to broadcasting matters,
  - (d) To collect and disseminate information in relation to the skills requirements of the broadcasting sector,
  - (e) To co-operate with other bodies to promote training activities in relation to areas of skill shortages in the broadcasting sector,
  - (f) To co-operate with other bodies outside the State which perform similar functions to the Authority, and
  - (g) To bring about, or to encourage others to bring about, a better public understanding of—
    - (i) the nature and characteristics of material published by means of broadcast and related electronic media,
    - (ii) the processes by which such material is selected, or made available, for publication by broadcast and related electronic media, and
    - (iii) the available systems by which access to material published by means of the broadcast and related electronic media is or can be regulated.
3. The Minister may confer on the Authority by order such other additional functions as he or she may from time to time consider necessary which said order may be amended or revoked by order by the said Minister.
4. An order made under *subsection (4)* of this section by the Minister shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next twenty-one days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything done thereunder.

**Notes**

This head details the functions of the BAI. The head imposes a requirement on the BAI to take steps to promote media literacy and to work with other bodies to address skill shortages that impact on the sector (for example skill shortages that may impact on the ability of a broadcaster to meet access rule requirements).

Subsection (1)(c) is based on section 11 of the Broadcasting Act 2001.

Subsections (2)(g) is based on section 11 of the UK Communications Act 2003.

Subsection (2)(d) and (e) is based on section 27 of the UK Communications Act 2003.

Subsection (3) and (4) are based on section 4 of the Marine Institute Act 1991.

---

**Head 26 - Functions of the Contract Awards Committee**

1. It shall be a function of the Contract Awards Committee, at the direction of the Authority, to make arrangements, in accordance with the provisions of the Act of 1988, the Act of 1990, the Act of 2001 and this Act, to invite, consider and recommend to the Authority, and the Authority shall follow such recommendation, proposals for the provision of broadcasting services additional to any broadcasting services provided by Radio Teilifís Éireann or Teilifís na Gaeilge pursuant to this Act.

**Notes**

This head outlines the functions of the Contracts Awards Committee. This head is based on section 11 of the Broadcasting Act 2001.

---

**Head 27 - Functions of the Compliance Committee**

1. It shall be a function of the Compliance Committee to—
  - (a) Monitor compliance by broadcasting contractors with the terms and conditions of any contract entered into by the Authority on the recommendation of the Contract Awards Committee under the Act of 1988, the Act of 1990, the Act of 2001 or this Act,
  - (b) Enforce the terms and conditions of any contract entered into by the Authority on the recommendation of the Contract Awards Committee under the Act of 1988, the Act of 1990, the Act of 2001 or this Act,
  - (c) Monitor compliance by broadcasters with the provisions of *section 40*,
  - (d) Enforce compliance by broadcasters with the provisions of *section 40*,
  - (e) Monitor compliance by broadcasters with any code or rule prepared or made under the Act of 1988, the Act of 1990, the Act of 2001 or *section 41*,
  - (f) Enforce compliance by broadcasters with any code or rule prepared or made under the Act of 1988, the Act of 1990, the Act of 2001 or *section 41*,
  - (g) Investigate and decide upon a complaint made under *section 44*, and
  - (h) Investigate and decide upon a request made under *section 45(14)*.
  
2. The Compliance Committee shall have the following additional functions—
  - (a) At the request of the Minister, to report on compliance by the company with the requirements of—
    - (i) *section 101(3)*,
    - (ii) *section 107(9)*, and
    - (iii) *section 100(10)*,
  - (b) At the request of the Minister, to report on the proportion of the television programme service of a broadcaster which is—
    - (i) produced in the State or in another Member State of the European Communities, and
    - (ii) devoted to original programme material produced therein by persons other than the broadcaster, his or her subsidiary, his or her parent or existing broadcasting organisations,
  - (c) At the request of the Minister, to report on compliance by the company with the requirements of *section 77(12)*, and
  - (d) to make determinations in respect of disputes arising under *section 37(7)* of the Act of 2001.

**Notes**

This head details the functions of the Compliance Committee. Subsection (2)(b) is intended to permit reporting on the fulfilment of obligations under Articles 4 to 6 of the Television Without Frontiers Directive. This subsection is based on section 18(4) of the Radio and Television Act 1988.

---

**Head 28 - Independence**

1. Subject to this Act, the Authority, the Contract Awards Committee and the Compliance Committee shall be independent in the exercise of their functions.

**Notes**

This head is an explicit statement that the BAI and its statutory committee are operationally independent. The provision is based on section 11 of the Communications Regulation Act 2002.

---

**Head 29 - Powers**

1. The Authority, Contracts Award Committee and Compliance Committee shall have all the powers necessary, incidental or conducive to their functions and duties.
2. Without prejudice to the generality of *subsection (1)*, the Authority shall have power necessary, incidental or conducive to its functions and duties—
  - (a) to make contracts, agreements and arrangements;
  - (b) to require broadcasting contractors to enter into financial bonds with the Authority on the recommendation of the Contract Awards Committee;
  - (c) to acquire and make use of copyrights, patents, licences, privileges and concessions;
  - (d) to compile, prepare, publish and distribute, with or without charge, printed, aural or visual material;
  - (e) subject to the consent of the Minister, to arrange for the provision of broadcasting and related services for and on behalf of any Minister of the Government;
  - (f) undertake, sponsor or commission research.

**Notes**

This head outlines the explicit powers of the BAI and its statutory committees. The head is based on section 4 of the Radio and Television Act 1988.

---

**Head 30 - Duties of the Authority and its statutory committees**

1. It shall be the duty of the Authority 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. The Authority and its statutory committees shall have a duty to keep the carrying out of their functions under review with a view to securing that regulation by Authority and its statutory committees does not involve-
  - (a) the imposition of burdens which are unnecessary, or
  - (b) the maintenance of burdens which have become unnecessary.
3. In reviewing its duty under *subsection (2)* the Authority and its statutory committees shall, from time to time, publish a statement setting out how they propose, during the period for which the statement is made, to secure that regulation by the Authority and its statutory committees does not involve the imposition or maintenance of unnecessary burdens.
4. The first statement to be published under this section must be published within a period of twelve months from the establishment of the Authority and its statutory committees.
5. A subsequent statement-
  - (a) must be published during the period to which the previous statement related, and
  - (b) must be a statement for the period of 2 years beginning with the end of the previous period.
6. It shall be the duty of the Authority and its statutory committees, in carrying out their functions at times during a period for which a statement is in force under this section, to have regard to that statement.
7. The Authority or its statutory committees may, if they think fit, revise a statement under this section at any time before or during the period for which it is made.
8. Where the Authority or its statutory committees revise a statement, they must publish the revision as soon as practicable.

**Notes**

This head requires the BAI and its statutory committees to review the regulatory burden they impose on broadcasters. The head also requires the BAI to ensure as much as possible that it does not run a deficit.

Subsection (1) repeats subsection 12(1) of the Schedule to the Radio and Television Act 1988.

Subsections (2) to (8) are based on section 6 of the UK Communications Act 2003.

---

**Head 31 - Emergencies**

1. During the continuance of any emergency declared under section 10 of the Wireless Telegraphy Act, 1926, the Minister may suspend any licence issued under section 4(3) of the Act of 1988 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.
2. The Authority shall have power to require broadcasting contractors to co-operate with the relevant public bodies in the dissemination of relevant information to the public in the event of a major local, national or regional emergency.
3. If and whenever the Minister shall exercise the powers conferred on him under *subsection (1)* the broadcasting contractor shall be entitled to receive from the Minister, with the consent of the Minister for Finance-
  - (a) such sums as are required to defray any expenses which, regard being had to the nature of the emergency, have been properly and necessarily incurred by the broadcasting contractor and for meeting which revenue is by reason of the exercise of such powers not otherwise available to the broadcasting contractor; and
  - (b) compensation for any damage done to any property of the broadcasting contractor, being damage directly attributable to the exercise of such powers.
4. At the request of the Minister, the Authority shall direct a broadcasting contractor to allocate broadcasting time for announcements for and on behalf of any Minister of State, in the event of a major local, national or regional emergency, in connection with the functions of that Minister of State, and the broadcasting contractor shall comply with the direction. The broadcasting contractor may broadcast whether or not it has received such a direction from the Authority.
5. At the request of the Government, the Authority shall direct a broadcasting contractor to allocate broadcasting time for any announcements which are in the public interest, by or on behalf of any Minister of State in connection with the functions of that Minister of State, and the broadcasting contractor shall comply with the direction. The broadcasting contractor may broadcast whether or not it has received such a direction from the Government.
6. The Government shall cause every direction issued under *subsection (5)*, and the reasons for such direction, to be laid before each House of the Oireachtas as soon as may be after it is made.

**Notes**

This head outlines the role and duties of broadcasting contractors in the event of an emergency.

Subsection (1) is based on section 4(11) of the Radio and Television Act 1988.

Subsection (2) is based on section 4(10)(e) of the Radio and Television Act 1988.

Subsection (3) is based on clause 8.4 of the Agreement dated 25 January 1996 between the BBC and the Secretary of State for National Heritage and is intended to provide certainty as to the Minister's power to meet the costs necessary to continue the operation of a broadcasting service over which the Minister has assumed control in the event of an emergency.

Subsections (4)(5) and (6) are based on section 31(2) of the Broadcasting Authority Act 1960 and clause 8.1 of the Agreement dated 25 January 1996 between the BBC and the Secretary of State for National Heritage.

---

### **Head 32 - Policy Directives**

1. In the interests of the proper and effective regulation of the broadcasting sector and the formulation of policy applicable to such proper and effective regulation, the Minister may give such policy directives to the Authority as he or she considers appropriate to be followed by the Authority in the exercise of its functions. The Authority in performing its functions, shall have regard to any such directive.
2. Before giving a directive under *subsection (1)*, the Minister shall give to the Authority and publish a draft of the proposed directive and—
  - (a) give the reasons for it, and
  - (b) specify the period (being not less than 21 days from giving it to the Authority or such publication, whichever is the later) within which representations relating to the proposal may be made by interested parties.
3. The Minister, having considered any representations made under *subsection (2)*, may give the directive under *subsection (1)* with or without amendment.
4. Where the Minister proposes to make a directive under *subsection (1)* which, in the opinion of the Minister, has or may relate to the functions of another Minister of the Government, the Minister shall not give to the Authority or publish a draft of the proposal under *subsection (2)* without prior consultation with that other Minister of the Government.
5. The Minister shall not give a directive under *subsection (1)* in respect of the performance of the functions of the Authority in relation to individual undertakings or persons.
6. The Minister shall not give a directive under *subsection (1)* in respect of the performance of the functions of the Contract Awards Committee or the Compliance Committee.
7. Where the Minister gives a directive under *subsection (1)*, a notice of such directive and details thereof, including reasons for giving the directive shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the policy directive is passed by either such House within the next 21 days on which that House has sat after the policy directive is laid before it, the policy directive shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

#### **Notes**

This head empowers the Minister to issue policy directives to the BAI. Such directives must be considered by the BAI in the performance of its functions. The head explicitly removes the functions of the Contract Awards and Compliance committees from the ambit of the policy directive mechanism.

The head is based on section 13 of the Communications Regulation Act 2002.

---

**Head 33 - Borrowings**

1. The Authority may, with the approval of the Minister, given with the consent of the Minister for Finance, borrow temporarily by arrangement with bankers such sums as it may require for the purpose of providing for current expenditure.
2. The Authority 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 Authority, with the consents aforesaid, may determine.
3. The borrowing powers conferred by this section on the Authority 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.
4. 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 Authority or upon any particular property of the Authority and provisions establishing the priority of such charges amongst themselves.

**Notes**

This head empowers the BAI to borrow funds subject to the consent of the Minister and the Minister for Finance. The head is based on subsections 13 and 14 of the Schedule to the Radio and Television Act 1988.

---

**Head 34 - Strategy Statements**

1. The Authority shall draw up and adopt a strategy statement reflecting its statutory functions.
2. In drawing up a strategy statement under *subsection (1)*, the Authority shall distinguish between its functions in relation to broadcasting contracts under the Act of 1988, the Act of 1990, the Act of 2001 and this Act, codes and rules governing standards and practice under this Act, and schemes for the granting of funds under the Act of 2003.
3. A strategy statement shall—
  - (a) comprise the key objectives, outputs and related strategies, including use of resources,
  - (b) be prepared in a form and manner in accordance with any directions issued from time to time by the Minister,
  - (c) have regard to the need to ensure the most beneficial, effective and efficient use of resources,
  - (d) except for the first strategy statement, include a review of the efficiency and effectiveness of the strategy statement extant during the preceding 3 year period,
  - (e) be adopted within 6 months of the establishment day and every 3 years thereafter,
  - (f) consider any directives given under *section 32*, and
  - (g) include the Authority's plans as to the number, nature and scope of broadcasting contracts that it proposes to enter into on the recommendation of the Contract Awards Committee during the period of the strategy statement.
4. The Authority shall present a copy of a strategy statement to the Minister and to such committees of either or both Houses of the Oireachtas as the Minister may, from time to time, direct.
5. Prior to the adoption of a strategy statement and its presentation to the Minister, the Authority shall undertake a public consultation process on a draft of the strategy statement.

**Notes**

This head requires the BAI to produce a statement of strategy within 6 months of the establishment of the BAI and every three years thereafter. The head requires the BAI to give an indication to the sector of its intentions with regard to the number and type of contracts it proposes should be awarded during the term of the strategy statement. The head is based on section 31 of the Communications Regulation Act 2002.

---

**Head 35 - Investments**

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

**Notes**

This is a standard provision which allows the BAI to invest cash balances.

This provision is based on section 15 of the Schedule to the Radio and Television Act 1988.

---

**Head 36 - Levy, charges and fees**

1. For the purpose of meeting expenses properly incurred by the Authority, the Contract Awards Committee and the Compliance Committee in the discharge of their functions in relation to broadcasting, the Authority shall make an order imposing a levy on Radio Teilifís Éireann, Teilifís na Gaeilge and the holders of broadcasting contracts under the Act of 1988, the Act of 1990, the Act of 2001 and this Act.
2. Whenever a levy order is made there shall be paid to the Authority by Radio Teilifís Éireann, Teilifís na Gaeilge and each of the holders of broadcasting contracts under the Act of 1988, the Act of 1990, the Act of 2001 and this Act as the case may be such amount as shall be appropriate having regard to the terms of the levy order.
3. The Authority may make separate levy orders for Radio Teilifís Éireann, Teilifís na Gaeilge and particular classes of the holders of broadcasting contracts under the Act of 1988, the Act of 1990, the Act of 2001 and this Act.
4. The levy order will provide for the collection, payment and administration of a levy, including all or any of the following –
  - (a) the method of calculation of the levy;
  - (b) the times at which payment will be made and the form of payment;
  - (c) the keeping, inspection and provision of records; and
  - (d) any exemptions, deferrals or refunds of the levy
5. A levy order may be amended or revoked by the Authority.
6. Any surplus of levy income over the expenses incurred by the Authority in the discharge of its functions relevant to that levy in a particular financial year shall either—
  - (a) be retained by the Authority to be offset against levy obligations for the subsequent year, or
  - (b) be refunded proportionately to the providers of broadcasting services on whom the levy is imposed.
7. The Public Offices Fees Act, 1879, does not apply in respect of fees payable to the Authority pursuant to this Act.
8. The Authority may recover as a simple contract debt in any court of competent jurisdiction from the person by whom it is payable any amount due and owing to it under this section.
9. In this section "levy order" means an order imposing levy under *subsection (1)*.

10. A fee or deposit may be payable, of such an amount as the Contract Awards Committee considers reasonable, in respect of an application made by a person to the Contract Awards Committee for the entry into, by the Authority, on the recommendation of the Contract Awards Committee, with that person, of—
  - (a) a contract under the Act of 1988, or
  - (b) a contract under the Act of 1990, or
  - (c) a contract under the Act of 2001, or
  - (d) a contract under this Act.
11. The Authority may charge fees for services or facilities provided by it.
12. Any surplus of income over the expenses incurred by the Authority in the discharge of its functions relevant to *subsections 10 and 11* in a particular financial year shall be applied in such manner as the Minister, after consultation with the Authority 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.

**Notes**

This head empowers the BAI to impose a levy on the sector to meet the cost of regulation of the sector by the BAI and its statutory committees. The head permits the BAI to distinguish between the various categories of broadcaster when imposing the levy.

Subsections (1) to (3) and (5) to (9) are based on section 30 of the Communications (Regulation) Act 2002.

Subsection (10) is based on section 56 of the Broadcasting Act 2001.

---

**Head 37 - Exchequer Funding**

1. Where in the opinion of the Minister an expense incurred by the Authority in performing its functions is of an exceptional nature, the Minister, after consultation with the Authority and with the consent of the Minister for Finance, may from time to time pay to the Authority such an amount as he or she determines to be reasonable for the purposes of defraying expenses incurred by the Authority and its statutory committees in performing their functions under this Act.

**Notes**

This head provides that Exchequer funding may be used to defray exceptional costs (e.g. exceptional legal costs) incurred by the Authority and its statutory committees in the execution of their functions. The head is based on section 23(3) of the Broadcasting Act 2001.

---

**Head 38 - Accounts and audits**

1. The chief executive, following the agreement of the Authority, shall submit estimates of income and expenditure to the Minister in such form, in respect of such periods and at such times, 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 discharge by the Authority, the Contract Awards Committee and the Compliance Committee of their functions over a period of years, as required.
2. The chief executive, under the direction of the Authority, shall cause to be kept, on a continuous basis, all proper books and records of account of all income and expenditure of the Authority, and of the sources of such income and the subject matter of such expenditure, and of the property, assets and liabilities of the Authority and shall keep and shall account to the Authority for all such special accounts required by the Act of 2003, and as the Minister or the Authority, with the consent of the Minister, may from time to time direct should be kept.
3. (a) The Authority, the chief executive and any relevant member of the staff of the Authority shall, whenever so requested by the Minister, permit any person appointed by the Minister to examine the books or other records of account of the Authority in respect of any financial year or other period and shall facilitate any such examination, and the Authority shall pay such fee therefore as may be fixed by the Minister.  
  
(b) In this subsection ‘‘relevant member of the staff of the Authority’’ means a member of the staff of the Authority in respect of whom there have been duly assigned duties which relate to the books or other records of account referred to in *paragraph (a)*.
4. The accounts of the Authority for each financial year shall be kept in such a form and manner as may be specified by the Minister with the consent of the Minister for Finance and be prepared by the chief executive and approved by the Authority as soon as practicable but not later than 3 months after the end of the financial year to which they relate for submission to the Comptroller and Auditor General for audit.
5. A copy of the accounts referred to in *subsection (4)* and the report of the Comptroller and Auditor General thereon shall, immediately after the audit of the Comptroller and Auditor General, be presented to the members of the Authority and to the Minister as soon as practicable and the Minister shall cause a copy of these documents to be laid before each House of the Oireachtas.
6. The financial year of the Authority shall be the period of 12 months ending on 31 December in any year, and for the purposes of this section the period commencing on the establishment day and ending on the following 31 December shall be deemed to be a financial year.

7. The Authority shall publish, with the consent of the Minister and the Minister for Finance, on a website maintained by the Authority, part or all of such estimates of income and expenditure as are required to be prepared under *subsection (1)*.

**Notes**

This head requires the BAI to maintain financial records and accounts and for such accounts to be subject to audit by the Comptroller and Auditor General. The head also requires the BAI to prepare budgetary estimates. Subsection (7) of the head requires the publication of such budgetary estimates with a view to allowing the sector to estimate in advance the extent of any levy. The head is based on section 31 of the Digital Hub Development Agency Act 2003.

-----

**Head 39 - Reports to the Minister**

1. The Authority shall, not later than 30 June in each year, make a report to the Minister (in this section referred to as the “annual report”) in such form as the Minister may approve, on the performance of its functions and activities, during the preceding year and the Minister shall cause copies of each annual report to be laid before each House of the Oireachtas.
2. A report of the Authority under *subsection (1)* shall include details of any scheme approved under the Act of 2003.
3. A report of the Authority under *subsection (1)* shall include a report to the Minister by the Contract Awards Committee, in such form as the Minister may approve, on the performance of its functions and activities, during the preceding year.
4. A report of the Authority under *subsection (1)* shall include a report to the Minister by the Compliance Committee, in such form as the Minister may approve, on the performance of its functions and activities, during the preceding year.
5. Each annual report shall include information in such form and regarding such matters as the Minister may direct.
6. The Authority, the Contract Awards Committee and the Compliance Committee may, from time to time, make such other reports to the Minister relating to their functions as they think fit or as the Minister may require.
7. In addition to information provided by the Authority in its annual report and in reports made pursuant to *subsection (6)*, the Authority, the Contract Awards Committee and the Compliance Committee shall supply to the Minister such information as the Minister may from time to time require regarding the performance of their functions.
8. The Minister may, from time to time, give the Authority, the Contract Awards Committee and the Compliance Committee specific directions in relation to the annual report or other reports under *subsection (6)*.

**Notes**

This head requires the BAI to produce an annual report. Such annual report is to include specific reports to the Minister from the Contract Awards Committee and Compliance Committee as to the exercise of their functions. The head also requires the BAI and its statutory committees to supply the Minister with such information and explanations as he or she may require. The head is based on section 34 of the Digital Hub Development Agency Act 2003. Subsection (2) is based on section 6(2) of the Broadcasting (Funding) Act 2003.

---

### **PART III - Duties, Codes and Rules**

#### **Head 40 - Duties of broadcasters**

1. Every broadcaster shall ensure that—
  - (a) all news broadcast by him or her is reported and presented in an objective and impartial manner and without any expression of his or her 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 or her 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) in respect of sound broadcasters that a minimum of—
    - (i) not less than 20 per cent. of the broadcasting time, and
    - (ii) if the 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 Authority under *subsection (3)*;
  - (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 or her;
2. Nothing in *subsection (1)(a)* or *(1)(b)* shall prevent a broadcaster from transmitting political party broadcasts: Provided that a broadcaster shall not, in the allocation of time for such broadcasts, give an unfair preference to any political party.
3. Notwithstanding *subsection (1)(c)*, the Authority may authorise a derogation from the requirement in question in whole or in part in the case of a sound broadcasting service but only if it is satisfied that the authorisation of such a derogation would be beneficial to the listeners of the sound broadcasting service.
4. A broadcaster shall ensure that the broadcast treatment of any proposal, being a proposal concerning policy as regards broadcasting, which is of public controversy or the subject of current public debate and which is being considered by the Government or the Minister, shall be reported and presented in an objective and impartial manner.
5. *Paragraphs (a) and (b) of subsection (1)*, in so far as they require the broadcaster not to express his or her own views, shall not apply to any broadcast made under *subsection (4)*.
6. Programmes broadcast in a broadcasting service may include advertisements inserted therein.

7. 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.
8. 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.
9. A broadcaster shall not broadcast an advertisement which is directed towards any religious or political end or which has any relation to an industrial dispute.
10. *Subsection (9)* shall not apply to advertisements broadcast at the request of the Referendum Commission in relation to a matter referred to in *section 3* of the Act of 1998 concerning a referendum.
11. It shall be the duty of a broadcaster, by means of its own facilities and in a manner approved of for the purposes of this section by the Compliance Committee, to record for those purposes every broadcast made by the broadcaster or every item of programme material supplied by him or her under a contract entered into under the Act of 1988, the Act of 1990, the Act of 2001 or this Act.
12. Recordings made in compliance with *subsection (11)* of this section, shall be retained by the broadcaster for such period as stands determined by the Compliance Committee for the purposes of this section, and when a complaint is being investigated by the Compliance Committee under *section 44*, the recording of the broadcast to which the complaint relates, together with the recording, made and being retained pursuant to this section, of any other broadcast which in the opinion of the Compliance Committee is relevant to that broadcast, shall be supplied by the broadcaster to the Compliance Committee on a request made by the Compliance Committee at any time during such period.
13. The making or retaining of a recording in compliance with *subsection (11)* of this section shall not be a contravention of the Copyright or Related Rights Act, 2000.

14. Nothing in *subsection (9)* shall be construed as preventing the broadcasting of a notice of the fact—
  - (a) that a particular religious newspaper, magazine or periodical is available for sale or supply, or
  - (b) that any event or ceremony associated with any particular religion will take place,if the contents of the notice do not address the issue of the merits or otherwise of adhering to any religious faith or belief or of becoming a member of any religion or religious organisation.
15. Subject to *subsection (16)*, a television broadcaster, where practicable and by appropriate means, shall reserve for European works, a majority proportion of its transmission time, excluding the time appointed to news, sporting events, games, advertising and teletext services.
16. The apportionment of transmission time by a television broadcaster for the purposes of *subsection (15)* shall be made having regard to the television broadcaster's informational, educational, cultural and entertainment responsibilities to its viewing public.
17. Subject to *subsection (18)*, a television broadcaster where practicable and by appropriate means, shall reserve at least 10 per cent of its transmission time, for European works created by producers who are independent of broadcasters, excluding the time appointed to news, sports events, games, advertising and teletext services or, reserve 10 per cent of its programming budget for European works which are created by producers who are independent of broadcasters.
18. The apportionment of the transmission time or the programming budget of a television broadcaster shall have regard to a television broadcaster's informational, educational, cultural and entertainment responsibilities to its viewing public.
19. An adequate proportion of works referred to in *subsection (17)* shall comprise recent works, that is to say works which are transmitted within five years of their production.
20. A television broadcaster shall not broadcast programmes that might seriously impair the physical, mental or moral development of minors, in particular those that involve pornography or gratuitous violence.
21. Other programmes which might impair the physical, mental or moral development of minors may only be shown where the television broadcaster ensures, by selecting the time of the broadcast or by any technical means, that minors would not normally be expected to hear or see such broadcasts.
22. A broadcast shall not contain any incitement to hatred on the grounds of race, sex, religion or nationality.

23. A television broadcaster on a request being made to him or her in that behalf by the Compliance Committee, shall furnish the Compliance Committee with the information necessary to enable the Minister to make a report to the European Commission on the application of *subsections (15),(16),(17),(18) and (19)*.
24. A cinematographic work shall not be broadcast by a television broadcaster, unless otherwise agreed between its rights holders and the television broadcaster.

**Notes**

This head restates the statutory duties imposed on broadcasters. The head standardises the approach as between public service, commercial and community broadcasters e.g. subsection (1) imposes a requirement of 20% news and current affairs on RTÉ – currently only commercial and community broadcasters are subject to this requirement.

Subsections (1) and (2) of this head are based on section 9 of the Radio and Television Act 1988.

Subsection (3) is based on Section 15 of the Radio and Television Act 1988 as amended by section 62 of the Broadcasting Act 2001.

Subsection (4) is based on section 18(1) of the Broadcasting Authority Act 1960.

The principal change effected in subsections (1) to (4) of this Head is the substitution of “broadcaster” for “broadcasting contractor” (with the exception of subsection (3))

Subsection (6) is based on section 10(1) of the Radio and Television Act 1988.

Subsection (7) is based on section 10(4) of the Radio and Television Act 1988.

Subsection (8) is based on section 10(5) of the Radio and Television Act 1988.

Subsection (9) is based on section 10(3) of the Radio and Television Act 1988.

Subsection (10) is based on section 5(1) of the Referendum Act 1998.

Subsections (11) to (13) are based on Section 6 of the Broadcasting Authority (Amendment) Act 1976 (as amended by Section 32(2) of the Broadcasting Act 2001) and Section 26 of the Broadcasting Act 2001.

Subsection (14) is based on section 65 of the Broadcasting Act 2001

Subsections (15) to (24) are based on S.I. 251 of 1991 which transposes a number of the requirements of the Television Without Frontier Directives.

---

**Head 41 - Codes and rules**

1. The Authority shall prepare, and from time to time as occasion requires, revise, in accordance with the provisions of this section, a code or codes governing standards and practice (hereinafter referred to as the broadcasting codes) to be observed by broadcasters.
2. Broadcasting codes prepared under *subsection (1)* shall provide-
  - (a) That all news broadcast by a broadcaster is reported and presented in an objective and impartial manner and without any expression of the broadcaster's own views;
  - (b) That 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 the broadcaster's own views;
  - (c) That anything being likely to promote, or incite to, crime, or as tending to undermine the authority of the State, is not broadcast by a broadcaster;
  - (d) Without, prejudice to any other enactment, that in programmes broadcast by a broadcaster, and in the means employed to make such programmes, the privacy of any individual is not unreasonably encroached upon;
  - (e) That a broadcaster shall not, in the allocation of time for transmitting political party broadcasts, give an unfair preference to any political party;
  - (f) That matters involving taste and decency of programme material, in particular, in respect of the portrayal of violence and sexual conduct, shall be presented by a broadcaster-
    - (i) with due sensitivity to the convictions or feelings of the audience;
    - (ii) with due regard to the impact of such programming on the physical, mental or moral development of children;
  - (g) That advertising, teleshopping material, sponsorship and other forms of commercial promotion employed in any broadcasting service, in particular advertising and other activities as aforesaid which relate to matters likely to be of direct or indirect interest to children, protects the interests of children;
  - (h) That advertising, teleshopping material, sponsorship and other forms of commercial promotion employed in any broadcasting service, other than advertising and other activities as aforesaid falling within *paragraph (g)*, protects the interests of the audience;
  - (i) That the provision of a broadcasting service which has, as one of its principal objectives, the promotion of the interests of any organisation, protects the interests of the audience;
  - (j) For the matters required to be provided for by Chapters IV and V of the Council Directive.

3. In setting or revising a broadcasting code under this section, the Authority shall have regard to each of the following matters-
  - (a) the degree of harm or offence likely to be caused by the inclusion of any particular sort of material in programmes generally, or in programmes of a particular description;
  - (b) the likely size and composition of the potential audience for programmes included in television and radio services generally, or in television and radio services of a particular description;
  - (c) the likely expectation of the audience as to the nature of a programme's content and the extent to which the nature of a programme's content can be brought to the attention of potential members of the audience;
  - (d) the likelihood of persons who are unaware of the nature of a programme's content being unintentionally exposed, by their own actions, to that content;
  - (e) the desirability of securing that the content of services identifies when there is a change affecting the nature of a service that is being watched or listened to and, in particular, a change that is relevant to the application of the standards set under this section; and
  - (f) the desirability of maintaining the independence of editorial control over programme content.
4. Whenever the Authority draws up or revises pursuant to *subsection (1)*, a broadcasting code relating to the matter in question every broadcaster shall comply with such broadcasting code and any revision thereof.
5. The Authority shall, in accordance with *subsection (8)*, make rules with respect to—
  - (a) the total daily times that shall be allowed for the transmission of advertisements and teleshopping material on a broadcasting service or sound broadcasting service, being a service which consists of a compilation of programme material supplied pursuant to a contract entered into under the Act of 2001 or the Act of 1988, and
  - (b) the maximum period that shall be allowed in any given hour for the transmission of advertisements and teleshopping material on such a broadcasting service or sound broadcasting service, and the Authority may make different such rules with respect to different classes of broadcasting service or sound broadcasting service.
  - (c) the specific steps each broadcaster is required to take to promote the understanding and enjoyment by—
    - (i) persons who are deaf or hard of hearing, and
    - (ii) persons who are blind or partially sighted, of programmes transmitted on any broadcasting service provided by him or her.
6. The rules under *subsection (5)* shall provide for the matters required to be provided for by Chapters IV and V of the Council Directive.
7. Whenever the Authority draws up or revises pursuant to *subsection (5)*, a rule relating to the matter in question every broadcaster shall comply with such rule and any revision thereof.

8. Before preparing a broadcasting code or making a rule under this section, the Authority shall make available for inspection by any person who makes a request of it in that behalf a draft of the broadcasting code it proposes so to prepare or the rule it proposes so to make and shall have regard to any submissions made to it, within such period as it specifies for the purpose, by that person in relation to the draft before it prepares the broadcasting code or makes the rule concerned.
9. The Authority shall cause to be published on a website maintained by the Authority, and may cause to be published in a newspaper circulating in the State, notice of the fact that, pursuant to *subsection (8)*, a draft referred to in that subsection is available for inspection, of the place at which or the means by which the draft can be inspected and of the period specified by it under that subsection within which submissions may be made to it in relation to the draft.
10. A copy of any broadcasting code or rule made under *subsections (1) or (5)* shall, as soon as may be after it is made, be presented to the Minister.
11.
  - (a) The Minister shall, as soon as may be after the receipt by him or her of a copy of any broadcasting code or rule made under *subsections (1) or (5)*, cause copies of it to be laid before both Houses of the Oireachtas.
  - (b) Either House of the Oireachtas may, by resolution passed within 21 sitting days after the day on which a broadcasting code or rule was laid before it in accordance with paragraph (a), annul a broadcasting code or rule.
  - (c) The annulment of the broadcasting code or rule takes effect immediately on the passing of the resolution concerned but does not affect anything that was done under a broadcasting code or rule before the passing of the resolution.
12. The Authority shall, once in each period of 4 years, beginning with the period of 4 years commencing on the date of the preparation of the broadcasting code or rule, review the effect of the broadcasting code or rule under *subsections (1) or (5)*, and shall prepare a report in relation to that review and furnish the report to the Minister; the Minister shall, as soon as may be after the receipt by him or her of the report, cause copies of it to be laid before both Houses of the Oireachtas.
13. Rules under *paragraph (c) of subsection (5)* may, in respect of any specified period beginning on or after the commencement of this subsection, require a broadcaster to ensure that a specified percentage of programmes transmitted on a broadcasting service provided by him or her in that period employs specified means by which the understanding and enjoyment by persons referred to in *subparagraphs (i) and (ii)* of that subsection of that percentage of programmes may be promoted.
14. In *subsection (13)* "specified" means specified in, or in accordance with, the rules concerned.
15. In this section "teleshopping material" means material which, when transmitted, will constitute a direct offer to the public for the sale or supply to them of goods or other property (whether real or personal) or services.

**Notes**

This head restates the basis for broadcasting codes and rules set by the BAI. It sets out the policies and principles of the codes and rules, requires that they be in accordance with the Television Without Frontiers Directive, and that any draft codes or rule be subject to public consultation. The head also requires that any code or rule prepared be subject to annulment by the Oireachtas.

In developing this head consideration will be given to its inter-relationship with the provisions contained in the Defamation Bill 2006, in particular whether or not (a) adherence to broadcasting codes and rules, and (b) abiding by determinations of the Compliance Committee by a broadcaster might be amongst the matters that a court might consider in the context of a defence of fair and reasonable publication under section 24 of the Defamation Bill.

Subsection 3 is based on Section 319(4) of the UK Communications Act 2003.

Subsection 4 is based on section 9(4) of the Radio and Television Act 1988.

Subsection 5(a)(b) is based on section 19(3)(a)(b) of the Broadcasting Act 2001.

Subsection 5(c) is based on section 19(11) of the Broadcasting Act 2001.

Subsection 6 is based on section 19(4) of the Broadcasting Act 2001.

Subsection 7 is new but is based on section 9(4) of the Radio and Television Act 1988.

Subsection 8 is based on section 19(5) of the Broadcasting Act 2001.

Subsection 9 is based on section 19(6) of the Broadcasting Act 2001.

Subsection 12 is based on section 19(10) of the Broadcasting Act 2001.

Subsection 13 is based on section 19(12) of the Broadcasting Act 2001.

Subsection 14 is based on section 19(13) of the Broadcasting Act 2001.

Subsection 15 is based on section 19(18) of the Broadcasting Act 2001.

---

**Head 42 - Co-operation with other parties**

1. 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 the preparation by that person or those persons of broadcasting codes, standards, rules or guidelines.
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 the preparation by that person or those persons of codes or standards with respect to the transmission of information by any electronic means (other than by means of broadcasting), including by means of the Internet.
3. In this section "codes or standards" does not include codes or standards with respect to any technical aspect of the transmission of information by the means referred to in *subsection (2)*.

**Notes**

This head is intended to empower the BAI to co-operate with similar regulatory organisations (such as OFCOM) in the development of codes, rules or standards relating to broadcasting or the Internet and is based on section 20 of the Broadcasting Act 2001.

---

**PART IV - Redress**

**Head 43 - Complaints handling - code of practice**

1. A broadcaster 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 broadcasting service provided by the broadcaster and shall 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 broadcaster shall prepare and implement a code of practice for the handling of complaints in respect of the broadcasting service provided by the broadcaster. The code of practice shall make provision for the following matters-
  - (a) The initial point of contact for complainants,
  - (b) The time period within which the broadcaster shall respond to complaints, and
  - (c) The procedures to be followed by the broadcaster in the resolution of complaints.
3. A broadcaster shall publish on a website maintained by the broadcaster, and generally make available, a code of practice required under *subsection (2)*.
4. The Compliance Committee may prepare and publish guidance for broadcasters for the purposes of ensuring compliance with *subsection (2)*.
5. A broadcaster shall supply the information required under *subsection (2)* to the Compliance Committee who shall cause such information to be published on a website maintained by the Authority.
6. A broadcaster shall, if directed by the Compliance Committee make available for inspection by the Compliance Committee all records kept by him or her pursuant to *subsection (1)*.

**Notes**

This head requires broadcasters to maintain records of complaints made to them regarding their broadcasting service and to put in place a mechanism for dealing with such complaints. Subsections (1) and (6) are based on section 11 of the Radio and Television Act 1988.

---

**Head 44 - Complaints process**

1. Subject to the provisions of this section, the Compliance Committee may investigate and decide upon any of the following complaints—
  - (a) a complaint that in broadcasting news given by it and specified in the complaint, a broadcaster did not comply with one or more of the requirements of *section 40(1)(a)(b)*.
  - (b) a complaint that in broadcasting a programme specified in the complaint, a broadcaster either did not comply with one or more of the said requirements or was in breach of the prohibition contained in *section 40(1)(d)*
  - (c) a complaint that on an occasion specified in the complaint a broadcaster failed to comply with a provision of a broadcasting code providing for the matters referred to in-
    - (i) *section 41(2)(d)*
    - (ii) *section 41(2)(f)*
    - (iii) *section 41(2)(g)*
    - (iv) *section 41(2)(h)*
    - (v) *section 41(2)(i)*
  - (d) a complaint by a person that in a broadcast by a broadcaster which is specified in the complaint an assertion was made of inaccurate facts or information in relation to that person which constituted an attack on that person's honour or reputation.
2. A complaint under *subsection (1)* shall be in writing and be made to the Compliance Committee not more than 30 days after—
  - (a) in case the complaint relates to one broadcast the date of the broadcast,
  - (b) in the case of two or more unrelated broadcast, the date of the earlier or earliest, as the case may be, of those broadcasts, and
  - (c) in case the complaint relates to 2 or more related broadcasts of which at least 2 are made on different dates, the later or latest of those dates.
3. The Compliance Committee may, at its discretion, refer the complaint in the first instance to the broadcaster, for consideration in accordance with a code of practice required under *section 43, subsection (2)*.

4. Where the Compliance Committee appoints an investigating officer to investigate and report on a complaint referred to in *subsection (1)*, the investigating officer shall afford to the broadcaster to whom the complaint relates (hereafter in this section referred to as "the broadcaster concerned") 21 days to comment on the complaint.
5. Where a complaint is made to the Compliance Committee under *subsection (1)* and—
  - (a) a person employed by the broadcaster concerned, or
  - (b) if the making of any programme, the subject of the complaint, was commissioned by the broadcaster concerned, the person commissioned to make that programme,

requests, for reasons specified by him or her, the Compliance Committee to afford to him or her an opportunity to comment on the complaint, the Compliance Committee shall, having considered the reasons so specified, require the investigating officer to afford to the person 21 days to comment on the complaint if, but only if, they are satisfied that, as appropriate—

- (i) an interest of the person referred to in *paragraph (a)*, being an interest which the Compliance Committee consider relevant to the person's employment by the broadcaster concerned, or
  - (ii) the prospects of the person referred to in *paragraph (b)* obtaining further commissions in respect of programmes from the broadcaster concerned, may, because of the complaint, be adversely affected.
6. When the Compliance Committee proposes to consider a complaint referred to in *subsection (1)(c)(iii) or (iv)*, the investigating officer shall permit the relevant advertiser 21 days to comment on the relevant advertisement.
7. As soon as may be after they decide on a complaint made under this section, the Compliance Committee shall send to—
  - (a) the person who made the complaint, and
  - (b) the broadcaster concerned,a statement in writing of their decision, including the reasons for their decision.
8. In case the Compliance Committee decide on a complaint referred to in *subsection (1)(c)(iii) or (iv)*, as soon as may be after their decision, the Compliance Committee shall (in addition to complying with the requirement of *subsection (7)*) send to the person with whom the broadcaster concerned agreed to broadcast the relevant advertisement (if he or she is not the person who made the complaint) a statement in writing of their decision.
9. The consideration by the Compliance Committee of a complaint made to them under this section shall be carried out by the Compliance Committee in private.

10. Unless they consider it inappropriate to do so, the Compliance Committee shall, as soon as may be after the making of the decision, publish particulars of their decision on a complaint in such manner as they consider suitable and, without prejudice to *subsection (11)*, where they consider that the publication should be by the broadcaster concerned, or should include publication by the broadcaster concerned, the particulars shall be published by the broadcaster concerned in such manner as shall be agreed between the Compliance Committee and the broadcaster concerned.
11. Without prejudice to *subsection (10)*, the broadcaster concerned shall, unless the Compliance Committee consider it inappropriate for the broadcaster to do so, broadcast the Compliance Committee's decision on every complaint considered by the Compliance Committee in which the Compliance Committee found in favour, in whole or in part, of the person who made the complaint, including, in the case of a complaint under *subsection (1)(d)*, any correction of inaccurate facts or information relating to the individual concerned, within 21 days of such decision and at a time and in a manner corresponding to that in which the broadcast to which the complaint relates took place.
12. As regards proceedings under this section, the Compliance Committee shall not have any power to award to any party costs or expenses.
13. *Subsection (1)* shall not apply to a complaint which, in the opinion of the Compliance Committee, is frivolous or vexatious, nor, unless the Compliance Committee consider that there are special reasons for investigating the complaint (which reasons shall be stated by the Compliance Committee when giving their decision), shall that subsection apply to a complaint which is withdrawn.
14. Where a matter has been the subject of multiple complaints made under this section the Compliance Committee may review the matter concerned and, as it considers appropriate, report to the Minister and to the relevant public body in such form and manner as the Committee thinks fit the findings arising out of such review.
15. The Compliance Committee shall endeavour to decide upon a complaint as soon as practicable after such a complaint is received.

**Note**

This head outlines the grounds and process for complaints against broadcasters

Subsection (1) is based on section 24(2) of the Broadcasting Act 2001.

Subsection (2) is based on section 24(3) of the Broadcasting Act 2001.

Subsection (4) is based on subsection 24(4) of the Broadcasting Act 2001.

Subsections (5) to (12) are based on section 24 of the Broadcasting Act 2001.

---

**Head 45 - Right of Reply**

1. For the purpose of this section-  
“requester” means a person who makes a request under *subsection 6*;  
“right of reply” shall mean the broadcast by a broadcaster of programme material prepared in accordance with a scheme under *subsection (3)* of this section.
2. Subject to the provisions of this section, any natural or legal person, whose legitimate interests, in particular reputation and good name, have been damaged by an assertion of incorrect facts in a broadcast shall have a right of reply.
3. The Authority shall prepare and, following a period of public consultation, within six months of the establishment of the Authority, submit to the Minister, for his or her approval, a scheme for the exercise of the right of reply.
4. A scheme under *subsection (3)* shall set out the procedures to be followed in the exercise of the right of reply.
5. In preparing a scheme the Authority shall ensure that-
  - (a) a requester may, at reasonable charge, receive from the broadcaster a copy of the recording of the part of a broadcast in which it is alleged that his or her legitimate interests have been damaged,
  - (b) a right of reply shall be broadcast within a reasonable time period subsequent to the request for a right of reply being made,
  - (c) a right of reply shall be broadcast at a time and in a manner appropriate to the broadcast to which the request refers,
  - (d) a right of reply shall-
    - (i) state to what extent the information contained in the broadcast under *subsection (2)* is incorrect or misleading,
    - (ii) be limited to factual assertions necessary to rectify an incomplete or otherwise distorting assertion, and
  - (e) a broadcaster shall, without charge, assist a requester in the recording of a reply.
6. A person who wishes to exercise a right of reply in accordance with a scheme under *subsection (3)* shall make a request in writing addressed to the broadcaster concerned-
  - (a) stating that the request is made under this section,
  - (b) containing sufficient particulars to enable the identification by the taking of reasonable steps of the part of the broadcast which asserted incorrect facts damaging to the reputation and good name of the requester,
  - (c) contain the proposed wording of the right of reply, and
  - (d) if the requester requires the right of reply to be given in a particular form or manner (being a form or manner which is in accordance with the terms of any scheme approved by the Minister under *subsection (3)*), specifying the form or manner of the right of reply.

7. A request for a right of reply under a scheme made under *subsection (3)* shall be made not later than six months after the making of the broadcast referred to in the request, unless otherwise agreed between the requester and the broadcaster concerned.
8. Where a person who makes a request under *section (6)* subsequently dies or becomes incapacitated by reason of mental infirmity, consideration of the request by a broadcaster or the Compliance Committee shall be continued at the written request of the requester's personal representative.
9. The broadcaster shall, as soon as may be, but not later than 14 days, after the receipt of a request under *subsection (6)* -
  - (a) decide whether to grant or refuse to grant the request, and
  - (b) cause notice in writing of the decision to be given to the requester.
10. Where notice of a decision under *subsection (9)* is not given to the requester before the expiration of the period specified for that purpose, a decision refusing to grant the request under *subsection (6)* shall be deemed for the purposes of this section to have been made upon such expiration by the broadcaster concerned.
11. A broadcaster shall give due and adequate consideration to any request under *subsection (6)*, which is not of a frivolous or vexatious nature, made by a member of the public in respect of the broadcasting service provided by the broadcaster and shall keep due and proper records of all such requests and of any reply made thereto or of any action taken on foot thereof.
12. A broadcaster shall, if directed by the Compliance Committee make available for inspection by the Compliance Committee all records kept by him or her pursuant to *subsection (11)*.
13. No charge shall be made for the processing of a request under *subsection (6)* by a broadcaster.
14. Subject to the provisions of this section, the Compliance Committee, on application to them in that behalf, in writing, by a requester, may as soon as may be but not later than 28 days after the receipt of such an application, review a decision to refuse by a broadcaster under *subsections (9) or (10)* and as they consider appropriate-
  - (i) affirm or vary the decision, or
  - (ii) annul the decision and, if appropriate, make such decision in relation to the matter as it considers proper in accordance with this section.
15. An application under *subsection (14)* shall be made to the Compliance Committee not more than two months after receipt of a decision to refuse under *subsections (9) or (10)*.

16. Where the Compliance Committee propose to investigate an application made under *subsection (14)*, the Compliance Committee shall afford to the broadcaster to whom the application relates (hereafter in this section referred to as "the broadcaster concerned") an opportunity to comment on the application.
17. As soon as may be after they decide on an application made under *subsection (14)*, the Compliance Committee shall send to—
  - (a) the person who made the application, and
  - (b) the broadcaster concerned,a statement in writing of their decision, including the reasons for their decision.
18. The Compliance Committee may reject any request for a right of reply—
  - (a) Which is of a frivolous or vexatious nature, or
  - (b) Is manifestly unnecessary owing to the minor significance of the error in the broadcast complained of, or
  - (c) Where the proposed reply cites untrue information or assertions, or
  - (d) Where the proposed reply is a personal opinion, or
  - (e) Where the proposed reply is an assessment or warning against the future conduct of a person, or
  - (f) Satisfaction of the proposed reply would involve a punishable act, or
  - (g) Satisfaction of the proposed reply would transgress standards of public decency, or
  - (h) Satisfaction of the proposed reply would render the broadcaster liable to civil law proceedings, or
  - (i) Satisfaction of the proposed reply would breach a broadcaster's statutory obligation, or
  - (j) Satisfaction of the proposed reply would breach the terms of a broadcaster's contract with the Authority, or
  - (k) Where the person who was injured by the contested information has no legally justifiable actual interest in the distribution of a reply, or
  - (l) Where the original broadcast also contained a statement from the person affected and such contents are equivalent to a right of reply, or
  - (m) Where the original broadcast also contained a statement from the person affected and the text of the original statement had the prior agreement of the person who feels he or she has been injured, or
  - (n) If an equivalent editorial correction has been made and the person affected informed, or
  - (o) If the content of the proposed reply would violate the rights of a third party
  - (p) Where the matter concerned relates to reports on public sessions of the Oireachtas or the Courts, or
  - (q) Where the matter concerned relates to a party political broadcast, or
  - (r) Where the matter concerned relates to a broadcast under section 3 of the Act of 1998, or
  - (s) Where the Compliance Committee is of the opinion that the broadcast of a right of reply is not in the public interest, or
  - (t) Where the person requesting the right of reply has exceeded the timelines for submitting a request or submitting the text of a reply under a scheme.

19. Where the Compliance Committee finds that the broadcaster has failed to comply with a decision under *subsection (14)* the Compliance Committee, shall notify the broadcaster of those findings and give the broadcaster an opportunity to make representations in relation to the notification or remedy any non-compliance, not later than
  - (a) one month after issue of the notification, or
  - (b) such period as is agreed by the Compliance Committee with the broadcaster concerned.
20. The Compliance Committee may amend or revoke any notification under *subsection (19)*.
21. Where, at the end of the period referred to in *subsection (19)*, the Compliance Committee is of the opinion that the broadcaster concerned has not complied with such notification, the Compliance Committee may recommend to the Authority, and the Authority shall follow such recommendation, that the Authority apply to the High Court for such order as may be appropriate by way of compliance with the obligation or notification. Where the application is made to the High Court, it shall be heard by a judge sitting alone. The Court may, as it thinks fit, on the hearing of the application make an order-
  - (a) compelling compliance with the notification,
  - (b) varying the notification, or
  - (c) refusing the application.
22. As regards proceedings under this section, the Compliance Committee shall not have any power to award to any party costs or expenses.
23. A scheme submitted by the Authority to the Minister under *subsection (3)* may be amended or revoked by the Authority.
24. Any amendment or revocation of a scheme under *subsection (23)* shall be submitted by the Authority to the Minister for his or her approval.
25. The Minister may direct the Authority to revoke a scheme and the Authority shall comply with such a direction.
26. A scheme shall, if approved of by the Minister, be:
  - (a) published by the Authority (including publication on a website maintained by the Authority), and
  - (b) carried out in accordance with its terms by the Compliance Committee.

27. (a) A scheme shall be laid before each House of the Oireachtas by the Minister as soon as may be after it is made.
- (b) Either House of the Oireachtas may, by resolution passed within 21 sitting days after the day on which a scheme was laid before it in accordance with *paragraph (a)*, annul a scheme.
- (c) The annulment of a scheme shall take effect immediately on the passing of the resolution concerned but does not affect anything that was done under a scheme before the passing of the resolution.
28. The Authority shall review and report to the Minister on the operation, effectiveness and impact of a scheme not later than 3 years from the date on which it comes into operation and every three years thereafter or at such time as may be requested by the Minister.
29. A copy of a report under *subsection (28)* shall be laid by the Minister before each House of the Oireachtas, as soon as may be, after it has been made to him or her.

#### Notes

This head provides for a right of reply wider than that provided by section 24(2)(f) of the Broadcasting Act 2001 which transposed the right of reply requirements of Article 23 of Council Directive 89/552/EEC. The provision is intended to provide a proportionate, low cost and expeditious remedy to persons whose reputations have been damaged by an assertion of incorrect facts in a broadcast.

In developing this head, and the Broadcasting Bill in general, consideration will be given to the inter-relationship with the proposals contained in the Defamation Bill 2006, in particular-

- (a) Whether or not a right of reply broadcast pursuant to a scheme under this head might be accorded qualified privilege under section 16 of the Defamation Bill 2006
- (b) Whether or not agreement to grant a request for a right of reply might be regarded as an offer to make amends under section 20 of the Defamation Bill 2006.

Subsection (2) is based on the wording of Article 23 of Council Directive 89/552/EEC (Television Without Frontiers) as amended by Directive 97/36EC.

Subsection (6) is based on Section 7 of the Freedom of Information Act 1997.

Subsection (9) is based on Section 8 of the Freedom of Information Act 1997.

Subsection (10) is based on Section 41 of the Freedom of Information Act 1997.

Subsections (23) to (27) are based on Sections 2(6) to (10) of the Broadcasting Funding Act 2003.

---

**PART V – Enforcement of regulatory decisions**

**Head 46 – Investigating officers**

1. In this Part "the Court" means the High Court.
2. The Compliance Committee, with the consent of the Authority, may from time to time designate officers of the Authority and employees of the Authority, as investigating officers to investigate and report to the Compliance Committee in respect of a matter which is the subject of an inquiry under *subsection (1) of section 44, subsection (14) of section 45 or subsection (1) of section 47.*
3. A report of the investigating officer to the Compliance Committee under *subsection (2)* shall include the investigating officer's findings and recommendations.

**Notes**

This head permits the Compliance Committee to designate members of staff of the BAI as investigating officers to assist it in the conduct of an inquiry under heads 44, 45 and 47.

---

**Head 47 – Inquiry process**

1. Whenever the Compliance Committee suspects on reasonable grounds that a broadcaster is committing or has committed a contravention of-
  - (a) a duty under *subsections 1(c), 9, 11, 12, 15, 17, 20, 22, 23 or 24 of section 40,*
  - (b) a broadcasting code under *section 41,* or
  - (c) a rule under *subsection (5) of section 41*

it may hold an inquiry to determine whether or not the broadcaster is committing or has committed the contravention.

2. Before holding an inquiry under *subsection (1),* the Compliance Committee shall give notice in writing of the proposed inquiry to the broadcaster concerned.

The notice must—

- (a) specify the grounds on which the Compliance Committee’s suspicions are based, and
  - (b) specify a date, time and place at which the Compliance Committee will hold the inquiry, and
  - (c) invite the broadcaster concerned either to attend the inquiry or to make written submissions about the matter to which the inquiry relates.
3. Where the Compliance Committee holds an inquiry under *subsection (1)* and-
    - (a) a person employed by the broadcaster concerned, or
    - (b) if the making of any programme, the subject of such an inquiry, was commissioned by the broadcaster concerned, the person commissioned to make that programme-

requests, for reasons specified by him or her, the Compliance Committee to afford to him or her an opportunity to comment on the matter of the inquiry, the Compliance Committee shall, having considered the reasons so specified, invite the person concerned either to attend the inquiry or to make written submissions about the matter to which the inquiry relates if, but only if, they are satisfied that, as appropriate—

- (i) an interest of the person referred to in *paragraph (a),* being an interest which the Compliance Committee consider relevant to the person's employment by the broadcaster concerned, or
  - (ii) the prospects of the person referred to in *paragraph (b)* obtaining further commissions in respect of programmes from the broadcaster concerned, may, because of the matter of the investigation, be adversely affected.
4. Where the Compliance Committee holds an inquiry under *subsection (1)* as to non-compliance with a broadcasting code which provides for the matters referred to in *paragraphs (g) and (h) of section 41(2),* the Compliance Committee shall invite the advertiser concerned either to attend the inquiry or to make written submissions about the matter to which the inquiry relates.

5. The broadcaster, advertiser or person referred to in *subsection (3)* may, before the date of the inquiry, lodge with the Compliance Committee any written submissions that the broadcaster wishes that the Compliance Committee take into account when considering the matter to which the inquiry relates. This subsection applies whether or not the broadcaster has been invited to attend the inquiry.
6. The Compliance Committee may proceed with an inquiry in the absence of the broadcaster, advertiser or person referred to in *subsection (3)* so long as that broadcaster, advertiser or person referred to in *subsection (3)* has been given an opportunity to attend the inquiry or to make written submissions to it.
7. At the conclusion of an inquiry held under *subsection (1)* the Compliance Committee shall make a finding as to whether the broadcaster concerned is committing or has committed the contravention to which the inquiry relates.
8. At the conclusion of an inquiry held under subsection (1), the Compliance Committee shall notify its decision to the broadcaster.

The decision must set out in writing—

- (a) its finding as to whether or not the broadcaster is committing or has committed the contravention to which the inquiry relates, and
  - (b) the grounds on which its finding is based, and
  - (c) if the Compliance Committee finds that the contravention is being or has been committed, the monetary penalty (if any) proposed under *section 48* in respect of the contravention.
9. The Compliance Committee shall conduct an inquiry with as little formality and technicality, and with as much expedition, as a proper consideration of the matters before it will allow.
  10. At an inquiry, the Compliance Committee shall observe the rules of procedural fairness, but is not bound by the rules of evidence.
  11. The Compliance Committee may be assisted by a legal practitioner when conducting an inquiry.
  12. A broadcaster who has, in accordance with *subsection (2)* been invited to attend an inquiry or a part of it is entitled to be represented at the inquiry or part by a legal practitioner or, with the leave of the Compliance Committee, by any other person.
  13. Except as provided by *subsection (14)*, the Compliance Committee shall hold its inquiries in public.

14. The Compliance Committee and the broadcaster to whom an inquiry relates may agree that the inquiry should be held in private, but even if they do not agree, the Compliance Committee may nevertheless decide to hold an inquiry in private if it is satisfied that—
  - (a) evidence may be given, or a matter may arise, during the inquiry that is of a confidential nature or relates to the commission, or to the alleged or suspected commission, of an offence against a law of the State, or
  - (b) a person's reputation would be unfairly prejudiced unless the Compliance Committee exercises its powers under this subsection.
15. The Compliance Committee may at any time vary or revoke a decision made under *subsection (14)*.
16. The Compliance Committee may, on its own initiative or at the request of the broadcaster concerned, recommend to the Authority, and the Authority shall follow such recommendation, that the Authority refer to the Court for decision a question of law arising at an inquiry.
17. If a question has been referred under *subsection (16)*, the Compliance Committee may not, in relation to a matter to which the inquiry relates—
  - (a) give a decision to which the question is relevant while the reference is pending, or
  - (b) proceed in a manner, or make a decision, that is inconsistent with the Court's opinion on the question.
18. If a question is referred under *subsection (16)*—
  - (a) the Authority shall send to the Court all documents before the Compliance Committee that are relevant to the matter in question, and
  - (b) at the end of the proceeding in the Court in relation to the reference, the Court shall cause the documents to be returned to the Authority, who shall cause the documents to be returned to the Compliance Committee.
19. If on the holding of an inquiry under *subsection (1)* the Compliance Committee has found that a broadcaster is committing or has committed a contravention to which the inquiry relates, it shall publish the finding, and details of any monetary penalty proposed in consequence of the finding, in such form and manner as it thinks appropriate.
20. Where the Compliance Committee proposes to hold an inquiry under *subsection (1)* the broadcaster concerned shall co-operate in any such inquiry.
21. The Compliance Committee may prescribe guidelines with respect to the conduct of inquiries under this Part, and may for that purpose, incorporate by reference any procedure prescribed by Rules of the Superior Courts as in force at a specified time or as in force from time to time.
22. The Compliance Committee may at any time amend or revoke guidelines prescribed under this section.

23. Guidelines prescribed under this section, and any amendment to, or revocation of, those guidelines, must be in writing and be published in a manner determined by the Compliance Committee.

**Notes**

This head outlines the process for inquiries by the Compliance Committee. The head provides that a broadcaster, advertiser is afforded the opportunity to make a comment on the matter under inquiry.

This head is based on section 10 of the Central Bank and Financial Services Authority of Ireland Act 2004 and section 24 of the Broadcasting Act 2001.

---

**Head 48 – Monetary penalties**

The objective of Part V of the draft general scheme is to ensure that the BAI has an adequate range of proportionate enforcement mechanisms available to it.

One possibility being actively considered is a system of administrative monetary penalties, which would apply to commercial, community and public service broadcasters.

This option envisages that the BAI would be empowered to impose a penalty of up to €250,000 where the Compliance Committee pursuant to an inquiry process under Head 47 has made a finding that a broadcaster has committed a contravention of-

- (a) a duty under *subsections 1(c), 9, 11 12, 15, 17, 20, 22, 23 or 24 of section 40,*
- (b) a broadcasting code under *section 41,* or
- (c) a rule under *subsection (5) of section 41.*

The amount of any penalty would be determined in accordance with any monetary penalty guidelines published by the Compliance Committee under Head 49.

In addition the BAI would be required to publish the details of any monetary penalty imposed.

**Head 49 – Monetary penalty guidelines**

1. It shall be the duty of the Compliance Committee to prepare and publish a statement containing the guidelines it proposes to follow in determining the amount of any monetary penalty proposed by it under the provisions contained in *section 48*.
2. The Compliance Committee may from time to time revise that statement as it thinks fit.
3. Before preparing, or revising, a statement under this section, the Compliance Committee shall make available for inspection by any person who makes a request of it in that behalf a draft of the statement it proposes so to prepare or revise and shall have regard to any submissions made to it, within such period as it specifies for the purpose, by that person in relation to the draft, before it prepares or revises the statement concerned.
4. The Compliance Committee shall cause to be published on a website maintained by the Authority, and may cause to be published in a newspaper circulating in the State, notice of the fact that, pursuant to *subsection (3)*, a draft referred to in that subsection is available for inspection, of the place at which or the means by which the draft can be inspected and of the period specified by it under that subsection within which submissions may be made to it in relation to the draft.
5. In preparing or revising a statement under this section the Compliance Committee shall ensure that the amount of any proposed monetary penalty shall be appropriate and proportionate to the contravention in respect of which it is imposed, in particular-
  - (a) The seriousness of the contravention;
  - (b) Any precedents set by previous cases; and
  - (c) The need to ensure that the possibility of a monetary penalty will act as a sufficient incentive to comply.
6. In preparing or revising a statement under this section the Compliance Committee shall consider the following matters to be relevant to the level of any monetary penalty including, but not limited to-
  - (a) Any gain (financial or otherwise) made by the broadcaster in breach (or any connected body);
  - (b) The degree of harm caused, or increased cost incurred by consumers or other sectoral participants;
  - (c) The extent to which any contravention was caused by a third party, or any relevant circumstances beyond the control of the broadcaster;
  - (d) The duration of the contravention;
  - (e) Whether a monetary penalty in respect of the same conduct has already been imposed by the Authority or another body;
  - (f) Audience expectations; and
  - (g) When a programme is broadcast.

7. In preparing or revising a statement under this section the Compliance Committee shall consider the following matters to be matters tending to increase the level of any monetary penalty-
  - (a) Repeated contraventions by the same broadcaster;
  - (b) Continuation of the contravention after either becoming aware of the contravention or being notified of a contravention by the Compliance Committee or the Authority;
  - (c) The extent to which the management of the broadcaster knew, or ought to have known, that a contravention was occurring or would occur; and
  - (d) The absence, ineffectiveness or repeated failure of internal mechanisms or procedures of the broadcaster intended to prevent contravention by the broadcaster concerned.
  
8. In preparing or revising a statement under this section the Compliance Committee shall consider the following matters to be matters tending to decrease the level of any proposed monetary penalty-
  - (a) The extent to which the broadcaster has taken steps in advance to identify and mitigate external factors that might result in a contravention;
  - (b) The extent and timeliness of any steps taken to end the contravention in question, and any steps taken for remedying the consequences of the contravention; and
  - (c) Whether the broadcaster co-operated with the Compliance Committee's inquiry.

**Notes**

This head requires the Compliance Committee to prepare, consult and publish guidelines as to the level of monetary penalties that the Committee might propose in the event of a contravention by a broadcaster of a duty, code or rule etc.

This provision is based on section 392 of the UK Communications Act 2003 and the published Ofcom penalty guidelines.

---

**Head 50 - Amendment of section 14(4)(a) of the Act of 1988 and section 55 of the Act of 2001**

1. Section 14 of the Act of 1988 is hereby amended by the substitution of the following subsection for paragraph (a) of subsection (4)-

“(4) Every sound broadcasting contract shall –

- (a) provide that the Compliance Committee may, at its discretion, recommend to the Authority, and the Authority shall follow any such recommendation, to suspend, reduce the term of, or terminate the contract-
  - (i) if any false or misleading information was given to the Contract Awards Committee by or on behalf of the broadcasting contractor prior to the making of the contract,
  - (ii) if the broadcasting contractor has, in the opinion of the Compliance Committee, committed serious or repeated breaches of his obligations under the sound broadcasting contract or under this Act;”

2. Section 55 of the Act of 2001 is hereby amended by the substitution of the following subsection for subsection (1)-

“(1) Without prejudice to any specific provision of this Act, or of a contract thereunder, in that behalf, the Compliance Committee may recommend to the Authority, and the Authority shall follow any such recommendation, to terminate, suspend or reduce for such period as it specifies any contract entered into by it under this Act—

- (a) if any false or misleading information was given to the Contract Awards Committee by or on behalf of the holder of the contract before it was entered into, or
- (b) if the holder of the contract, has, in the opinion of the Compliance Committee, failed on one or more occasions to comply with a term or condition of the contract and the nature of that failure is of such seriousness as, in the opinion of the Compliance Committee, warrants the termination, suspension or reduction by it of the contract.”

3. Section 55 of the Act of 2001 is hereby amended by the substitution of the following subsection for subsection (2)-

“(2) A contract terminated, suspended or reduced under this or any other provision of this Act, or pursuant to a provision of that contract, shall, in case it is terminated, cease to have effect, and in case it is suspended or reduced, cease to have effect for the period for which it is suspended or for the period by which it is reduced.”

**Notes**

This head empowers the Compliance Committee through the BAI to reduce the term of a broadcasting contract in the event of serious or repeated breaches of contractual obligations by the broadcasting contractor (commercial or community broadcaster), or in the event that a broadcasting contractor provided misleading information to the Contract Awards Committee prior to the making of the broadcasting contract.

---

**PART VI - Television licence**

**Head 51 - Interpretation**

In this Part of the Act, except where the context otherwise requires—

*Part A. Relating to definition of a television set*

"television set" means any electronic apparatus capable of receiving and exhibiting television broadcasts broadcast for general reception (whether or not its use for that purpose is dependent on the use of anything else in conjunction therewith) and any software or assembly comprising such apparatus and other apparatus.

"television broadcasting" means the initial transmission by wire or over the air, including that by satellite, in unencoded or encoded form, of television programmes intended for reception by the public. It includes the communication of programmes between undertakings with a view to their being relayed to the public. It does not include communication services providing items of information or other messages on individual demand such as telecopying, electronic data banks and other similar services.

"electronic communications network" means transmission systems including, where applicable—

- (a) switching equipment,
- (b) routing equipment,
- (c) other resources,

which permit the conveyance of signals by wire, by radio, by optical or by other electromagnetic means, and such conveyance includes the use of—

- (i) satellite networks,
- (ii) electricity cable systems, to the extent that they are used for the purposes of transmitting signals,
- (iii) fixed terrestrial networks (both circuit-switched and packet-switched, including the Internet),
- (iv) mobile terrestrial networks,
- (v) networks used for either or both radio and television broadcasting, and
- (vi) cable television networks,

irrespective of the type of information conveyed;

'broadcast' means the transmission, relaying or distributing by electronic communications network, of communications, sounds, signs, visual images or signals, intended for reception by the general public whether such communications, sounds, signs, visual images or signals are actually received or not.

*Part B.*

“apartment” means a self-contained residential unit in a building that comprises a number of such units;

"premises" includes land not built on, land covered by water and a structure of any kind whether attached or affixed to the land or not;

“record”, except where the context otherwise requires, means any disc, tape, perforated roll or other device in which sounds are embodied so as to be capable (with or without the aid of some other instrument) of being automatically reproduced therefrom, and references to a record of a work or other subject matter are references to a record (as herein defined) by means of which it can be performed;

“supply” includes without giving payment;

“specified place” shall include an apartment, holiday home, holiday house, holiday villa, approved holiday cottage, holiday apartment, and individual rooms within an apart-hotel, guesthouse, hostel, hotel, motor hotel, qualifying student accommodation, school, college, university, health premises, hospital, place normally used for indoor public entertainment, licenced premises, registered club, and place of work;

"undertaking" means a person being an individual, a body corporate or an unincorporated body of persons engaged for gain in the production, supply or distribution of goods or the provision of a service.

“vehicle” includes caravan, ship, boat, hovercraft, tramcar, railway train, aircraft or vehicle propelled by mechanical or electrical means.

**Notes**

The primary objective of definitions in Part A is to establish a definition of a television set, which is separate and distinct from wireless telegraphy legislation.

The definition of television set is based on Section 1 of the Wireless Telegraphy Act 1972 as amended by section 2 of the Broadcasting and Wireless Telegraphy Act 1988.

The definition of electronic communications network is based on Section 2 of the Communications Regulation Act 2002.

The definition of broadcast is based on Section 2 of the Wireless Telegraphy Act 1926 as amended by section 19 of the Radio and Television Act 1988.

5 September 2006

Part B incorporates general definitions required by Head 52 onwards.  
The definition of apartment is based on Section 3 of the Valuation Act 2001.

The definition of premises is based on Section 1 of the Broadcasting and Wireless Telegraphy Act, 1988.

The definition of record is based on section 2(1) of the Copyright Act of 1963.

The definition of supply is based on the Broadcasting and Wireless Telegraphy Act 1988.

The current definition of specified place is interpreted as relating to a specific postal address. This addition is intended to clarify the position as regards sub-units of accommodation, which occur at the same postal address. The definition draws from Section 1 of the Hotel Proprietors Act 1963, Section 1 of the Tourist Traffic Act 1970, Section 3 of the Valuation Act 2001, Section 47 of the Public Health (Tobacco) Act 2002, Section 8 of the National Tourism Development Authority Act 2003 and Section 32 of the Finance Act 2003.

The definition of undertaking is based on section 3 of the Competition Act 2002.

The definition of vehicle is based on Section 3 of the Road Traffic Act 1961 and Section 1 of the Immigration Act 2003.

---

**Head 52 - Regulations designating apparatus to be a television set**

1. The Minister may, by regulations designate a specified kind of apparatus to be a television set for the purposes of *Part VI* of this Act.
2. Regulations under this section, which designate a specified kind of apparatus to be a television set, may provide for references to such a television set to include reference to software used in association with apparatus.
3. The Minister may by order amend or revoke a regulation made under this section.
4. Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and if either such House shall, within twenty-one days on which either such House has sat next after the regulation was laid before such Houses, pass a resolution annulling such regulation, such regulation shall be annulled accordingly but without prejudice to the validity of anything previously done under such regulation.

**Notes**

The objective of this head is to empower the Minister to make secondary legislation designating a device or software programme to be a television set (within the context of the definition of a television set provided in Head 51). The provision is based on section 368 of the UK Communications Act 2003.

---

**Head 53 - Restrictions on possession of a television set**

1. Subject to the exceptions hereinafter mentioned, no person or undertaking shall keep or have in his possession anywhere in the territory of the State a television set save in so far as such keeping or possession is authorised by a licence granted under this Act and for the time being in force.
2. No person or undertaking having possession of a television set under a licence granted under this Act shall keep such a television set otherwise than in accordance with the terms and conditions subject to which such licence is expressly, or is by virtue of this Act deemed to have been granted.
3. This section shall not apply to a television set, which is of a class or description for the time being declared by an order of the Minister (which may be revoked or amended by a further order) to be a class or description of television set to which this section is not to apply.
4. All licences for the possession of a television set, as defined in section 1 of the Wireless Telegraphy Act 1972, which were granted under the Wireless Telegraphy Act, 1926 as amended and were in force at the passing of this Act shall continue in force for such time as they would have continued in force under the said Acts if this Act had not been passed, but all such licences shall for the purposes of this Act be deemed to have been granted under this Act and this Act shall apply to all such licences accordingly.
5. No fee heretofore paid to the Minister in respect of a licence for the possession of a television set, as defined in section 1 of the Wireless Telegraphy Act 1972, shall be recoverable on the ground that such fee was not legally chargeable.

**Notes**

The objective of subsections (1) to (3) of this head is to subject the possession of television sets to licencing requirements. Subsection (3) empowers the Minister to exempt a class or description of television sets from the licensing requirement, for example domestic personal computers or mobile handsets capable of exhibiting television pictures.

Subsections (1) to (3) are based on subsections (1), (2) and (6) of section 3 of the Wireless Telegraphy Act 1926 as amended. The objective of subsections (4) and (5) is to ensure that existing television licences issued prior to enactment of subsections (1) to (3) remain valid in the transitional period following enactment. Subsections (4) and (5) are based on subsections (2) and (3) of section 15 of the Wireless Telegraphy Act 1926.

Subsection (6) of section 3 of the Wireless Telegraphy Act 1926 excludes from licensing “apparatus for wireless telegraphy which is kept by or in the possession of the Minister for Defence for the purposes of the Defence Forces, or in any ship of war belonging to the State or any other country or state.” The current proposed provision does not explicitly exempt military premises or vehicles. However, subsection (3) empowers the Minister to make such an exemption by way of regulations.

---

**Head 54 - Grant of television licences**

1. The Minister may, subject to the provisions of this Act and on payment of the prescribed fee (if any) grant to any person or undertaking a licence to keep and have possession of a television set in a specified place in the territory of State.
2. Every licence granted under this Act 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 thereto by regulations made by the Minister under this Act.
3. For the purposes of this Act and any regulations under *section 55* of this Act, a vehicle shall itself be deemed to be a place separate and distinct from the premises in which such vehicle is ordinarily kept, and the word 'place' and the expression 'specified place' shall in this Act and in any such regulations be construed accordingly.

**Notes**

The objective of subsections (1) and (2) of this head is to empower the Minister to grant licences for television sets in return for a fee. It also establishes that the basis of the grant of the licence is the possession of a television set in a specified place. The wording as drafted provides (a) that a television set held within a second home would require a separate licence and (b) that the Minister, should he or she so wish, require licences for each individual television set held at a particular location. Subsections (1) and (2) are based on section 5 of the Wireless Telegraphy Act 1926 as amended.

The objective of subsection (3) of this head is to require television sets held in vehicles e.g. vans, ships and aircraft to be subject to licence. This provision is based on section 2 of the Wireless Telegraphy Act 1956.

---

**Head 55 - Regulations in regard to television licences**

1. The Minister may by order make regulations prescribing in relation to all licences granted under *Part VI* of this Act 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,
  - (d) the circumstances and manner in which such licences may be suspended or revoked by the Minister,
  - (e) the terms and conditions to be observed by the holders of such licences and subject to which such licences are deemed to be granted,
  - (f) the fees to be paid on the grant or renewal of such licences, including the discount of fees, and the time and manner at and in which such fees are to be paid,
  - (g) any other matter relating to such licences in respect of which it shall appear to the Minister to be necessary or desirable to make provision by regulations made under this section.
2. Nothing in this Act shall prevent the Minister from making separate regulations as between persons and undertakings, including the fees to be paid on the grant or renewal of licences under *Part VI* of this Act.
3. No regulation shall be made under this section in relation to fees without the previous consent of the Minister for Finance.
4. Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and if either such House shall, within twenty-one days on which either such House has sat next after the regulation was laid before such Houses, pass a resolution annulling such regulation, such regulation shall be annulled accordingly but without prejudice to the validity of anything previously done under such regulation.

**Notes**

The objective of this provision is to empower the Minister to make regulations detailing the terms and conditions associated with television licences. Subsections (1), (3) and (4) are based on subsections (1), (3) and (4) of section 6 of the Wireless Telegraphy Act 1926 as amended.

Paragraph (1)(f) empowers the Minister to discount the television licence fee e.g. for prompt payment.

The objective of subsection (2) is to restate the Minister's power to prescribe separate television licence regimes for residential and business uses.

-----

**Head 56 - Ministerial power to appoint an agent to act on his or her behalf**

1. For the purposes of this section a “designated person” means an undertaking or a public body (including, but not limited to, An Post or Radio Teilifís Éireann), designated by the Minister to act on the Minister’s behalf in connection with the operation of *Part VI* of this Act.
2. The Minister may by order empower a designated person to issue on his or her behalf, and on payment of the appropriate fee, licences for television sets in accordance with *Part VI* of this Act.
3. The Minister may by order empower the designated person to exercise the functions conferred on him or her by or under *Part VI* of this Act in relation to the collection of fees for and sale of television set licences, the identification of persons who have television sets not authorised by a licence for the time being in force, the serving of special notices under *section 57* and the operation of a search warrant under *section 58*.
4. The Minister, after consultation with the designated person, may by order amend or revoke an order under the previous provisions of this section.
5. The designated person shall furnish such information, and in such format (including electronic formats), as the Minister may require in relation to the exercise of functions assigned to him or her under this section.
6. Where an order under *subsection (3)* is in force, summary proceedings may be brought and prosecuted by the designated person for the following offences under this Act—
  - (a) an offence under *subsection (3)* of *section 57*
  - (b) an offence under *section 59*
7. The designated person shall pay to the Minister promptly the amounts collected by the designated person in respect of the issue of television set licences.
8. The manner of payment, and the periods for which payments are to be made in respect of the issue of television set licences, shall be decided by the Minister after consultation with the designated person.
9. The Minister shall pay to the designated person an appropriate sum in respect of work done by the designated person in the exercise of powers conferred on the designated person under this section.
10. The appropriate sum payable by the Minister to the designated person and the manner in which and the intervals at which it is to be paid shall be decided by the designated person with the consent of the Minister.

11. The designated person may, with the consent of the Minister, appoint an agent to perform any acts and discharge any functions authorised by this section to be performed or discharged by the designated person.
12. Anything commenced before the commencement of this Act by or under the authority of the Minister may, in so far as it relates to the functions under this section, be carried on or completed on or after such commencement by the designated person.

**Notes**

The purpose of this head is to empower the Minister to appoint an agent to undertake the Minister's functions in relation to the television licensing process. The head is based on sections 76 to 79 of the Postal and Telecommunications Services Act 1983. Subsection (1) empowers the Minister to appoint a private or public body to act as agent on his behalf. For the avoidance of doubt the subsection explicitly permits the Minister to appoint An Post or RTÉ to act as his or her agent.

Subsection (5) is intended to empower the Minister to request an electronic copy of the television licence database from the agent at any time, including in the event of a change of agent.

Subsection (11) is intended to permit the agent, subject to the approval of the Minister, to appoint a "sub-agent" to undertake the agent's functions.

---

**Head 57 - Statutory Declaration**

1. The Minister may, if and whenever he or she thinks proper so to do, cause a special notice in writing (accompanied by or having annexed thereto a form of declaration) to be served by registered post on any person or undertaking requiring such person or undertaking within twenty eight days after the service of the notice on him or her to state on the said form of declaration such one or more of the matters hereinafter mentioned as shall be specified in the notice and to sign and otherwise complete such declaration and to give the same or send the same by post to a specified officer of the Minister.
  
2. The matters which a person or undertaking may be required under this section to state in a declaration are—
  - (a) whether he or she does or does not keep or has or has not in his or her possession a television set,
  - (b) if he or she keeps or has in his or her possession a television set, 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 *Part VI* of this Act 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 other matter relating to the possession of a television set.
  
3. Every person or undertaking on whom a special notice is duly served under this section shall within the time aforesaid duly and correctly complete in accordance with such notice and this section the form of declaration accompanying or annexed to such notice and give or send such declaration to the officer named in that behalf in such notice, and if any such person or undertaking shall fail or neglect so to complete and give or send such declaration or shall make in such declaration any statement which is to his or her knowledge false or misleading he or she shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding €500.

**Notes**

The purpose of this head is to permit the Minister to require a person or business to return a statutory declaration stating whether or not they possess a television licence. The head is based on section 7 of the Wireless Telegraphy Act 1926 as amended and section 20(1) of the Broadcasting Authority (Amendment) Act 1976.

The head increases the time available to respond with a declaration from fourteen to twenty eight days.

The head also seeks to increase the fine for failure to furnish information on whether or not the individual concerned holds a television set from €317 to €500.

---

**Head 58 - Issue of search warrants**

1. A Justice of the District Court may, upon the information on oath of an officer of the Minister or of a member of the *Gárda Síochána* that there is reasonable ground for believing that a television set is being kept at any specified place or in any specified vehicle in contravention of any provision of this Act or any regulation made or condition imposed under this Act, grant to such officer of the Minister or (with the consent of the Minister) to such member of the *Gárda Síochána* (as the case may be) a search warrant which shall be expressed and shall operate to authorise the officer of the Minister or member of the *Gárda Síochána* to whom the same is granted to enter, and if need be by force, the place or in any specified vehicle named in the said information and there to search for a television set and to examine all such television sets there found and to seize and take away all such televisions sets which appears to such officer or member to be kept in contravention of any provision of *Part VI* of this Act or any regulation made or condition imposed under *Part VI* of this Act.
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 Minister 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 thereby conferred on him or her.
3. (a) An officer of the Minister may retain anything seized under this section which he or she believes to be evidence of any offence or suspected offence under *Part VI* of this Act 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, and thereafter the Minister shall, as soon as may be, deliver any such thing to the person who in his or her opinion is the owner thereof, and in case the Minister decides that he or she is unable to ascertain such person, then, on and from the date of his decision, the Act of 1897 shall apply to the thing so seized.  
  
(b) Where, by virtue of *paragraph (a)* of this subsection, the Act of 1897 is applied to any thing, then, without prejudice to the right of any claimant of the thing to make an application under that Act in regard thereto, the Minister shall, as soon as may be, make such an application.  
  
(c) For the purpose of giving effect to the foregoing paragraphs of this subsection the Act of 1897 shall be construed and have effect subject to any modification which is necessary to give such effect.  
  
(d) In this subsection, 'the Act of 1897' means the *Police (Property) Act, 1897*.

4. (a) Any person who by act or omission impedes or obstructs an officer of the Minister or a member of the Garda Síochána or any other person in the exercise of a power conferred by a search warrant granted under this section shall be guilty of an offence.
- (b) Any person who with intent to impede or obstruct an officer of the Minister or a member of the Garda Síochána or any other person in the exercise of a power conferred by a search warrant granted under this section places, erects, installs, keeps or maintains any thing shall be guilty of an offence and if, in the case of a continuing offence, the impediment or obstruction is continued after conviction, he or she shall be guilty of a further offence.
- (c) Every person guilty of an offence under this subsection shall be liable on summary conviction to a fine not exceeding €1,000.

**Notes**

Section 9 of the Communications Regulation Act 2002 transferred the power to obtain a search warrant to enter a premise or a vehicle and to search for, examine and seize television sets, which appear to be unlicensed from the Minister to the Commission for Communications Regulation. The purpose of this head is to restore this power to the Minister and his or her agents.

The head also seeks to increase the fine for obstructing or impeding an officer of the Minister or a member of the Garda Síochána or any other person in the exercise of a power conferred by a search warrant granted under this section from €635 to €1,000 to take account of inflation since the level of the original fine was set.

This head is based on section 8 of the Wireless Telegraphy Act 1926 as amended.

---

**Head 59 - Penalty for not having a television licence**

1. Every person or undertaking who keeps, has in his or her possession or uses a television set in contravention of *section 53* shall be guilty of an offence and shall be liable on summary conviction thereof-
  - (a) in the case of a first such offence, to a fine not exceeding €1,000,
  - (b) in the case of a second and subsequent such offence, to a fine not exceeding €2,000

**Notes**

The purpose of this head is to increase the fines on conviction for possession of a television set without a licence.

The provision increases the fine from €635 to €1,000 for a first offence, and from €1,270 to €2,000 for a second or subsequent offence.

This head is based on subsection (3) of section 3 of the Wireless Telegraphy Act 1926 as amended.

-----

**Head 60 - Prosecution of offences**

1. All prosecutions under this Act in a court of summary jurisdiction shall be prosecuted at the suit of the Minister and not otherwise.
2. In a prosecution for an offence under *section 53* in which it is shown that a television set was in a particular premises on a particular day, it shall be presumed, until the contrary is shown by the defendant, that on that day the television set was in the possession of the person who was then the occupier of the premises.
3. In a prosecution for an offence under *section 53* in which it is shown that a television set was in a particular vehicle on a particular day, it shall be presumed, until the contrary is shown by the defendant, that on that day the television set was in the possession of the owner of the vehicle.
4. In a prosecution for an offence under *section 53* in which it appears (whether by virtue of *subsection (3)* of this section or otherwise) that a person kept or had in his possession a television set at the time to which the prosecution relates, it shall be presumed, until the contrary is shown by the defendant, that he or she did not at such time hold a licence under this Act then having effect and licensing him or her to keep or have in his or her possession the television set to which the prosecution relates.
5. In a prosecution for an offence under *section 57* in which it is shown that a special notice has been sent by registered post it shall be presumed, until the contrary is shown by the defendant, that the person to whom the notice was so sent has not complied with the requirements of the said *section 57*.
6. In this section—  
"occupier" in relation to premises, means a person who as owner, tenant or otherwise is in occupation, whether solely, jointly or severally, of the premises;  
"premises" means land and includes a part of a building occupied as a separate dwelling, whether or not the occupier shares with any other person any portion thereof or any accommodation, amenity or facility in connection therewith.
7. Where an offence under *Part VI* of this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he or she, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against accordingly.

**Notes**

The purpose of this head is to establish on whose behest prosecutions are taken and the onus of proof in any such prosecution.

The objective of subsection (7) of this head is to lift the veil of incorporation for offences committed by a body corporate to permit the prosecution of the officers of the body corporate.

Subsection (1) is based on section 13 of the Wireless Telegraphy Act 1926.

Subsections (2) and (3) are based on section 9(1) of the Wireless Telegraphy Act 1972.

Subsection (4) is based on section 9(2) of the Wireless Telegraphy Act 1972.

Subsection (5) is based on section 9(3) of the Wireless Telegraphy Act 1972.

Subsection (6) is based on section 9(4) of the Wireless Telegraphy Act 1972.

Subsection (7) is based on section 7(2) of the Broadcasting Offences Act 1968.

---

**Head 61 - Amendment of section 1 of the Act of 1972**

1. Section 1(1) of the Act of 1972 is hereby amended by the substitution of “has the meaning assigned to it by section 51 of the Broadcasting Act 2006” for the definition of "television set" contained therein, and the said definition, as so amended, is set out in the Table to this section.

TABLE

“Television set” has the meaning assigned to it by section 51 of the Broadcasting Act 2006.

**Notes**

This head amends the definition of a television set in section 1 of the Wireless Telegraphy Act 1972 as amended by section 2(2) of the Broadcasting and Wireless Telegraphy Act 1988.

---

**Head 62 - Amendment of section 9 of the Broadcasting and Wireless Telegraphy Act 1988**

1. Section 9 of the Broadcasting and Wireless Telegraphy Act 1988 is hereby amended in subsection (5) by the substitution of “section 51 of the Broadcasting Act 2006” for “section 1 (1) of the Wireless Telegraphy Act, 1972, as amended by section 2 (2) of this Act.”

**Notes**

This head is necessitated by separation of the television licence from its original basis in the Wireless Telegraphy Act 1926.

-----

**Head 63 - Amendment of section 4(1) of the Act of 2003**

1. Subsection (1) of Section 4 of the Broadcasting (Funding) Act 2003 is hereby amended by the substitution of ““broadcasting licence fees” means a fee paid on a licence granted under section 54 of the Broadcasting Act 2006 in respect of a television set (within the meaning of section 51 of the Broadcasting Act 2006);” for ““broadcasting licence fees” has the meaning given to it in section 1(1) (as amended by *subsection (4)*) of the Broadcasting Authority Act 1960;”.

**Notes**

This head is necessitated by separation of the television licence from its original basis in the Wireless Telegraphy Act 1926.

---

**PART VII - Contract award**

**Head 64 - Restriction on the award of a sound broadcasting contract**

1. The Contracts Awards Committee shall not recommend to the Authority the grant of a sound broadcasting contract to a person who has been convicted of an offence in relation to a broadcast under section 3(3)(a)(ii) of the Wireless Telegraphy Act 1926 or under sections 3, 4 or 5 of the Broadcasting and Wireless Telegraphy Act 1988 if the conviction occurred less than 5 years before the first day on which the person proposes to engage in sound broadcasting activities to which the application for the sound broadcasting relates.

**Notes**

This head is based on section 4(7) of the Casual Trading Act 1995 and precludes the Contract Awards Committee from recommending to the BAI the award of a sound broadcasting contract (also known as a radio licence) to a person who has been convicted within the previous five years of an offence under section 3(3)(a)(ii) of the Wireless Telegraphy Act 1926 as amended by section 12 of the Broadcasting and Wireless Telegraphy Act 1988 or sections 3, 4 or 5 of the Broadcasting and Wireless Telegraphy Act 1988 (offences which currently give rise to a fine on summary conviction and conviction on indictment, and are prosecuted by the Commission for Communications Regulation).

-----

**Head 65 - Amendment of section 5 of the Act of 1988**

1. Section 5 of the Act of 1988 is hereby substituted by the following-

- “(1) In order to secure the orderly development of sound broadcasting services and 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 Authority shall liaise and consult with the Commission for Communications Regulation in the preparation by that body of an allocation plan for the frequency range dedicated to radio and television broadcasting.
- (2) The Authority, having regard to an allocation plan under *subsection (1)* and after consultation with the Commission for Communications Regulation, 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 Contract Awards Committee shall comply with such direction.
- (3) Where the Authority proposes to issue a direction under *subsection (2)*, the Authority shall conduct, or arrange for there to be conducted, a study in that area or amongst a community of interest for the purposes of ascertaining the interests and wishes of that area or community in respect of broadcasting services.
- (4) The Authority shall publish the results of any study completed under *subsection (3)* on a website maintained by the Authority.
- (5) On receipt of a direction from the Authority under *subsection (2)* the Contract Awards Committee shall, in accordance with the terms of any such direction, by public notice invite expressions of interest, within the next 60 days of such notice, in the securing of contracts for 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 broadcasting contract.
- (6) A public notice under *subsection (5)* shall invite all interested parties to express their views on the type of broadcasting service proposed.
- (7) The Contract Awards Committee 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 Authority under *subsection (2)* and, subject to the provisions of this Act, may recommend that the Authority enter into such contracts, and the Authority shall follow any such recommendation.
- (8) Where the Contract Awards Committee 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.

- (9) In considering applications for the award of a sound broadcasting contract the Contract Awards Committee shall assign a score to each of the criteria, or to a number of the criteria, specified in section 6(2) of this Act and the Contract Award Committee shall specify such assignment to each person who has indicated his or her intention of being an applicant for a contract.
- (10) The members of the Contract Awards Committee shall in reaching their decision as to the award of a sound broadcasting contract assign agreed scores to each of the applications received in accordance with *subsection (9)*.
- (11) The Contract Awards Committee's view on an assignment of scores under *subsection (10)* shall be determined by a majority of the votes cast of the members of the Contract Awards Committee.
- (12) If it appears to the Contract Awards Committee that there are special reasons for departing from the requirements specified in *subsection (10)*, they may so depart, but the reasons for such departure shall be conveyed in writing to each of the persons from whom an application has been received.
- (13) Every notice under *subsection (8)* 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 Contract Awards Committee to be necessary or relevant.

### Notes

This head requires the BAI to conduct and publish an assessment of listener demand prior to directing the Contract Awards Committee to begin the process of awarding a broadcasting contract. The head also requires the Contract Awards Committee to invite public views as part of the expression of interest stage in the award of a sound broadcasting contract.

The head provides that the Contract Awards Committee must publish the criteria and associated scores for the award of a broadcasting contract prior to the closing date for receipt of applications. It also requires the Contract Awards Committee to agree a common score for each applicant, and for the score of that applicant and the successful applicant to be available to the requesting applicant. The latter provisions are intended to assist in addressing concerns expressed regarding the transparency of the award of sound broadcasting contracts.

Subsections (3) and (4) of this head are based on section 39 of the Broadcasting Act 2001 and require the BAI to conduct an assessment of the demands of listeners to whom the proposed sound broadcasting service is to be addressed.

Subsections (5) and (6) of this head are intended to require the Contract Awards Committee to invite the views of the public on the proposal to award a sound broadcasting contract.

---

**Head 66 - Amendment of section 6(5) of the Act of 1988**

1. Section 6 of the Act of 1988 as amended by section 60 of the Act of 2001 is hereby amended by the substitution of the following subsection for subsection (5)-

“(5)Where the Contract Awards Committee decides to refuse to recommend the award of a sound broadcasting contract to an applicant therefore, the Contract Awards Commission shall notify the applicant of:

- (a) the reasons for the decision;
- (b) the score of the applicant; and
- (c) the score of any successful applicant”

**Notes**

This head requires the Contract Awards Committee, with a view to transparency to notify an unsuccessful applicant of the reasons for their decision including relevant scores.

-----

**Head 67 - Amendment of section 6(1) and (2) of the Act of 1988**

1. Section 6 of the Act of 1988 is hereby amended by the insertion of the following subsection after subsection (2)-

“(2A) The executive of the Authority shall examine all applications received by the Contract Awards Committee and such examination shall be made by reference to the matters specified in *subsection (2)* of this section and shall consider (amongst other matters) the matters asserted by any party to such an application.

(2B) The executive shall prepare a report in writing of the results of any examination under *subsection (2A)* and shall submit such a report to the Contract Awards Committee, and such a report shall not include a recommendation as to the award of a sound broadcasting contract.

2. Section 6 of the Act of 1988 is hereby amended by the insertion of the following paragraph after paragraph (j) of subsection (2)-

“(k) Where directed by the Authority, the amount of a single payment cash sum, as specified by the applicant during the course of his or her application, which the applicant is willing to pay to the Authority in respect of the award of the sound broadcasting contract.”

“(l) Where directed by the Authority, the amount of a periodic cash sum payment, as specified by the applicant during the course of his or her application, which the applicant is willing to pay to the Authority in respect of the award of the sound broadcasting contract.”

“(m) Where directed by the Authority, the amount of a periodic cash sum payment determined by reference to a variable, as specified by the applicant during the course of his or her application, which the applicant is willing to pay to the Authority in respect of the award of the sound broadcasting contract.”

3. Section 6 of the Act of 1988 is hereby amended by the substitution of the following paragraph for paragraph (f) of subsection (2)-

“(f) the desirability of having a diversity of services in the area specified in the notice under *section 5(7)* catering for a wide range of tastes including those of minority interests;”

4. Section 6 of the Act of 1988 is hereby amended by the substitution of the following paragraph for paragraph (h) of subsection (2)-

“(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(7)*;”

5. Section 6 of the Act of 1988 is hereby amended by the substitution of the following subsection for *subsection (1)*-

“(1) The Contract Awards Committee 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 (7)* for the purpose of determining the most suitable applicant, if any, to be awarded a sound broadcasting contract”

**Notes**

Subsections (2A) and (2B) of this head require the staff/executive of the BAI to review each application for a sound broadcasting contract and to submit a report of their findings to the Contract Awards Committee in order that the Committee may reach its decision having had the benefit of the expertise and experience of the BAI executive.

Paragraph (k) would permit the Contract Awards Committee, at the direction of the BAI, to consider the amount of any once-off cash bid proposed by an applicant, as one of the selection criteria in a sound broadcasting contract award process. The wording of this part of the head draws from section 3 of the UK Wireless Telegraphy Act 1998 as amended by section 167 of the UK Communications Act 2003.

Paragraph (l) and (m) would permit the Contract Awards Committee, at the direction of the BAI, to consider the amount of any (a) periodic cash payment or (b) royalty proposed by an applicant, as one of the selection criteria in a sound broadcasting contract award process. The wording of this part of the head draws from section 3 of the UK Wireless Telegraphy Act 1998 as amended by section 167 of the UK Communications Act 2003.

---

**Head 68 - Amendment of section 6(4) of the Act of 1988**

1. Section 6 of the 1988 Act is hereby amended by the insertion of the following subsection after subsection (4) as inserted by section 60 of the 2001 Act-

“(4A) In considering the suitability of an applicant for the award of a sound broadcasting contract, the Contract Awards Committee shall have regard to reports of the Compliance Committee.”

**Notes**

This head requires the Contract Awards Committee to consider reports from the Compliance Committee in making its assessment under subsection (4) of section 6 of the Radio and Television Act 1988 as amended, of the suitability of applicants for the award of a sound broadcasting contract.

---

**Head 69 – Fast-track application process**

1. In this section-  
“Committee” means the Contracts Awards Committee;  
“fast track procedure” means a procedure provided for under *subsection (2)*; and  
“incumbent” means the holder of a sound broadcasting contract for the area concerned.
2. Where, in the opinion of the Committee, the only substantive response from persons with an interest in providing a sound broadcasting contract pursuant to a public notice under section 5(5) of the Act of 1988, is received from the incumbent, then the Committee may at its discretion propose to invoke a fast track procedure under *subsection (6)*.
3. Where the Committee proposes to invoke a fast track procedure, it shall by notice published in at least one national newspaper and on a website maintained by the Authority state its intention to invoke such a procedure.
4. If a person, other than the incumbent, within 28 days of a notice published under *subsection (3)*-
  - (a) submits in writing that he or she wishes to apply for the award of a sound broadcasting contract for the area concerned, and
  - (b) deposits such a sum with the Authority as is specified by the Committee in any notice under *subsection (3)*, not exceeding €25,000.then the Committee shall proceed to-
  - (i) invite applications for the award of a sound broadcasting contract for the area concerned under section 5(7) of the Act of 1988, or
  - (ii) refer the matter to the Authority for direction.
5. Where, in the opinion of the Committee, a substantive application under section 5(7) of the Act of 1988 has been received consequent to a submission under *subsection (4)* then any sum deposited under *subsection (4)* shall be refunded in full.
6. In the event that no written submission and associated deposit are received under *subsection (4)* the Committee may-
  - (a) request the Compliance Committee to prepare a report on the incumbent’s compliance with contract terms and broadcasting standards generally, and
  - (b) invite the incumbent to make a proposal to amend the terms of his or her contract with the Authority.
7. A proposal received under *subsection (6)* must address-
  - (a) the matters outlined in section 6 of the Act of 1988, and
  - (b) such other matters as the Committee may consider relevant.

8. On consideration of a proposal received under *subsection (6)* the Committee may-
  - (a) reject the contractual changes proposed by incumbent and proceed to invite applications under section 5(7) of the Act of 1988 from other persons for the area concerned;
  - (b) refer the matter to the Authority for direction; or
  - (c) recommend to the Authority, and the Authority shall follow any such recommendation, that the Authority agree the contractual terms recommended by the Committee with the incumbent.
  
9. The term of any contract agreed under *subsection (8)* shall not exceed five years.

**Notes**

This head outlines the “fast track” procedure that the Contract Awards Committee may adopt in the event that there is a limited response to a call for expressions of interest for the award of a sound broadcasting contract. The head limits the term of a “fast tracked” contract to five years.

---

**PART VIII - Public service broadcasters – common provisions**

**Head 70 - Formation of the company**

1. In this section "a company" shall mean Radio Teilifís Éireann or Teilifís na Gaeilge.
2. The Minister, after consultation with the Minister for Finance, shall cause a company limited by guarantee without share capital conforming to the conditions laid down in this Act to be formed and registered under the Companies Acts.
3. The company shall not be wound-up unless the Minister shall have given, with the consent of the Minister for Finance, his or her prior approval by order thereto.
4. Where the Minister proposes to make an order under *subsection (3)* he or she shall cause a draft of the order to be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

**Notes**

This head provides for the setting up and registration of RTÉ and Teilifís na Gaeilge as companies limited by guarantee without share capital under the Companies Acts 1963 to 2005. It also outlines the procedure to be followed in the event that a decision is taken to wind up the companies. The head is based on section 9(1) of the Postal and Telecommunications Services Act, 1983.

---

**Head 71 - Vesting day**

1. The Minister shall by order appoint a day to be the vesting day for the company as soon as practicable after the company has been registered.

**Notes**

This head provides for a vesting day for Radio Teilifís Éireann or Teilifís na Gaeilge to be set by the Minister. The provision is based on section 9(2) of the Postal and Telecommunications Services Act, 1983.

---

**Head 72 - Name and capital formation**

1. The name of the company shall be Radio Teilifís Éireann or Teilifís na Gaeilge.
2. The company shall be exempt from the requirement of section 6(1)(a) of the Companies Act 1963 to include the word “limited” or “teoranta” in its title.
3. The membership of Radio Teilifís Éireann undertakes to contribute an amount not exceeding €X to discharge the debts and liabilities of Radio Teilifís Éireann, and the costs, charges and expenses of winding up, in the event of its being wound up.
4. The membership of Teilifís na Gaeilge undertakes to contribute an amount not exceeding €X to discharge the debts and liabilities of Teilifís na Gaeilge, and the costs, charges and expenses of winding up, in the event of its being wound up.

**Notes**

This head provides for the name and extent of the capital guarantee of RTÉ and Teilifís na Gaeilge (the exact amount to be ascribed to X for the two companies is currently being considered). All registered companies limited by shares or by guarantee are required to have the words Teoranta or Limited in their name unless provided for by law. Subsection 2 of this head removes this requirement for RTÉ and Teilifís na Gaeilge. The text is based on Section 10 of the Postal and Telecommunications Services Act, 1983 and Section 6(3) of the Companies Act 1963.

---

**Head 73 - Membership of the company**

1. The Minister shall act as the member of the company.
2. The Minister may exercise, in respect of his or her membership, all the rights and powers of a guarantor of the capital of the company, including exercise of such rights and powers by attorney, where applicable.
3. The Minister shall not transfer or alienate his or her guarantee to the company.
4. The cost of meeting the guarantee in the event of the company being wound up shall be advanced to the Minister from the Central Fund or the growing produce thereof.
5. Any money arising from membership of the company is to be paid into or disposed of for the benefit of the Exchequer, as the Minister for Finance may decide.

**Notes**

This head provides that the Minister shall be the guarantor of RTÉ and Teilifís na Gaeilge and that the cost of meeting the guarantee shall be met from Central Funds. The provision is based on sections 19(4), 22(2), 24(1) and 26 of the Postal and Telecommunications Services Act 1983.

---

**Head 74 - Form of memorandum of association of the company**

1. The memorandum of association of the company shall be in such form consistent with this Act as may be approved of by the Minister with the consent of the Minister for Finance, by order.
2. An order made under this section shall be laid by the Minister before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

**Notes**

This head requires the Minister to draw up and issue by order the initial memorandum of association of RTÉ and Teilifís na Gaeilge. The memorandum of association, which outlines the purposes of a company under the Companies Acts, is required to be in accordance with the rest of the Act and can be annulled by way of a resolution passed by either House of the Oireachtas. Subsection (1) of this provision is based on section 11 of the Postal and Telecommunications Services Act 1983.

---

**Head 75 - Supplementary services, variation in channels and “sub-contracting”**

1. For the purposes of this section “supplementary services” shall mean the provision by the company of services, which are in accordance with the objectives conferred on the company under *paragraphs (a),(b),(c),(d),(e),(f),(g),(h),(i) and (j) of section 109(1) or paragraphs (a),(b),(c),(d),(e),(f),(g),(h),(i) and (j) of section 114*, which the company has not engaged in a significant manner in the previous five years, and which require expenditure in excess of €5 million per annum.
2. Subject to the consent of the Minister, the company may vary the number of channels it operates.
3. Subject to the consent of the Minister, the company may delegate the performance of a significant function required in pursuance of its objectives under *section 109(1) or section 114(1)* to an agent.
4. Subject to the consent of the Minister, the company may, with the consent of the Minister, undertake supplementary services.
5. Where the Minister proposes to give his consent under this section, or *paragraphs (g), (h) and (i) of section 109(1) or paragraphs (f), (g), (h) and (i) of section 114(1)* the Minister shall—
  - (a) consult with the company, and such other persons as he or she considers appropriate,
  - (b) consult with the Authority as to the public value and sectoral impact of the granting of such consent, and
  - (c) publish in such manner as he or she considers appropriate a statement outlining the consultations that have been carried out under *paragraphs (a) and (b)* and indicating a place at which any document furnished to the Minister by a person referred to in *paragraphs (a) or (b)* in the course of consultations under these paragraphs may be inspected.

**Notes**

This head requires that where RTÉ or Teilifís na Gaeilge propose to (a) vary the number of channels they provide, (b) subcontract a significant activity to a third party or (c) engage in an activity which is on the margin, but in accordance, with their remit, and which will cost in excess of €5 million per annum, but may add public value, they must first seek the consent of the Minister. The Minister before granting such consent must consult with the BAI as to the public value and sectoral impact of such an activity.

-----

**Head 76 – Duty of the company with respect to its revenue**

1. It shall be the duty of the company so to conduct its affairs as to secure that its revenue becomes at the earliest possible date, and thereafter continues, at least sufficient—
  - (a) to meet all sums properly chargeable to current account, and
  - (b) to make suitable provision with respect to capital expenditure.

**Notes**

This head is a standard provision which imposes a duty on RTÉ and Teilifís na Gaeilge to act prudently and ensure that their revenues match expenditure and that provision is made for any necessary capital expenditure. This head mirrors section 24 of the Broadcasting Authority Act 1960.

---

**Head 77 - Duty to maintain archives**

1. The company shall at its own expense, itself or with such person or persons as it chooses, establish and maintain to commonly accepted standards an archive or archives of the sound and television programmes commissioned, broadcast or transmitted by the company, and other recorded and printed matter, over which it holds copyright and related rights.
2. The company shall make reasonable arrangements, itself or with such person or persons as it chooses, for public access to the archive or archives established under *subsection (1)* with or without charge, such charge not to exceed the estimated cost of the search for and retrieval of items contained in the archive or archives.
3. The company shall prepare and submit to the Minister for his or her approval, following consultation with the Authority, a scheme for the licencing of the use and exploitation by third parties of sound and television recordings over which the company holds copyright and related rights.
4. A scheme prepared under *subsection (3)* shall provide separate terms and conditions of licencing for -
  - (a) non-commercial educational and research purposes, and
  - (b) commercial purposes.
5. Without prejudice to generality of *subsection (4)* the company may attach to any particular under a scheme such particular terms or conditions as it considers appropriate in the circumstances.
6. A scheme submitted by the company to the Minister under *subsection (3)* may be amended or revoked by the company.
7. The Minister may direct the company-
  - (a) to prepare and submit to the Minister a scheme relating to any matter in *subsection (3)*, or
  - (b) to amend or revoke a scheme.

The company shall comply with a direction under this subsection.
8. Any amendment or revocation of a scheme under *subsection (3)* shall be submitted by the company to the Minister for his or her approval.
9. A scheme shall, if approved of by the Minister, be—
  - (a) published (including publication on a website maintained by the company), and
  - (b) carried out in accordance with its terms, by the company.

10. (a) A scheme shall be laid before each House of the Oireachtas by the Minister as soon as may be after it is made.
  - (b) Either House of the Oireachtas may, by resolution passed within 21 sitting days after the day on which a scheme was laid before it in accordance with *paragraph (a)*, annul a scheme.
  - (c) The annulment of the scheme takes effect immediately on the passing of the resolution concerned but does not affect anything that was done under a scheme before the passing of the resolution.
11. The company shall ensure that provision is made for resolving disputes arising in respect of the operation of a scheme under *subsection (3)* (by independent arbitration or otherwise) in a manner that appears to the Authority to be appropriate.
12. The Compliance Committee shall, at the direction of the Minister, report to the Minister on compliance by the company with this section.

**Notes**

This head requires RTÉ and Teilifís na Gaeilge to (i) establish and maintain an archive of programming over which they hold rights, (ii) to prepare a scheme for the educational and commercial reuse of such programme material.

---

**Head 78 - Independence**

1. Subject to the requirements of this Act the company shall be independent in all matters concerning the content of its programmes and the times at which they are broadcast or transmitted.

**Notes**

This head provides that RTÉ and Teilifís na Gaeilge will be independent in terms of the content and timing of broadcasts. The provision draws on section 2.1 of the agreement dated 25 January 1996 between the UK Secretary of State for National Heritage and the BBC.

---

**Head 79 - Emergencies**

1. During the continuance of any emergency declared under Section 10 of the Wireless Telegraphy Act 1926 the Minister may suspend the licence issued under *section 112* 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 or she directs.
2. It shall be a duty of the company, at the direction of the Minister, to make its best endeavours to assist and to co-operate with the relevant public bodies in the preparation for, and execution of, the dissemination of relevant information to the public in the event of a major local, national or regional emergency.
3. If and whenever the Minister shall exercise the powers conferred on him under *subsection (1)* the company shall be entitled to receive from the Minister, with the consent of the Minister for Finance-
  - (a) such sums as are required to defray any expenses which, regard being had to the nature of the emergency, have been properly and necessarily incurred by the company and for meeting which revenue is by reason of the exercise of such powers not otherwise available to the company; and
  - (b) compensation for any damage done to any property of the company, being damage directly attributable to the exercise of such powers.
4. The Minister may direct the company to allocate broadcasting time for announcements for and on behalf of any Minister of State, in the event of a major local, national or regional emergency, in connection with the functions of that Minister of State, and the company shall comply with the direction. The company may broadcast whether or not it has received such a direction from the Minister.
5. The Government may direct the company in writing to allocate broadcasting time for any announcements which are in the public interest, by or on behalf of any Minister of State in connection with the functions of that Minister of State, and the company shall comply with the direction. The company may broadcast whether or not it has received such a direction from the Government.
6. The Government shall cause every direction issued under *subsection (5)*, and the reasons for such direction, to be laid before each House of the Oireachtas as soon as may be after it is made.

**Notes**

This head outlines the role and duties of RTÉ and Teilifís na Gaeilge in relation to emergencies.

Subsection (1) is based on section 4(11) of the Radio and Television Act 1988.

Subsection (2) is based on section 4(10)(e) of the Radio and Television Act 1988.

Subsection (3) is based on clause 8.4 of the Agreement dated 25 January 1996 between the BBC and the Secretary of State for National Heritage and is intended to provide certainty as to the Minister's power to meet the costs necessary to continue the operation of a broadcasting service over which the Minister has assumed control in the event of an emergency.

Subsections (4) and (5) are based on section 31(2) of the Broadcasting Authority Act 1960.

---

**Head 80 - Articles of association – approval of form**

1. The articles of association of the company shall be in such form consistent with this Act as may be approved of by the Minister with the consent of the Minister for Finance, by order.
2. An order made under this section shall be laid by the Minister before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

**Notes**

This head provides that the Minister shall by order approve the articles of association, which establish the internal rules of a company under the Companies Acts, of RTÉ and Teilifís na Gaeilge and that such an order will be subject to annulment by a resolution of either House of the Oireachtas. The provision is based on Section 16 of the Postal and Telecommunications Services Act 1983.

---

**Head 81 - Chairperson and directors**

1. The articles of association of the company shall provide that –
  - (a) The number of directors including the chairperson shall not be more than 12.
  - (b) That not less than 5 of the directors shall be men and not less than 5 of them shall be women.
  - (c) The chairperson and other directors shall be appointed by the Government on the nomination of the Minister.
  - (d) Each director of the company shall be appointed for a period not exceeding four years.
  - (e) A director of the company whose term of office expires by the effluxion of time shall be eligible for re-appointment.
  - (f) A director of the company shall not serve more than two terms of office.
  - (g) Within two years of the establishment day and, every two years thereafter not less than four directors of the company, shall retire from office.
  - (h) The directors required to retire by virtue of *paragraph (g)* in any year shall be those who have served longest as a director of the company since last appointed.
  - (i) Where in determining which director or directors are required to retire by virtue of *paragraph (g)* there is more than one director who was appointed to the company on the same day then as respects such directors appointed on the same day the director or directors to retire shall be determined by lot unless such directors otherwise agree.
  - (j) A director of the company may at any time resign his or her office by letter addressed to the Government and the resignation shall take effect on the date specified therein or upon receipt of the letter by the Government, whichever is the later.
  - (k) There shall be paid to directors of the company, out of moneys at the disposal of the company, such remuneration (if any) and allowances for expenses incurred by them as the Minister, with the consent of the Minister for Finance, from time to time determines.
  - (l) Subject to the provisions of this Act, a director of the company shall hold office on such terms (other than the payment of remuneration and allowances for expenses) as the Minister, with the consent of the Minister for Finance, from time to time determines.

- (m) The Minister shall cause a statement in writing specifying the terms of office and remuneration of the directors of the company to be laid before both Houses of the Oireachtas.
- (n) A director of the company may at any time be removed from directorship of the company by the Government if, in the Government's opinion, the director has become incapable through ill-health of performing his or her functions, or has committed stated misbehaviour, or his or her removal appears to the Government to be necessary for the effective performance by the company of its functions, and only if, resolutions are passed by each House of the Oireachtas calling for his or her removal.
- (o) A director of the company shall cease to be and shall be disqualified from being a director of the company where such director —
- (i) is adjudicated bankrupt,
  - (ii) makes a composition or arrangement with creditors,
  - (iii) on conviction on indictment by a court of competent jurisdiction is sentenced to a term of imprisonment,
  - (iv) is convicted of an offence involving fraud or dishonesty, or
  - (v) is disqualified or restricted from being a director of any company.
- (p) Where a director of the company fails —
- (i) to attend three consecutive meetings of the company, and no satisfactory reason can be given for such non-attendance.
  - (ii) to make a declaration in accordance with the requirements of *subsections (1) and (4) of section 94*
  - (iii) to comply with the requirements of *subsection (1) of section 95*
  - (iv) to make a declaration in accordance with the requirements of *Section 17 of the Ethics in Public Office Act 1995.*
- the Minister may with the consent of the Government by order remove the director from office.
- (q) Every order under *paragraph (p)* shall be laid by the Minister before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.
- (r) If a director of the company dies, resigns, becomes disqualified or is removed from office or for any other reason ceases to be a director of the company, the Government on the nomination of the Minister, may appoint a person to be a director of the company to fill the casual vacancy so occasioned and the person so appointed shall be appointed for the unexpired period of the term of directorship of, and in the same manner as, the director of the company who occasioned the casual vacancy.

- (s) The Government shall from time to time as occasion requires appoint, on the nomination of the Minister, a director of the company to be chairperson thereof.
- (t) The chairperson of the company shall, unless he or she sooner dies, resigns the office of chairperson or ceases to be chairperson under *paragraph (v)*, hold office until the expiration of his or her period of office as a director of the company.
- (u) The chairperson of the company may at any time resign his or her office as chairperson by letter sent to the Government and the resignation shall, unless it is previously withdrawn in writing, take effect at the commencement of the meeting of the company held next after the company has been informed by the Government of the resignation.
- (v) Where the chairperson of the company ceases during his or her term of office as chairperson to be a director of the company he or she shall also cease to be chairperson of the company.
- (w) The director general, employee director or other executive director appointed by the Government shall not be appointed as chairperson of the company.
- (x) A person shall not be appointed to be a director of the company unless he or she has experience of or shown capacity in -
  - (i) media or commercial affairs,
  - (ii) digital broadcasting and digital media technologies,
  - (iii) legal matters,
  - (iii) trade union affairs or
  - (iv) social, cultural, educational or community activities or Gaeltacht affairsrelevant to the oversight of a public service broadcaster.  
  
This paragraph does not apply to the director general or staff director.
- (y) A person shall not be appointed to be a director of Teilifís na Gaeilge unless he or she is able to speak proficiently in the Irish language.
- (z) *Paragraphs (d) and (g)* shall not apply to the directorship of the director general of the company.
- (aa) The Government in setting a term of appointment under *paragraph (d)* shall consider the need for continuity of membership of the board of the company.

### Notes

This head outlines the procedure for the appointment, disqualification and removal of the directors and chairperson of RTÉ and Teilifís na Gaeilge. The head proposes a staggered approach to the retirement of directors for continuity purposes. Paragraph (e) is based on section (1) of the Schedule to the Radio and Television Act of 1988.

Paragraph (f) is based on section 15(4) of the Communications Regulations Act 2002 and section 10(12) of the Sustainable Energy Act 2002

Paragraph (g), (h) and (i) are based on subsections (9) to (11) of section 10 of the Sustainable Energy Act 2002.

Paragraph (j), is based on section (1) of the Schedule to the Radio and Television Act of 1988.

Paragraph (k) and (l) are based on section 15(7)-(8) of the Digital Hub Development Agency Act 2003.

Paragraph (m) is based on section 4(3) of the Schedule to the Radio and Television Act 1988.

Paragraph (n) is based on section 3 of the Schedule to the Radio and Television Act 1988 and section 10(15) of the Sustainable Energy Act 2002.

Paragraph (o) is based on section 15(11) of the Digital Hub Development Agency Act 2003.

Paragraph (p) draws from sections 24(8) and 25(4) of the Digital Hub Development Agency Act 2003.

Paragraph (r) is based on section 15(12) of the Digital Hub Development Agency Act 2003.

Paragraphs (s) to (v) are based on section 2 of the Schedule to the Radio and Television Act 1988.

---

**Head 82 - Appointment of staff director**

1. The articles of association of the company shall provide that the Government shall appoint to be a director of the company one member of staff of the company who is elected in accordance with this section and who may not act as chairperson of the company.
2. An appointment under this section shall be in writing and shall specify the day on and from which and the period during which it is to have effect, which period shall be determined by the Government.
3. The term of office of a director of the company who is appointed under this section shall, unless, he or she sooner dies, resigns, ceases to be a member of staff of the company, becomes disqualified or is removed from office, terminate on the expiration of the period for which he or she was appointed.
4. The Government may appoint a member of staff of the company eligible to be nominated as a candidate at an election under this section to fill a casual vacancy arising by reason of an event mentioned in *subsection (3)* for the remainder of the term of office of the director whose vacancy is to be filled.
5. A director of the company appointed under this section shall, subject to this section, be eligible for nomination as a candidate and for election at an election for the purposes of this section.
6. An election for the purposes of this section shall be held within 6 months after vesting day or such longer period as may be agreed between the company and recognised trade unions and staff associations.
7. *Subsections (8) to (22)* shall apply for the purposes of an election under this section.
8. (a) The Secretary of the company (or a person selected by him or her after consultation with representatives of the employees) shall be the returning officer for each election of a staff director of the company.  
(b) The returning officer shall not be entitled to be nominated as, or to nominate, act as agent for or promote the interests of, a candidate at the election.  
(c) The returning officer may authorise any person to exercise designated functions on his behalf and *paragraph (b)* shall apply to any such person.

9. (a) A poll shall be conducted where there is more than one candidate.  
(b) Voting shall be by secret ballot and on the basis of proportional representation by means of a single transferable vote.  
(c) Presiding officers at the poll and polling clerks shall be appointed by the returning officer.  
(d) The election shall be held in accordance with arrangements made by the returning officer.  
(e) The returning officer shall be required to give due notice of these arrangements to the electorate and to designate premises as an election office.  
(f) All arrangements for an election shall be subject to the consent of the Government.
10. (a) The returning officer shall fix the nomination day and give notice of the election not later than 8 weeks before that day.  
(b) The nomination day shall be not earlier than 6 weeks after the day on which eligibility of voters and candidates is determined in accordance with *subsections (18) and (19)*, respectively.
11. The returning officer may declare a candidate elected if the number of candidates standing duly nominated does not exceed one.
12. (a) The returning officer may take a preliminary poll, at the request of one or more recognised trade unions or staff associations representing at least 15 per cent. of the electorate, to ascertain whether or not a majority of the electorate is in favour of proceeding with the election.  
(b) The preliminary poll shall be undertaken in accordance with arrangements made by the returning officer and duly notified to the electorate.  
(c) If a majority at the preliminary poll opposes the election, the holding of the election shall be deferred for 3 years.  
(d) The arrangements for a preliminary poll shall be subject to the consent of the Government.
13. If the nomination of candidates or any poll is interrupted or cannot be proceeded with the returning officer may adjourn the nomination or poll for such period as he considers appropriate to enable him, on its expiration, to proceed with or complete the nomination or poll.
14. On receipt of a notification from the returning officer of the name of the candidate elected or declared to be elected under *subsection (11)*, the Government shall, in accordance with this section, appoint the candidate as a director of the company.
15. The returning officer shall place the remaining candidates in order of votes credited to each at the last count in which he or she was involved.

16. In choosing a person to fill a casual vacancy the Government shall select the next eligible candidate, if any, on the voting list under *subsection (15)*. Where two or more candidates are credited with an equal number of votes the Government shall select one of them by lot.
17. The company shall bear the cost of holding the election except costs incurred by candidates expressly on their own behalf.
18. Every employee of the company who, on the day specified by the returning officer and on the day on which the poll is taken—
  - (a) is not less than eighteen years of age, and
  - (b) has been an employee of the company for a continuous period of not less than one year, shall be entitled to vote at an election or preliminary poll.
19.
  - (a) Every employee of the company who, on the day specified by the returning officer under *subsection (18)*, is not less than eighteen years of age and has been an employee of the company for a continuous period of not less than three years shall be eligible to be nominated as a candidate at the election.
  - (b) Nominations shall be made in the manner prescribed by the returning officer.
  - (c) A candidate may be nominated by a recognised trade union or staff association or jointly by two or more such bodies but no such body shall be entitled both to nominate one or more candidates of its own accord and to nominate one or more candidates jointly with another such body or bodies.
  - (d) The returning officer shall rule on the validity of nominations. His or her decision shall be final.
20. Prior service (for a continuous period ending on the vesting day) with the Authority for staff transferred to the company on the vesting day shall be reckonable as service with the company for the purposes of *subsections (18) and (19)*.
21. The returning officer shall prepare and maintain a list of eligible voters and candidates.
22. The returning officer shall prepare and maintain a list of recognised trade unions and staff associations for the purposes of this section.

**Notes**

This head provides for one director of RTÉ and Teilifís na Gaeilge to be elected by staff interests. The provision is based on section 34 and First Schedule Part 1 of the Postal and Telecommunications Services Act 1983.

---

**Head 83 - Exclusions from directorship**

1. Where a director of the company is—
  - (a) nominated as a candidate for election to the European Parliament, either House of the Oireachtas, or as a member of Seanad Éireann; or
  - (b) elected as a member of either House of the Oireachtas or as a representative in the European Parliament; or
  - (c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament to fill a vacancy,

he or she shall thereupon cease to be a director of the company.
  
2. Where the person who is the director general or a member of the staff of the company is—
  - (a) nominated as a candidate for election to the European Parliament, either House of the Oireachtas, or as a member of Seanad Éireann; or
  - (b) elected as a member of either House of the Oireachtas or as a representative in the European Parliament, or
  - (c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament to fill a vacancy,

he or she shall thereupon stand seconded from employment by the company and shall not be paid by, or be entitled to receive from, the company any remuneration or allowances in respect of the period commencing on such nomination or election, or when he or she is so regarded as having been elected as the case may be, and ending when such person ceases to be a member of either such House or a representative in that Parliament.
  
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 so entitled or such a member, be disqualified from becoming a director of the company or the Director General or a member of staff of the company.
  
4. A person who is appointed a member of the Authority, the Contracts Awards Committee or the Compliance Committee shall be disqualified from becoming a director of the company or the director general or a member of staff of the company.
  
5. A person who holds employment, save for educational or academic positions or performing creative work, or an interest in an undertaking holding a contract to broadcast under the Act of 1988, the Act of 1990 or the Act of 2001 or this Act, shall be disqualified from becoming a director of the company.

6. A person who holds employment, save for educational or academic positions or performing creative work, or an interest in an undertaking which publishes, prints or circulates a newspaper in the State and which has ownership of an undertaking holding a contract to broadcast under the Act of 1988, the Act of 1990 or the Act of 2001 or this Act, shall be disqualified from becoming a director of the company.
7. Without prejudice to the generality of *subsection (2)*, that subsection shall be construed as prohibiting, *inter alia*, the reckoning of a period mentioned in that subsection as service with the company for the purposes of any superannuation benefits.

**Notes**

This head provides for the cessation from directorship of RTÉ and Teilifís na Gaeilge of persons nominated or elected to the Houses of the Oireachtas or the European Parliament. For the purposes of avoiding conflicts of interest, the head excludes persons who hold a defined interest or employment (save for creative or educational positions) in a commercial or community broadcaster or a newspaper, or who hold membership of the BAI or its statutory committees from becoming a director of RTÉ and Teilifís na Gaeilge. This provision is based on section 22 of the Digital Hub Development Agency Act 2003, Section 4 of the Broadcasting Authority Act 1960 (as amended by Section 7 of the Broadcasting Authority (Amendment) Act 1993) and Section 22(15) of the Broadcasting Act 2001.

---

**Head 84 - Director general**

1. The articles of association of the company shall provide that –
  - (a) The company shall from time to time appoint a person to be the chief executive officer of the company for a period of seven years, renewable for a further period of no more than three years, and such person shall be known, and is in this Act referred to, as the “director general”.
  - (b) The director general shall carry on and manage, and control generally, the administration of the company and perform such other functions (if any) as may be determined by the board of the company.
  - (c) The consent of the Government shall be necessary before the company appoints or removes the director general, or alters his or her remuneration or his or her terms and conditions of holding office.
  - (d) The person who, immediately before the vesting day, was the director general of the Radio Éireann, shall be deemed to be appointed as director general of Radio Teilifís Éireann upon that day and shall stand appointed on the same terms and conditions on which he or she was previously retained and shall not be subject to the fixed term as required in paragraph (a).
  - (e) The director general shall not hold any other office or employment or carry on any business without the consent of the board of the company.
  - (f) The director general shall furnish the board of the company with such information (including financial information) in relation to the performance of his or her functions as the board of the company may from time to time require.
  - (g) The functions of the director general may be performed in his or her absence or when the position of director general is vacant by such member of the staff of the company as may, from time to time, be designated for that purpose by the board of the company.

**Notes**

The head provides for the appointment of directors general to act as the chief executives of RTÉ and Teilifís na Gaeilge for a period of seven years, renewable for a further period of three years. The head also provides for transitional arrangements relation to the director general of RTÉ. The provision is based on sections 11 and 13(4) of the Broadcasting Authority Act 1960, section 31(2) of the National Tourism Development Authority Act 2003, section 63 of the Personal Injuries Assessment Board Act 2003 and section 19(8) of the Digital Hub Development Agency Act 2003.

-----

**Head 85 - Directorship of director general**

1. The articles of association of the company shall provide that the director general shall, for the duration of his or her appointment, serve as an *ex officio* director of the company.

**Notes**

This head provides that the directors general of RTÉ and Teilifís na Gaeilge shall serve as directors of their respective companies.

---

**Head 86 - Meetings**

1. The company 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 company.
3. At a meeting of the company —
  - (a) the chairperson of the company shall, if present, be chairperson of the meeting; and
  - (b) if and so long as the chairperson of the company is not present or if the office of chairperson is vacant, the directors of the company who are present shall choose one of their number to be chairperson of the meeting.
4. Every question at a meeting of the company shall be determined by a majority of the votes of the directors present and voting on the question, and in the case of an equal division of votes, the chairperson of the meeting shall have a second or casting vote.
5. The company may act notwithstanding one or more vacancies among its members.
6. Subject to the provisions of this Act, the company shall regulate its procedure by rules.
7. The quorum of the company shall be seven.

**Notes**

This head sets out the rules for RTÉ and Teilifís na Gaeilge in relation to the chairing of meetings of the companies, quora and voting rules. This head is based on Section 10 of the Broadcasting Authority Act 1960 as amended by section 7(1) of Broadcasting (Amendment) Act 1993.

---

**Head 87 - Establishment of subsidiaries, investments and joint ventures**

1. Such functions of the company as it may determine may be performed by a subsidiary and, accordingly, the company may, with the consent of the Minister and the Minister for Finance, the Minister having consulted with the Authority, for the purpose of such performance, acquire or form and establish one or more subsidiaries.
2. The company or a subsidiary may, either by itself or with another person, with the consent of the Minister and the Minister for Finance, the Minister having consulted with the Authority, promote or take part in the formation or establishment of a company, enter into joint ventures or partnerships for the purpose of fulfilling any of its functions.
3. The company may, with the consent of the Minister and the Minister for Finance, the Minister having consulted with the Authority, acquire, hold and dispose of shares or other interests in a company and become a member of a company.
4. The memorandum and articles of association of a subsidiary shall be in such form as may be determined by the company with the consent of the Minister and the Minister for Finance, the Minister having consulted with the Authority.
5. The Minister may give a direction in writing to the company on any matter relating to a subsidiary and the company shall comply or, as may be appropriate, secure compliance with the direction.
6. A direction under this section in relation to the disposal of any assets or surpluses of a subsidiary shall not be given without the consent of the Minister for Finance, the Minister having consulted with the Authority.
7. In this section “subsidiary” means a subsidiary (within the meaning of section 155 of the Companies Act 1963) of the company.

**Notes**

This head empowers RTÉ and Teilifís na Gaeilge to form or acquire subsidiaries, make investments and to enter into joint ventures or partnerships for the purpose of fulfilling any of their functions. However, this power is subject to the consent of the Minister and the Minister for Finance, the Minister having consulted with the BAI as to the sectoral impact of such a proposal. The head is based on section 13 of the Digital Hub Development Agency.

---

**Head 88 - Restriction on alteration of memorandum or articles of association**  
**(4/25-95)**

1. No alteration to the memorandum of association of the company shall have effect unless the Minister shall, having consulted with the Authority, have given his or her prior approval with the consent of the Minister for Finance by order thereto.
2. No alteration to the articles of association of the company shall have effect unless the Minister shall have given his or her prior approval with the consent of the Minister for Finance by order thereto.
3. Where the Minister proposes to make an order under *subsection (1)* he or she shall cause a draft of the order to be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly.

**Notes**

This head provides that alterations to the memorandum and articles of association of RTÉ and Teilifís na Gaeilge are subject to the approval of the Minister with the consent of the Minister for Finance, the Minister having consulted with the BAI. It also provides that changes to the memorandum of association are subject to annulment by a resolution of each House of the Oireachtas. Subsections (1) and (2) are based on section 11(1)(b)(ii) of the National Tourism Development Authority Act 2003.

-----

**Head 89 - Duties of directors**

1. Subject to the requirements of this Act every director of the company shall exercise his or her functions in such a manner as to-
  - (a) ensure that the activities of the company in pursuance of its objectives as set out in *section 109(1) or 114(1)* are performed efficiently,
  - (b) to ensure that the gathering and presentation by the company of news and current affairs is accurate and impartial according to the recognised standards of objective journalism, and
  - (c) to ensure the independence of the company regarding the conception, content and production of programmes, the editing and presentation of news and current affairs programmes and the definition of programme schedules from State, political and commercial influences.

**Notes**

This head imposes duties on the directors of RTÉ and Teilifís na Gaeilge additional to those imposed on company directors under common law and the Companies Acts. It proposes specific duties for the directors in relation to both the public service character of RTÉ and Teilifís na Gaeilge's activities and their independence as broadcasting services (subject to legislative provisions regarding broadcasting duties, codes and rules etc).

---

**Head 90 – Seals of the companies**

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

**Notes**

This head is based on section 9 of the Broadcasting Authority Act 1960.

---

**Head 91 - Staff**

1. The company shall, as well as appointing the director general, appoint such and so many persons to be members of the staff of the company as it may from time to time determine but, subject to *subsection (2)* of this section, a person shall not be appointed under this section to be a member of staff of the company unless he or she has been selected by means of a public competition.
2. The requirement under *subsection (1)* of this section of being selected by means of a public competition shall not apply in relation to:
  - (i) a person who, immediately before vesting day, was a member of staff of Radio Éireann,
  - (ii) an appointment consisting of the promotion of a person who is already a member of staff of the company,
  - (iii) an office for which, in the opinion of the company, specialised qualifications not commonly held are required, or
  - (iv) an office to which appointments are made for limited periods only, being periods not exceeding two years.
3. A member of staff of the company shall hold his or her employment on such terms and conditions as the company from time to time determines.
4. There shall be paid by the company to its members of staff such remuneration and allowances as the company from time to time determines.
5. The company may at any time remove any member of staff of the company from being a member of staff.
6. The company may perform any of its functions through or by any of its members of staff duly authorised by the company in that behalf.
7. The company shall accept into its employment on vesting day in accordance with the terms of this Act every person who immediately before establishment is a member of staff of Radio Éireann.
8. Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a member of staff of Radio Éireann who is transferred, on vesting day to the company shall not, while in the service of the company, receive a lesser scale of pay or be brought to less beneficial conditions of service than the scale of pay to which he or she was entitled and the conditions of service to which he or she was subject immediately before vesting day.

9. Until such time as the scales of pay and conditions of service of members of staff so transferred are varied by the company, following consultation with recognised trade unions and staff associations, the scales of pay to which they were entitled and the conditions of service, restrictions, requirements and obligations to which they were subject before their transfer shall continue to apply to them and may be exercised or imposed by the board or the director general, as the case may be, of the company while they are in its service. As provided in *subsection (8)*, no such variation shall operate to worsen the scales of pay and conditions of service applicable to such members of staff immediately before establishment, save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned.
  
10. The conditions in regard to tenure of office which are granted by either company in relation to a member of staff so transferred shall not, while he or she is in the service of the company, be less favourable to him or her than those prevailing on establishment in Radio Éireann; any alteration in the conditions in regard to tenure of office of any such member shall not be less favourable to him or her than the prevailing conditions in Radio Éireann at the time of such alteration, save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned. If a dispute arises between the company and any such member of staff as to conditions, prevailing in Radio Éireann, the matter shall be determined by the Minister for Finance.

**Notes**

This head provides that RTÉ and Teilifís na Gaeilge may appoint staff by way of public competition and that the existing staff of RTÉ would transfer to the new companies without adversely impacting on their existing pay and conditions. The head is based on Section 12 of the Broadcasting Authority Act 1960 (as amended by section 4 of the Broadcasting Authority (Amendment) Act, 1966), Sections 13 and 14 of the Broadcasting Authority Act 1960 and Section 45 of the Postal and Telecommunications Services Act, 1983 (as amended by Section 5 of the Postal and Telecommunications Services (Amendment) Act 1984).

Subsection 2(i) has been edited to ensure that there is certainty that it is not the intention of the legislature that existing staff of the Authority would have to reapply for their posts by way of public competition.

---

**Head 92 - Superannuation**

1. As soon as may be after vesting day, the company, with the approval of the Minister and the consent of the Minister for Finance, shall make a scheme or schemes for the granting of superannuation benefits to or in respect of the members of staff, including the director general, of the company.
2. A scheme under this section shall fix the time and conditions of retirement of all persons to or in respect of whom superannuation benefits are payable under the scheme or schemes and different times and conditions may be fixed in respect of different classes of persons.
3. The company may, with the approval of the Minister and the consent of the Minister for Finance, make a scheme amending or revoking a scheme under this section including a scheme under this subsection.
4. A scheme submitted by the company under this section shall, if approved by the Minister with the consent of the Minister for Finance, be carried out by the company in accordance with its terms.
5. Each superannuation scheme shall include a provision for appeals from a decision relating to a superannuation benefit under the scheme.
6. No superannuation benefits shall be granted by the company to or in respect of a person on ceasing to be director general or a member of the staff of the company otherwise than
  - (a) in accordance with a scheme or schemes under this section, or
  - (b) with the consent of the Minister and the Minister for Finance.
7. Every scheme under this section shall provide for not less favourable conditions in respect of persons who, immediately before vesting day, were members of staff of Radio Éireann than those to which they were entitled immediately before vesting day.
8. Disbursement of superannuation benefits which may be granted to or in respect of persons who, immediately before vesting day, were members of staff of Radio Éireann or who, immediately before the establishment day of Radio Éireann, were officers and servants of the Minister, shall not be on less favourable conditions than would apply if the benefits referred to had continued to be paid out of moneys provided by Radio Éireann or the Oireachtas.

9. Where a superannuation benefit falls due for payment to or in respect of a person to whom *subsection (7)* applies in the period beginning on vesting day and ending immediately before the coming into operation of a scheme submitted by the company and approved of under this section, the allowance shall be calculated and paid by the company in accordance with such superannuation scheme or such enactments in relation to superannuation, as applied to such person immediately before vesting day and, for that purpose, his or her pensionable service with the company shall be aggregated with his or her previous pensionable service.
10. The Minister for Finance shall make such contribution as may, with his or her consent, be specified in a scheme or schemes under this section towards the superannuation benefits related to reckonable service given before the establishment day of Radio Éireann which may be granted to or in respect of persons who, immediately before that day, were officers and servants of the Minister, and such scheme or schemes shall, with the like consent, fix the manner and times of the payment of such contribution.
11. Moneys required to be paid by the Minister for Finance under this section shall be advanced out of the Central Fund or the growing produce thereof.
12. A scheme under this section, including an amendment of a scheme, shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

**Notes**

This head is intended to provide for the continuation of the existing superannuation benefits and other pension arrangements of existing employees of RTÉ and Teilifís na Gaeilge.

---

**Head 93 - Code of conduct**

1. The company shall, as soon as may be, following consultation with the Minister, draw up a code of conduct in respect of controls on interests and ethical behaviour to apply to each director, member of staff, adviser and member of an advisory committee of the company or a subsidiary of the company.
2. The company shall, as soon as may be, following consultation with the Minister, draw up a code of conduct in respect of controls on interests and ethical behaviour to apply to such categories of contractors for services as the company may specify before engagement.
3. The company shall publish any code of conduct drawn up under *subsections (1) and (2)*.

**Notes**

This head requires RTÉ and Teilifís na Gaeilge to draw up a code of conduct with regard to conflicts of interest and ethical behaviour to apply to the directors, staff, advisers, members of an advisory committee and certain categories of contractors of RTÉ and Teilifís na Gaeilge or their subsidiaries. The head is based on section 23 of the Digital Hub Development Agency Act 2003.

---

**Head 94 - Declaration of interests**

1. On establishment of the company, the director general and each director of the company and any subsidiary of the company, shall make a declaration in writing of his or her interests to the Minister, in such form as the Minister, following consultation with the Minister for Finance, may specify.
2. On his or her appointment, each adviser and member of the staff of the company and any subsidiary of the company, at a grade or level specified before the appointment by the company, following consultation with the Minister, shall declare his or her interests in writing to the chairperson of the company and the chairperson shall inform the company at its next meeting of the interests declared and the names of those making the declarations.
3. On engagement each contractor for services in a category specified before engagement by the company or any subsidiary of the company, following consultation with the Minister, shall declare his or her interests in writing to the chairperson of the company and the chairperson shall inform the company at its next meeting of the interests declared and the names of those making the declarations.
4. A person or undertaking to whom *subsection (1), (2) or (3)* applies shall, throughout the tenure of his or her appointment or engagement, amend and update his or her declarations of interests as required by the Minister or the company, as the case may be, of any changes in the interests held by the person or undertaking.
5. (a) A statement of the interests declared under *subsection (1)* shall be included in the next report prepared in accordance with *section 105* following the making of the declaration and any subsequent changes in a declaration shall also be included in a statement in the next available report.  
  
(b) The form and content of the statement to be included in such report shall be agreed between the chairperson of the company and the Minister.  
  
(c) Notwithstanding the provisions of *paragraph (a)*, it shall not be necessary to specify in a statement in such report the amount or monetary value of any interest, or the remuneration of any trade, profession, or employment included in the statement.

6. The company shall, for the purposes of this section, keep a register (which is in this section referred to as the “register of interests”) and shall enter therein the particulars contained in declarations given to the Minister or the company under this section.
7. The register of interests shall be available for inspection by any person at the company’s headquarters during office hours and a copy of the register or any entry in the register may be obtained by any person on the payment to the company of such fee (if any) as the company shall fix not exceeding the reasonable cost of making a copy.
8. Where a person to whom *subsection (1)* applies fails to make a declaration in accordance with that subsection or to update such declaration in accordance with *subsection (4)*, the Minister shall decide the appropriate course of action (including removal from office) to be taken.
9. Where a person to whom *subsections (2) or (3)* apply fails to make a declaration in accordance with that subsection or to update such declaration in accordance with *subsection (4)*, the company shall decide the appropriate course of action (including removal from office or termination of contract) to be taken.

**Notes**

This head requires that each director, adviser and certain categories of staff and contractors for services of RTÉ and Teilifís na Gaeilge, their subsidiaries make a declaration of his or her interests. The head also requires that a register of such interests to be maintained by RTÉ and Teilifís na Gaeilge, and that such register be made publicly available.

The head is based on section 24 of the Digital Hub Development Agency Act 2003.

---

**Head 95 - Disclosure by members of the company of certain interests**

1. Where at a meeting of the company any of the following matters arise, namely—

- (a) an arrangement to which the company is a party or a proposed such arrangement, or
- (b) a contract or other agreement with the company or a proposed such contract or other agreement,

then, any member of the company present at the meeting who otherwise than in his or her capacity as such a member has an interest in the matter shall—

- (i) at the meeting disclose to the company the fact of such interest and the nature thereof,
- (ii) neither influence nor seek to influence a decision to be made in relation to the matter,
- (iii) absent himself or herself from the meeting or that part of the meeting during which the matter is discussed,
- (iv) take no part in any deliberation of the company relating to the matter, and
- (v) not vote on a decision relating to the matter.

2. Where an interest is disclosed pursuant to this section, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being considered or discussed by the meeting, the member by whom the disclosure is made shall not be counted in the quorum for the meeting.

3. Where at a meeting of the company a question arises as to whether or not a course of conduct, if pursued by a member of the company, would constitute a failure by him or her to comply with the requirements of *subsection (1)*, the question may be determined by the company, whose decision shall be final, and where such a question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.

4. For the purposes of this section and *section 96* a person shall not be regarded as having an interest in any matter by reason only of an interest of that person, or of any company in which he or she has an interest, which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering, discussing or in voting on, any question relating to the matter, or in performing any function in relation to that matter.

**Notes**

This head outlines the disclosure of interest requirements for directors of RTÉ and Teilifís na Gaeilge. The head is based on section 25 of the Digital Hub Development Agency Act 2003.

---

**Head 96 - Disclosure by staff and contractors for services of certain interests**

1. Where a member of the staff of the company or a subsidiary of the company or a contractor for services, in a category specified before engagement by the company, following consultation with the Minister, has an interest, otherwise than in his or her capacity as such in any, or any proposed contract, agreement or arrangement, to which the company is or is proposed to be a party, that person—
  - (a) shall disclose to the company his or her interest and the nature thereof,
  - (b) shall take no part in the negotiation of the contract, agreement or arrangement or in any deliberation by members of the company or members of the staff of the company in relation thereto,
  - (c) shall not influence or seek to influence a decision to be made in the matter, and
  - (d) shall not make any recommendation in relation to the contract, agreement or arrangement.
2. *Subsection (1)* does not apply to a person as regards a contract or proposed contract of employment of that person as a member of the staff of the company or as regards a contract or proposed contract for services of that person as a contractor for services to the company.
3. In this section ‘‘member of staff’’ includes the director general.
4. Where a person or undertaking to whom *subsection (1)* applies fails to comply with a requirement of this section, the company shall decide the appropriate action (including removal from office or termination of contract) to be taken.

**Notes**

This head outlines the disclosure of interest requirements for certain categories of staff and contractors for services of RTÉ and Teilifís na Gaeilge. This head is based on section 26 of the Digital Hub Development Agency Act 2003.

---

**Head 97 - Accountability of director general to the Committee of Public Accounts**

1. The director general shall, whenever he or she is required to do so by a Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and the reports of the Comptroller and Auditor General, give evidence to that Committee on all matters pertaining to the expenditure of the company.

**Notes**

This provision requires the director generals of RTÉ and Teilifís na Gaeilge to give evidence at the Public Accounts Committee. The head is based on section 32(1) of the Digital Hub Development Agency Act 2003.

---

**Head 98 - Accountability of Director General to other Oireachtas Committees**

1. In this section “Committee” means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann) or a subcommittee of such a Committee.
2. Subject to *subsection (3)*, the director general shall, at the request in writing of a Committee, attend before it to give account for the general administration of the company.
3. The director general shall not be required to give account before a Committee for any matter which is or has been or may at a future time be the subject of proceedings before a court or tribunal in the State.
4. Where the director general is of the opinion that a matter in respect of which the director general is requested to give an account before a Committee is a matter to which *subsection (3)* applies, he or she shall inform the Committee of that opinion and the reasons for the opinion and, unless the information is conveyed to the Committee at a time when the director general is before it, the information shall be so conveyed in writing.
5. Where the director general has informed a Committee of his or her opinion in accordance with *subsection (4)* and the Committee does not withdraw the request referred to in *subsection (2)* in so far as it relates to a matter the subject of that opinion—
  - (a) the director general may, not later than 21 days after being informed by the Committee of its decision not to do so, apply to the High Court in a summary manner for determination of the question whether the matter is one to which *subsection (3)* applies, or
  - (b) the Chairperson of the Committee may, on behalf of the Committee, make such an application,and the High Court may determine the matter.
6. Pending the determination of an application under *subsection (5)*, the director general shall not attend before the Committee to give account for the matter the subject of the application.
7. If the High Court determines that the matter concerned is one to which *subsection (3)* applies, the Committee shall withdraw the request referred to in *subsection (2)*, but if the High Court determines that *subsection (3)* does not apply, the director general shall attend before the Committee to give account for the matter.

5 September 2006

**Notes**

This provision requires the director generals of RTÉ and Teilifís na Gaeilge to attend before Oireachtas committees to give evidence as to the administration of the company concerned. The provision is based on section 33 of the Digital Hub Development Agency Act 2003.

---

**Head 99 - Power to borrow**

1. Radio Teilifís Éireann may, for the purpose of providing for current or capital expenditure, from time to time, borrow money (whether on the security of the assets of the company or otherwise), not exceeding in the aggregate €X without requiring the consent of Minister and the Minister for Finance.
2. Teilifís na Gaeilge may, for the purpose of providing for current or capital expenditure, from time to time, borrow money (whether on the security of the assets of the company or otherwise), not exceeding in the aggregate €X without requiring the consent of Minister and the Minister for Finance.
3. Radio Teilifís Eireann and Teilifís na Gaeilge may, with the consent of the Minister for Finance and the Minister, the Minister having consulted with the Authority, borrow money exceeding an amount specified in *subsections (1) or (2)* 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 company with the consents aforesaid, may determine.
4. The borrowing powers conferred by *subsection (3)* on the company may be exercised for any purpose arising in the performance of its functions, but there may be attached to consent to borrow the condition that the moneys shall be utilised only for the purpose of a programme of capital works approved of by the Minister.
5. The terms upon which moneys are borrowed under *subsection (3)* may include provisions charging the moneys and interest thereon upon all property of whatsoever kind for the time being vested in the company or upon any particular property of the company and provisions establishing the priority of such charges amongst themselves.
6. The company may, with the consent of the Minister for Finance and the Minister, the Minister having consulted with the Authority, borrow temporarily by arrangement with bankers such sums as it may require for the purpose of providing for current expenditure.

**Notes**

This head provides that RTÉ and Teilifís na Gaeilge may borrow up to a set limit (to be decided) without the consent of the Minister or the Minister for Finance. Any borrowings above the set limit will require the consent of the Minister and the Minister for Finance, the Minister having consulted with the BAI as to the sectoral impact of the use of such borrowings. The head is based on section 30 of the Digital Hub Development Agency Act 2003 and sections 27 and 28 of the Broadcasting Authority Act 1960 as amended by sections 10 and 15 of the Broadcasting Authority (Amendment) Act 1976.

---

**Head 100 - Accounts and Audit**

1. The company shall submit estimates of income and expenditure to the Minister in such form, in respect of such periods and at such times, 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 discharge by the company of its functions over a period of years, as required.
2. The company shall cause to be kept, in such form as shall be approved by the Minister, after consultation with the Authority, on a continuous basis and in either or both a legible and a machine readable form, all proper books and records of account of all income and expenditure of the company, and of the sources of such income and the subject matter of such expenditure, and of the property, assets and liabilities of the company, and, in particular, shall keep in such form all such special accounts as the Minister shall from time to time direct.
3. Accounts prepared by the company in accordance with *subsection (2)* shall distinguish between moneys received or expended on-
  - (a) activities in pursuance of the objectives outlined in *paragraphs (a),(b),(c),(d),(e),(f),(g),(h) and (i) of section 109(1) or 114(1)*, and
  - (b) activities in pursuance of the objectives outlined in *paragraph (j) of section 109(1) or 114(1)*.
4. The company shall submit annually for audit to such duly qualified auditors as the company may appoint, subject to the consent of the Minister, for the purposes of this Act.
5. Immediately after each audit of its accounts, the company shall send to the Minister—
  - (a) a copy of the income and expenditure account and balance sheet as certified by the auditors,
  - (b) a copy of the auditors' report,
  - (c) a statement in respect of the total revenue and costs derived by the company from-
    - (i) activities in fulfillment of *paragraphs (a),(b),(c),(d),(e),(f),(g),(h) and (i) of section 109(1) or 114(1)*, and
    - (ii) activities in fulfillment of *paragraph (j) of section 109(1) or 114(1)*
  - (d) 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 or her.
6. Without prejudice to *subsection (2)* and *section 105*, the Company shall, as soon as may be after the end of each financial year, make a report to the Minister of the use it has made, of the moneys paid to it under *section 116* in that year, in pursuance of the objectives outlined in *paragraphs (a),(b),(c),(d),(e),(f),(g),(h) and (i) of section 109(1) or 114(1)*

7. A statement prepared under *paragraph (c) of subsection (5)* shall be certified by the auditors in respect of its compliance with the company's statement of cost accounting principles and methods prepared under *subsection (9)*.
8. The Authority, having consulted with the Minister and the company, shall prepare and publish guidance for the company as regards the cost accounting principles and methods to be considered by the company in preparing a statement under *paragraph (c) of subsection (5)*.
9. The company shall include in the statement required under *paragraph (c) of subsection (5)*, a statement of the cost accounting principles and methods by which costs and revenues have been assigned to such activities.
10. The Compliance Committee, at the direction of the Minister, shall review and report to the Minister the extent to which a statement prepared under *paragraph (c) of subsection (5)* complies with the guidance issued by the Authority under *subsection (8)*.
11. The Minister may direct the company as to the format of a statement prepared under *paragraph (c) of subsection (5)*.
12. The Minister shall cause the documents furnished to him or her under this section to be laid before each House of the Oireachtas.
13. The financial year of the company shall be the period of 12 months ending on 31 December in any year, and for the purposes of this section the period commencing on the vesting day and ending on the following 31 December shall be deemed to be a financial year.
14. (a) The company, the director general and any relevant member of the staff of the company shall, whenever so requested by the Minister, permit any person appointed by the Minister to examine the books or other records of account of the company in respect of any financial year or other period and shall facilitate any such examination, and the company shall pay such fee therefore as may be fixed by the Minister.  
(b) In this subsection "relevant member of the staff of the company" means a member of the staff of the company in respect of whom there have been duly assigned duties which relate to the books or other records of account referred to in *paragraph (a)*.

**Notes**

This head requires RTÉ and Teilifís na Gaeilge to maintain financial records and accounts and to prepare budgetary estimates. The head also requires RTÉ and Teilifís na Gaeilge to, following guidance from the BAI as regards cost accounting principles, to prepare a statement of revenues and costs distinguishing as between commercial and public service activities.

The head is based on section 25 of the Broadcasting Authority Act 1960 (as amended by section 7(2) of the Broadcasting Authority (Amendment) Act 1966 and sections 28(10) of the Broadcasting Act 2001) and section 7(2) of the Broadcasting Act 1990. Subsections (1) and (2) are based on section 31(1) and (2) of the Digital Hub Development Agency Act 2003.

Subsection (13) is based on section 31(6) of the Digital Hub Development Agency Act 2003.

Subsection (14) is based on section 31(3) of the Digital Hub Development Agency Act 2003.

---

**Head 101 - Transactions between public service and commercial opportunities**

1. The commercial activities undertaken by the company in pursuance of *paragraph (j) of section 109(1) or 114(1)* shall-
  - (a) be operated in an efficient manner so as to maximise revenues, and
  - (b) be used to subsidise the public service objectives outlined in *paragraphs (a) to (i) of section 109(1) or 114(1)*
  
2. All transactions or arrangements entered into by the company as between the activities arising from-
  - (i) *Paragraphs (a),(b),(c),(d),(e),(f),(g),(h) and (i) of section 109(1) or 114(1),*  
and
  - (ii) *Paragraph (j) of section 109(1) or 114(1)*shall be made at arm's length.
  
3. On the direction of the Minister, the Compliance Committee shall prepare and submit to the Minister a report on compliance by the company with the requirements of subsection (2) of this section.

**Notes**

This head aims to ensure that all transactions undertaken between the public service and commercial elements of RTÉ and Teilifís na Gaeilge are made on an arm's length basis, and that any profits arising from such commercial activities would be utilised to subsidise public service broadcasting activities.

Subsection (1) of the head draws from section 11 of the South African Broadcasting Act 1999.

---

**Head 102 - Strategic plans**

1. As soon as may be, but not later than 6 months after vesting day, and thereafter as requested by the Minister, the company shall prepare and present to the Minister in such form as shall be approved by the Minister and the Authority, strategic, business and financial plans or any revisions to those plans.
2. The Minister may, as soon as may be, after a strategic, business or financial plan or any revision thereto under this section has been presented to him or her, cause a copy or a summary of it to be laid before each House of the Oireachtas.

**Notes**

This head requires RTÉ and Teilifís na Gaeilge to produce a strategic/corporate plan. The head is based on section 10 of the Digital Hub Development Agency Act 2003.

---

**Head 103 - Public service broadcasting charter**

1. The Authority, at the direction of the Minister, and having consulted with the Minister and the company, shall prepare and issue guidance to the company on the format of a public service broadcasting charter to be prepared by the company.
2. The company following a public consultation, and having considered the guidance received under *subsection (1)* shall prepare, not later than 12 months after vesting day, and every five years thereafter, or as required by the Minister, a public service broadcasting charter, not in conflict with this Act, setting out the principles to be observed, and activities to be undertaken by the company in order to fulfil the objects set for the company under *sections 109, 110, 114 or 115*.
3. A public service broadcasting charter prepared by the company under *subsection (2)* shall address, inter alia, the number of channels operated by the company.
4. The company shall submit a public service broadcasting charter prepared under *subsection (2)* to the Minister.
5. The Minister, having consulted with the Authority, and having reviewed a public service broadcasting charter received from the company under *subsection (4)* against the requirements of *sections 109, 110, 114 or 115* of this Act, may approve such a public service broadcasting charter.
6. The Minister shall on approval of a public service broadcasting charter, or any revision thereto cause a copy of same to be laid before each House of the Oireachtas.

**Notes**

This head requires RTÉ and Teilifís na Gaeilge to prepare public service broadcast charters which outline the activities they will undertake over a five year period in order to meet their statutory remits. Any public service broadcasting charter must be approved by the Minister, following consultation with the BAI, before being adopted by RTÉ and Teilifís na Gaeilge.

---

**Head 104 - Annual statement of commitments**

1. The Authority having consulted with the Minister and the company, shall prepare and issue guidance to the company on the format of an annual statement of commitments prepared by the company.
2. The company shall, by 31 January in each year having considered any guidance received under *subsection (1)* prepare an annual statement of commitments, in accordance with *sections 109, 110, 114 or 115* of this Act and a public service broadcasting charter prepared under *section 103*, specifying the outputs to which the company intends to commit in that financial year.
3. The company shall, having consulted with the Minister and the Authority, publish an annual statement of commitments as soon as practicable thereafter.
4. The company shall include within a report required under *section 105* a report on the fulfilment or otherwise, of the commitments entered into in *subsection (2)* for the period concerned and an explanation of any variance arising.

**Notes**

This head requires RTÉ and Teilifís na Gaeilge to each year prepare an annual statement of commitments which outline the intended outputs of the broadcaster in the following twelve months. The annual statement of commitments must be in accordance with the broadcasters statutory remit and public service broadcasting charter. The head also requires the broadcaster to report on realisation or otherwise of commitments made.

---

**Head 105 - Reports and information**

1. The company shall, not later than 30 June in each year make a report to the Minister (in this section referred to as the “annual report”) in such form as the Minister may approve, on the performance of its functions and activities 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 the performance of its functions and activities during the preceding year as the Minister may specify.
3. The Company shall submit to the Minister such information regarding the performance of its functions as he or she may from time to time require.
4. The Company shall submit to the Minister such information regarding the remuneration of staff, contractors for services, consultants or advisers of the company as the Minister may require.
5. The Company shall submit to the Authority such information regarding the performance of its functions as the Authority may from time to time require.
6. The Company shall submit to the Authority such information regarding the remuneration of staff, contractors for services, consultants or advisers of the company as the Authority may require in the performance of its functions.

**Notes**

This head requires RTÉ and Teilifís na Gaeilge to produce an annual report and such information as the Minister and BAI may on occasion require including remuneration levels.

This provision is based on section 26 of the Broadcasting Authority Act 1960 (as restricted by section 28 of the Broadcasting Act 2001).

---

**Head 106 - Advertisements**

1. The company 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.
2. The company may reject any advertisement presented for broadcast in whole or in part.
3. The total daily time fixed by the company for broadcasting advertisements, broadcasting of acknowledgements of sponsorship, and the distribution, determined by the company, of that time throughout the programmes, shall be subject to the approval of the Minister, following consultation with the Authority.
4. In the case of a broadcasting service provided by the company (not being a broadcasting service which consists of programme material supplied by it pursuant to a contract entered into under this Act), the total daily times for broadcasting advertisements, teleshopping material and broadcasting of acknowledgements of sponsorship, fixed by the company and the maximum period so fixed to be given to advertisements and broadcasts of acknowledgements of sponsorship, in any hour shall be subject to the approval of the Minister, following consultation with the Authority.
5. In this section references to advertisements shall be construed as including references to teleshopping material.
6. The Minister, if so requested by the Referendum Commission following consultation by the Referendum Commission with the company and consideration of any proposals of the company for broadcasts in connection with the referendum that it communicates to the Referendum Commission, shall direct the company in writing to allocate broadcasting time to facilitate the Referendum Commission in performing its functions, and the company shall comply with a direction under this subsection.
7. Charges and conditions referred to in *subsection (1)* of this section may be fixed subject to variations benefiting advertisers who use the Irish language in their advertisements.
8. A power under this section to fix charges and conditions shall be construed 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.
9. In this section references to advertisements shall be construed as including references to advertising matter in sponsored programmes, that is to say, programmes supplied for advertising purposes by or on behalf of an advertiser.

5 September 2006

**Notes**

This head outlines the particular requirements placed on RTÉ and Teilifís na Gaeilge as regards advertising and sponsorship.

The head is based on section 20 of the Broadcasting Authority Act 1960, section 5 of the Referendum Act 1998 and section 31 of Broadcasting Act 2001.

---

**Head 107 - Code of fair trading practice**

1. It shall be the duty of the company to prepare and publish, within twelve months of the coming into force of this Act, and every fourth year thereafter, a code of fair trading practice (in this section referred to as the “code”) setting out the principles that it shall apply when agreeing terms for the commissioning of television and radio programming from independent producers.
2. The Authority, having consulted with the Minister, the company, and independent producers (or such persons appearing to the Authority to represent them), shall within twelve months of the coming into force of this Act and every fourth year thereafter, prepare and issue guidance to the company on the format of a code required under *subsection (1)*.
3. The guidance issued by the Authority under *subsection (2)* shall be general in nature and shall not specify the particular items to be included in agreements to which the guidance relates.
4. The company, having considered the guidance received under *subsection (2)*, shall prepare and submit for approval to the Minister a code.
5. A code prepared under *subsection (4)* shall include reference to the company’s approach to:-
  - (a) multi-annual commissioning;
  - (b) acquisition of rights; and
  - (c) timetable for negotiations.
6. The Minister shall, in considering a code under *subsection (4)*, consult with the Authority.
7. On approval by the Minister a code shall be deemed as having come into force and the company shall comply with such a code.
8. The company shall ensure that provision is made for resolving disputes arising in respect of the provisions of a code (by independent arbitration or otherwise) in a manner that appears to the Authority to be appropriate.
9. The Compliance Committee shall at the end of each four year period report to the Minister on compliance by the company with a code prepared under this section.
10. The company may with the approval of the Minister, having consulted with the Authority, revise and publish amendments to a code.

**Notes**

This head requires RTÉ and Teilifís na Gaeilge to prepare, following guidance from the BAI, a code setting out the principles that it must apply when commissioning programming from independent producers. Any code prepared will be subject to Ministerial approval. The head is based on section 5L of the Agreement dated 25 January 1996 between the BBC and the Secretary of State for National Heritage [Culture, Media and Sport] as inserted by the Amendment dated 4 December 2003.

---

**Head 108 - Audience council**

1. The company shall establish for the purposes of this section, a committee, and such committee shall be known, and is in this section referred to, as the “audience council”.
2. The audience council shall consist of 15 members.
3. 7 members of the audience council shall be appointed by the Minister to represent specialist programming interests and needs.
4. 7 members of the audience council shall be appointed by the Minister to represent the interests and needs of the general viewing or listening public.
5. The directors of the company shall appoint one of their number to serve as an ex officio member of the audience council.
6. The Minister shall from time to time appoint as occasion requires a member of the audience council to be chairperson thereof.
7. A director of the company may not act as chairperson of the audience council.
8. The membership of the audience council shall be appointed for such respective periods, not exceeding four years, as the Minister may think fit. Any such member who is appointed for a period of less than four years shall be eligible for re-appointment for the remainder of the period of four years from the beginning of his or her appointment, or for any shorter period.
9. A member of the audience council may at any time by notice in writing to the Minister resign his or her membership. The membership of any member may at any time be terminated by notice in writing given to him or her by the Minister.
10. The function of the audience council shall be to represent to the board of the company the views, interests and needs of the general public with regard to public service broadcasting by the company.

11. In order to exercise its functions under *subsection (10)* the audience council may:-
- (a) make arrangements for ascertaining and monitoring the state of public opinion about programmes and services broadcast or transmitted by the company and for ascertaining the needs and interests of members of the public,
  - (b) monitor the extent to which comments, proposals or complaints made by audiences are given due consideration by and are properly handled by the company,
  - (c) hold public meetings, and
  - (d) require that the company provide the equivalent of up to six hours per annum of television and radio programme material for the purposes of the exercise of the functions of the audience council, and that the company shall broadcast same, at such times as are agreed between the company and the audience council.
12. The audience council shall have the power to regulate its own procedure and to fix its quorum, provided that the Chairperson may call a meeting of the audience council whenever he or she thinks fit, and shall call a meeting thereof when required so to do by any three members.
13. The audience council shall make an annual report to the Minister, the board of the company and the Authority, of their proceedings during the preceding financial year. The audience council may, and if requested to do so by the Minister shall, make special reports to the Minister during any year.
14. At least once in each year the director general shall meet with the audience council.
15. At least once in each year the audience council shall meet with the board of the company.
16. The company shall afford to the audience council the use of such resources and information as are requisite for the proper performance of the functions of the audience council.
17. The company shall pay to each member of the audience council such out-of-pocket expenses as such member may reasonably incur in the performance of his or her functions.

**Notes**

This head places the existing RTÉ Audience Council on a statutory footing and establishes a separate audience council for Teilifís na Gaeilge. The head requires RTÉ and Teilifís na Gaeilge to resource the activities of their respective audience councils including the provision of a limited amount of airtime. The head is based on section 12 of the BBC Charter.

-----

**PART IX - Provisions specific to RTE**

**Head 109 - Principal objects and associated powers of Radio Teilifís Éireann**

1. The objects of Radio Teilifís Éireann shall be stated in its memorandum of association to be-
  - (a) To establish and maintain a national television and sound broadcasting service which shall have the character of a public service, be a free-to-air service and be made available, in so far as it is reasonably practicable, to the whole community on the island of Ireland.
  - (b) To establish and maintain a website and teletext services in connection with the services of Radio Teilifís Éireann under *paragraphs (a), (c), (d), (e), (f), (g), (h) and (i)* of this subsection.
  - (c) To establish and maintain orchestras, choirs, composers, music libraries and other cultural performing groups in connection with the services of Radio Teilifís Éireann under *paragraphs (a), (f), (g), (h) and (i)* of this subsection.
  - (d) To assist and co-operate with the relevant public bodies in preparation for, and execution of, the dissemination of relevant information to the public in the event of a major local, regional or national emergency.
  - (e) To establish and maintain libraries and archives containing materials relevant to the objects of Radio Teilifís Éireann under this subsection.
  - (f) To establish and maintain, in so far as it is reasonably practicable, broadcasting services, which shall have the character of a public service, for reception by Irish communities living outside of the island of Ireland.
  - (g) Subject to the consent of the Minister, the Minister having consulted with the Authority, to establish and maintain, community, local, or regional broadcasting services, which shall have the character of a public service, and be free-to-air.
  - (h) Subject to the consent of the Minister, the Minister having consulted with the Authority, to establish and maintain non-broadcast non-linear audio-visual media services, in so far as it is reasonably practicable, which shall have the character of a public broadcasting service.
  - (i) Subject to the consent of the Minister, the Minister having consulted with the Authority, to establish and maintain, in so far as it is reasonably practicable, broadcasting services which are of a special interest to only certain members of the community and which are made available on a subscription or pay-per-view basis (within the meaning of the Broadcasting Act, 2001), which shall have the character of a public service.

- (j) So far as it is reasonably practicable, to exploit such commercial opportunities arising in pursuit of the objects outlined in *paragraphs (a), (b), (c), (d), (e), (f), (g), (h) and (i)* of this subsection.
2. In pursuit of the objects outlined in *subsection (1)* of this section Radio Teilifís Éireann shall—
- (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, and
  - (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 Union.
3. Without prejudice to the generality of *subsection (1)*, Radio Teilifís Éireann shall ensure that the programme schedules of the broadcasting services referred to in that subsection—
- (a) provide a comprehensive range of programmes in the Irish and English languages that reflect the cultural diversity of the whole island of Ireland and include, both on television and radio (and also, where appropriate, any means of transmission referred to in *subsections (4)(p) and (q)* of this section) programmes that entertain, inform and educate, provide coverage of sporting, religious and cultural activities and cater for the expectations of the community generally as well as members of the community with special or minority interests and which, in every case, respect human dignity,
  - (b) provide programmes of news and current affairs in the Irish and English languages, including programmes that provide coverage of proceedings in the Houses of the Oireachtas and the European Parliament, and
  - (c) facilitate or assist contemporary cultural expression and encourage or promote innovation and experimentation in broadcasting.

4. The principal express powers of Radio Teilifís Éireann in pursuance of the objects outlined in *subsection (1)* of this section shall be stated in its memorandum of association to be-
- (a) to establish, maintain and operate broadcasting stations and to acquire, install and operate apparatus for wireless telegraphy,
  - (b) subject to any regulations under the Wireless Telegraphy Act, 1926, which are for the time being in force, to provide for the distribution by means of wired broadcast relay stations of programmes broadcast by Radio Teilifís Éireann and such other programmes as Radio Teilifís Éireann may decide;
  - (c) to provide, broadcasting services which are of a special interest to only certain members of the community and which are made available on a subscription or pay-per-view basis (within the meaning of the Broadcasting Act, 2001),
  - (d) to originate programmes and procure programmes from any source,
  - (e) to make contracts, agreements and arrangements incidental or conducive to the objects of Radio Teilifís Éireann,
  - (f) to acquire and make use of copyrights, patents, licences, privileges and concessions,
  - (g) to collect news and information and to subscribe to news services and such other services as may be conducive to the objects of Radio Teilifís Éireann,
  - (h) to subscribe to such international associations, and to such educational, musical and dramatic bodies and such other bodies promoting entertainment or culture, as may be conducive to the objects of Radio Teilifís Éireann,
  - (i) to organise, provide and subsidise concerts and other entertainments in connection with the broadcasting service or for any purpose incidental thereto and, in relation to any such concert or entertainment, to provide or procure accommodation and, if desired, to make charges for admission,
  - (j) to prepare, publish and distribute, with or without charge, such magazines, books, papers and other printed matter as may seem to Radio Teilifís Éireann to be conducive or incidental to its objects,
  - (k) to arrange with other broadcasting companies or authorities for the distribution, receipt, exchange and relay of programmes (whether live or recorded),
  - (l) to compile, publish and distribute, with or without charge, recorded aural and visual material,
  - (m) provide programmes of news and current affairs in the Irish and English languages, including programmes that provide coverage of proceedings in the Houses of the Oireachtas and the European Parliament,
  - (n) facilitate or assist contemporary cultural expression and encourage or promote innovation and experimentation in broadcasting,
  - (o) to establish and maintain a website,
  - (p) to establish and maintain an electronic communications network within the meaning of Section 2 of the Communications Regulations Act 2002, subject to the provisions of any enactment or rule of law, and
  - (q) to procure an "electronic communications service" meaning a service provided for remuneration by another party which consists wholly or mainly in the conveyance of signals on electronic communications networks, subject to the provisions of any enactment or rule of law.

5. Nothing in this section shall be construed as preventing Radio Teilifís Éireann from including in the programme schedules programmes made outside the State.
6. Radio Teilifís Éireann may include in its memorandum of association all such objects and powers as are reasonably necessary for or incidental to the attainment of the objects under *subsection (1)*, and which are not inconsistent with this Act.
7. Radio Teilifís Éireann shall have power to do anything which appears to it to be necessary, or to facilitate the pursuance of its objects and which is not inconsistent with this Act.

### Notes

Under Irish company law the objects clause in the memorandum of association of a company sets out the aims and purposes of the company. Also contained in the objects clause will be a list of transactions permissible in pursuit of such objects (express powers).

Subsection (1) of this head outlines the objectives of RTÉ. Subsection (4) outlines the associated express powers of RTÉ.

The head proposes two new categories of objectives. The first category includes the maintenance of a website by the company, assisting the relevant public bodies to disseminate information in the event of an emergency and broadcasting to Irish communities living abroad. The second category of objectives includes objectives that may not be pursued by RTÉ without ministerial consent, the Minister having first consulted with the BAI on the public value and sectoral impact of the proposal. This category includes (a) involvement in local, regional and community broadcasting, (b) pay-per-view broadcasting of a public service nature and (c) the making of non-broadcast content available on the Internet e.g. additional footage which may have been edited from a broadcast programme. It is proposed that objects (a) to (i) in subsection (1) of the head may be subvented by public funding.

Subsection (1)(e) is based on Section 3(m) of the BBC Charter

Subsection (1)(f) is based on Section 30(1) of the Hungarian Radio and Television Broadcasting Act 1996.

Subsection (1)(h) is based on Article 1(e) of the proposed amendment of Council Directive 89/552/EEC (Television Without Frontiers Directive).

Subsection (1)(j) is based on Section 8(5) of the Digital Hub Development Agency Act 2003.

The remainder of the head mirrors Sections 16 and 17 of the Broadcasting Act 1960 as amended by Sections 5 and 7 of the Broadcasting Authority (Amendment) Act, 1966, Sections 7, 12, 13 and 21 of the Broadcasting Authority (Amendment) Act, 1976, Section 3 of the Broadcasting Authority (Amendment) Act, 1979, and Sections 6, 28, 29 and 30 of the Broadcasting Act, 2001.

Subsection 4(q) is based on Section 2 of the Communications Regulation Act 2002.

-----

**Head 110 - Alterations by Minister to the remit of Radio Teilifís Éireann**

1. Subject to *subsections (3) to (5)*, the Minister may, for the purpose of ensuring that the character, as a public service, of the broadcasting service referred to in *section 109* is maintained, by order modify *section 109(3)* —
  - (a) by adding thereto provisions specifying categories of programmes that shall be included in the programme schedules referred to in that subsection, and
  - (b) by making such other alterations to *section 109* as are necessary or expedient in consequence of the addition of such provisions.
2. The Minister may by order amend or revoke an order under this section (including an order under this subsection).
3. Nothing in *subsection (1) or (2)* shall be construed as enabling a requirement to be imposed on Radio Teilifís Éireann with respect to the manner in which any particular programme broadcast on the broadcasting service referred to in *subsection (1)* is made or the manner in which any decision of an editorial nature relating to the broadcasting of such a programme is made.
4. Where the Minister proposes to make an order under this section, the Minister shall—
  - (a) consult with Radio Teilifís Éireann, and such other persons as he or she considers appropriate,
  - (b) consult with the Authority as to the public value and sectoral impact of such an order,
  - (c) publish a notice of his or her intention to make such an order in at least one newspaper circulating in the State,
  - (d) invite, by means of that notice or such other means as he or she considers appropriate, comments from members of the public in relation to the order proposed to be made, and
  - (e) publish in such manner as he or she considers appropriate a statement outlining the consultations that have been carried out under *paragraphs (a) and (b)* and any comments received by him or her pursuant to the invitation referred to in *paragraph (d)* and indicating a place at which any document furnished to the Minister by a person referred to in *paragraph (a) or (b)* in the course of consultations under those paragraphs or by a member of the public pursuant to the said invitation may be inspected (and such a document shall, accordingly, be made available at that place for inspection at all reasonable times before a draft of the order concerned is laid before the Houses of the Oireachtas under *subsection (5)*).
5. Where an order is proposed to be made under this section, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

**Notes**

This head empowers the Minister to add to the categories of programming required of RTÉ. The head is based on section 28(3) of the Broadcasting Act 2001.

-----

**Head 111 - Duty to supply programme material to Teilifís na Gaeilge**

1. Radio Teilifís Éireann shall provide to Teilifís na Gaeilge programme material in the Irish language of such amounts and at such times as may be agreed between them, being such amounts and such times as, in their opinion, will result in the equivalent of one hour of such programme material being provided daily by Radio Teilifís Éireann to Teilifís na Gaeilge.

**Notes**

This head mirrors section 47 of the Broadcasting Act 2001.

---

**Head 112 - Spectrum licence**

1. The powers conferred on Radio Teilifís Éireann by virtue of *paragraphs (a) and (b) of subsection (4) of section 109* shall not be exercised save under licence issued to Radio Teilifís Éireann or its agent by the Commission for Communications Regulation, the latter body having consulted with the Minister and the Authority, and in accordance with any conditions attached by the Commission for Communications Regulation to such licences.
2. A copy of every licence under this section shall be laid before each House of the Oireachtas as soon as may be after the issue of the licence.

**Notes**

This head is based on section 16(3) of the Broadcasting Act 1960 with the addition of the specification of to whom the licence shall be issued.

---

**Head 113 - Independent television programme account**

1. Radio Teilifís Éireann shall keep an account which shall be known as the "independent television programmes account" and is in this Act referred to as "the account".
2. (a) Monies standing to the credit of the account shall be used by Radio Teilifís Éireann for the purpose of—
  - (i) commissioning the making of independent television programmes,
  - (ii) procuring the formulation by persons of proposals for the commissioning by Radio Teilifís Éireann of the making of programmes as aforesaid,
  - (iii) assisting the completion of programmes as aforesaid the making of which has not been commissioned by Radio Teilifís Éireann, and for no other purpose.
  - (b) The amount of monies that Radio Teilifís Éireann is required by *subsection (3)* of this section to pay into the account in a financial year shall be expended, unless it is impracticable to do so, within two years of that financial year.
  - (c) Radio Teilifís Éireann shall not in a financial year use for the purposes specified in *subparagraphs (ii) and (iii) of paragraph (a)* of this subsection more than 10 per cent. of the amount of monies that it is required by *subsection (3)* of this section to pay into the account in that financial year.
3. Radio Teilifís Éireann shall in each financial year mentioned in *column (1)* of the Table to this section pay into the account, in accordance with *subsection (4)* of this section, an amount of monies that is not less than the amount of monies mentioned in *column (2)* of the said Table opposite the mention of the financial year concerned in the said *column (1)*.
4. The amount of monies required to be paid by *subsection (3)* of this section into the account in a financial year shall be so paid in such number of instalments as Radio Teilifís Éireann deems appropriate having regard to its duty under *subsection (2) (b)* of this section.
5. If any of the monies paid under *subsection (3)* of this section into the account in a financial year remains unexpended at the end of a two year period from the end of that financial year the Minister may, having consulted with the Authority and Radio Teilifís Éireann, authorise Radio Teilifís Éireann to withdraw the said monies or a specified portion thereof from the account and monies so withdrawn shall thereupon become and be available to Radio Teilifís Éireann for the purposes generally of its functions under this Act.
6. References in this section to the expenditure of monies in the account include references to the incurring of a legal obligation or legal obligations to expend such monies.

- 7 (a) The Minister may, having had regard to each of the following matters, namely—
- (i) the current and prospective financial liabilities of Radio Teilifís Éireann,
  - (ii) the effect (if any) for the time being of the operation of the provisions of this section on—
    - (I) the employment or recruitment of staff by Radio Teilifís Éireann,
    - (II) the performance by Radio Teilifís Éireann of its functions generally under this Act,
    - (III) the employment of persons in the making of independent television programmes,

from time to time by order vary the sum referred to in the definition of the 'appropriate amount' in *subsection (8)(a)* of this section and for so long as such an order is in force the said Table or the said definition, as the case may be, shall be construed and have effect in accordance with the order.

- (b) The Minister may by order revoke an order under this subsection.
- (c) Where it is proposed to make an order under this subsection, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

8. (a) In the Table to this section—

"the appropriate amount" means the sum of €30,000,000 as increased by an amount equal to the appropriate percentage of the said sum.

- (b) In this subsection "the appropriate percentage" means the difference between the consumer price index number at mid-August, 2005, and the said number at the mid-August immediately preceding the financial year concerned expressed as a percentage of the first-mentioned number.
- (c) If at the second-mentioned date in *paragraph (b)* of this subsection the consumer price index number stands at a figure that is less than that at which it stood at the first-mentioned date in that paragraph, the definition of "the appropriate amount in this subsection shall have effect as respects the financial year immediately following the second-mentioned date as if "reduced" were substituted for "increased" in that definition.

9. As soon as may be, but not later than 3 months, after the end each financial year Radio Teilifís Éireann shall make a report to the Minister of—
- (a) its activities during that financial year as respects commissioning the making of independent television programmes.
  - (b) the name or corporate identity of persons commissioned to make independent television programmes.
  - (c) the operation by it of the account during that financial year,
  - (d) such other matters relating to the matters referred to in *paragraphs (a),(b) and (c)* of this subsection as the Minister may direct,

and the Minister shall cause copies of the report to be laid before each House of the Oireachtas.

10. For the purposes of this Act, the making of an independent television programme shall not be regarded as having been commissioned by Radio Teilifís Éireann unless, before work on the making of the programme commences, Radio Teilifís Éireann has incurred a legal obligation to pay at least 25 per cent. of the cost of its making.

TABLE	
Financial year (1)	Amount of monies to be paid by the Radio Teilifís Éireann into the account (2)
2006	€30,000,000
Each subsequent financial year	The appropriate amount

**Notes**

This head restates the existing obligation on RTÉ to maintain a separate fund for the commissioning of a minimum level of television programming from the independent sector. Subsections (2) and (5) have been structured to allow monies paid into the fund to be spent over a three year period rather than just in the financial year concerned. This is intended to facilitate multi-annual commissioning.

The head is based on Sections 4 and 6 of the Broadcasting Authority (Amendment) Act 1993, as amended by Section 33 of the Broadcasting Act 2001. Subsection (10) is based on section 1(2) of the Broadcasting Authority (Amendment) Act 1993.

---

**PART X - Provisions specific to Teilifís na Gaeilge**

**Head 114 - Principal objects and associated powers of Teilifís na Gaeilge**

1. The objects of Teilifís na Gaeilge shall be stated in its memorandum of association to be-
  - (a) To establish and maintain a national television broadcasting service, which shall have the character of a public service, be a free-to-air service and be made available, in so far as it is reasonably practicable, to the whole community on the island of Ireland.
  - (b) To establish and maintain a website and teletext services in connection with the services of the company under *paragraphs (a), (c), (d), (e), (f), (g), (h) and (i)* of this subsection.
  - (c) To establish and maintain choirs, composers, music libraries and other cultural performing groups in connection with the services of Teilifís na Gaeilge under *paragraphs (a), (f), (g), (h) and (i)* of this subsection.
  - (d) To assist and co-operate with the relevant public bodies in preparation for, and execution of, the dissemination of relevant information to the public in the event of a major local, regional or national emergency.
  - (e) To establish and maintain libraries and archives containing materials relevant to the objects of Teilifís na Gaeilge under this subsection.
  - (f) Subject to the consent of the Minister to establish and maintain, in so far as it is reasonably practicable, broadcasting services, which shall have the character of a public service, for reception by Irish communities living outside of the Island of Ireland.
  - (g) Subject to the consent of the Minister, the Minister having sought the advice of the Authority, to establish and maintain, in so far as it is reasonably practicable, community, local, or regional broadcasting services, which shall have the character of a public service, and be free-to-air.
  - (h) Subject to the consent of the Minister, the Minister having sought the advice of the Authority, to establish and maintain non-broadcast non-linear audio-visual media services, in so far as it is reasonably practicable, which shall have the character of a public broadcasting service.
  - (i) Subject to the consent of the Minister, the Minister having sought the advice of the Authority, to establish and maintain, in so far as it is reasonably practicable, broadcasting services which are of a special interest to only certain members of the community and which are made available on a subscription or pay-per-view basis (within the meaning of the Broadcasting Act, 2001), which shall have the character of a public service.

- (j) So far as it is reasonably practicable, to exploit such commercial opportunities arising in pursuit of the objects outlined in *paragraphs (a), (b), (c), (d), (e), (f), (g), (h) and (i)* of this subsection.
2. In pursuit of the objects outlined in *subsection (1)* of this section Teilifís na Gaeilge shall—
    - (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, and
    - (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 Union.
  3. Without prejudice to the generality of *subsection (1)*, Teilifís na Gaeilge shall ensure that the programme schedules of the broadcasting services referred to in that subsection—
    - (a) provide a comprehensive range of programmes, primarily in the Irish language, that reflect the cultural diversity of the whole island of Ireland and include, (and also, where appropriate, any means of transmission referred to in *subsections (4)(p) and (q)* of this section) programmes that entertain, inform and educate, provide coverage of sporting, religious and cultural activities and cater for the expectations of those of all age groups in the community whose preferred spoken language is Irish or who otherwise have an interest in Irish,
    - (b) provide programmes, primarily in the Irish language, of news and current affairs,
    - (c) provide coverage of proceedings in the Houses of the Oireachtas and the European Parliament, and
    - (d) facilitate or assist contemporary cultural expression and encourage or promote innovation and experimentation in broadcasting.
  4. The principal express powers of Teilifís na Gaeilge in pursuance of the objects outlined in *subsection (1)* of this section shall be stated in its memorandum of association to be—
    - (a) to establish, maintain and operate broadcasting stations and to acquire, install and operate apparatus for wireless telegraphy,
    - (b) subject to any regulations under the Wireless Telegraphy Act, 1926, which are for the time being in force, to provide for the distribution by means of wired broadcast relay stations of programmes broadcast by Teilifís na Gaeilge and such other programmes as Teilifís na Gaeilge may decide,

- (c) to provide, broadcasting services which are of a special interest to only certain members of the community and which are made available on a subscription or pay-per-view basis (within the meaning of the Broadcasting Act, 2001),
- (d) to originate programmes and procure programmes from any source,
- (e) to make contracts, agreements and arrangements incidental or conducive to the objects of Teilifís na Gaeilge,
- (f) to acquire and make use of copyrights, patents, licences, privileges and concessions,
- (g) to collect news and information and to subscribe to news services and such other services as may be conducive to the objects of Teilifís na Gaeilge,
- (h) to subscribe to such international associations, and to such educational, musical and dramatic bodies and such other bodies promoting entertainment or culture, as may be conducive to the objects of Teilifís na Gaeilge,
- (i) to organise, provide and subsidise concerts and other entertainments in connection with the broadcasting service or for any purpose incidental thereto and, in relation to any such concert or entertainment, to provide or procure accommodation and, if desired, to make charges for admission,
- (j) to prepare, publish and distribute, with or without charge, such magazines, books, papers and other printed matter as may seem to Teilifís na Gaeilge to be conducive or incidental to its objects,
- (k) to arrange with other broadcasting companies or authorities for the distribution, receipt, exchange and relay of programmes (whether live or recorded),
- (l) to compile, publish and distribute, with or without charge, recorded aural and visual material,
- (m) provide programmes of news and current affairs in the Irish and English languages, including programmes that provide coverage of proceedings in the Houses of the Oireachtas and the European Parliament,
- (n) facilitate or assist contemporary cultural expression and encourage or promote innovation and experimentation in broadcasting,
- (o) to establish and maintain a website,
- (p) to establish and maintain an electronic communications network within the meaning of section 2 of the Communications Regulations Act 2002, subject to the provisions of any enactment or rule of law, and

- (q) to procure an "electronic communications service" meaning a service provided for remuneration by another party which consists wholly or mainly in the conveyance of signals on electronic communications networks, subject to the provisions of any enactment or rule of law.
5. Teilifís na Gaeilge may, for the purpose of complementing the programme material it broadcasts in the Irish language, acquire programme material in other languages; in acquiring such material, the company shall have regard to the need to maintain the distinctive character of the broadcasting service referred to in *subsection (1)* and to cater for the expectations of audiences who are not generally catered for by other broadcasting services.
  6. Nothing in this section shall be construed as preventing Teilifís na Gaeilge from including in the programme schedules programmes made outside the State.
  7. Teilifís na Gaeilge may include in its memorandum of association all such objects and powers as are reasonably necessary for or incidental to the attainment of the objects under *subsection (1)* and which are not inconsistent with this Act.
  8. Teilifís na Gaeilge shall have power to do anything which appears to it to be necessary, or to facilitate the pursuance of its objects and which is not inconsistent with this Act.
  9. Each amount paid to Teilifís na Gaeilge under *section 116(4)* shall be used solely for the purposes of pursuing the objects outlined in *paragraphs (a) to (i)* of *subsection (1)* of *section 114*

**Notes**

This head outlines the express objects and powers of Teilifís na Gaeilge which in the main mirror those of RTÉ as outlined in Head 109. Subsections (2), (3) and (5) define the nature of programming expected from Teilifís na Gaeilge.

The head draws from section 45 of the Broadcasting Act, 2001.

---

**Head 115 - Alterations by Minister to the remit of Teilifís na Gaeilge**

1. Subject to *subsections (3) to (5)*, the Minister may, for the purpose of ensuring that the character, as a public service, of the broadcasting service referred to in *section 114* is maintained, by order modify *section 114(3)*—
  - (a) by adding thereto provisions specifying categories of programmes that shall be included in the programme schedules referred to in that subsection, and
  - (b) by making such other alterations to *section 114* as are necessary or expedient in consequence of the addition of such provisions.
2. The Minister may by order amend or revoke an order under this section (including an order under this subsection).
3. Nothing in *subsection (1) or (2)* shall be construed as enabling a requirement to be imposed on Teilifís na Gaeilge with respect to the manner in which any particular programme broadcast on the broadcasting service referred to in *subsection (1)* is made or the manner in which any decision of an editorial nature relating to the broadcasting of such a programme is made.
4. Where the Minister proposes to make an order under this section, the Minister shall—
  - (a) consult with Teilifís na Gaeilge, and such other persons as he or she considers appropriate,
  - (b) consult with the Authority as to the public value and sectoral impact of such an order,
  - (c) publish a notice of his or her intention to make such an order in at least one newspaper circulating in the State,
  - (d) invite, by means of that notice or such other means as he or she considers appropriate, comments from members of the public in relation to the order proposed to be made, and
  - (e) publish in such manner as he or she considers appropriate a statement outlining the consultations that have been carried out under *paragraphs (a) and (b)* and any comments received by him or her pursuant to the invitation referred to in *paragraph (d)* and indicating a place at which any document furnished to the Minister by a person referred to in *paragraph (a) or (b)* in the course of consultations under those paragraphs or by a member of the public pursuant to the said invitation may be inspected (and such a document shall, accordingly, be made available at that place for inspection at all reasonable times before a draft of the order concerned is laid before the Houses of the Oireachtas under *subsection (5)*).
5. Where an order is proposed to be made under this section, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

**Notes**

This head empowers the Minister, after consulting with the BAI, to add to the categories of programming required from Teilifís na Gaeilge. The head is based on section 28(3) of the Broadcasting Act 2001.

---

**PART XI – Allocation of public funding**

**Head 116 - Allocation of public funding**

1. The Minister, with the approval of the Minister for Finance, may pay to Radio Teilifís Éireann out of moneys provided by the Oireachtas in respect of each financial year after the coming into force of this Act, an amount equal to the total of the receipts in that year in respect of television set licence fees less—
  - (i) any expenses certified by the Minister as having been incurred by him or her in that year in relation to the collection of those fees, and
  - (ii) any amount paid under section 4(2) of the Act of 2003.
2. The amount paid to the company in each financial year under *subsection (1)* of this section, shall be used by Radio Teilifís Éireann solely for the purposes of—
  - (a) pursuing the objects outlined in *paragraphs (a), (b), (c), (d), (e), (f), (g), (h) and (i)* of *section 109* of this Act,
  - (b) complying with its duties under *sections 77, 79, 108 and 111* of this Act, and
  - (c) paying amounts levied on Radio Teilifís Éireann under *section 36* of this Act.
3. The Minister, with the consent of the Minister for Finance, may from time to time pay to by Radio Teilifís Éireann such an amount as he or she determines to be reasonable for the purposes of defraying the expenses incurred by Radio Teilifís Éireann in performing its functions.
4. The Minister, with the consent of the Minister for Finance, may from time to time pay to Teilifís na Gaeilge such an amount as he or she determines to be reasonable for the purposes of defraying the expenses incurred by Teilifís na Gaeilge in—
  - (a) pursuing the objects outlined in *paragraphs (a), (b), (c), (d), (e), (f), (g), (h) and (i)* of *section 114* of this Act,
  - (b) complying with its duties under *sections 77, 79 and 108* of this Act, and
  - (c) paying amounts levied on Teilifís na Gaeilge under *section 36* of this Act.

**Notes**

Subsection (1) of this head provides that the Minister with the approval of the Minister for Finance may pay to RTÉ out of Voted funds an amount equivalent to the total receipts from the television licence fee less (a) the costs of the collecting the television licence fee and (b) amounts paid over to the Broadcasting Fund. The provision is based on Section 8 of the Broadcasting Authority (Amendment) Act 1976 (as amended by Section 23(5) of the Broadcasting Act 2001 and Section 4(3) of the Broadcasting (Funding) Act 2003).

Subsection (2) of this head restricts the use by RTÉ of the funds outlined in subsection (1) to specific public service objects outlined in Head 109, payment of any sectoral levy and compliance with its proposed duties under heads 77, 79, 108 and 111. This provision is based on section 28(8) of the Broadcasting Act 2001.

Subsection (3) of this head grants the Minister the power, subject to consent of Minister for Finance, to make Exchequer funding available to RTÉ for public service purposes. This provision is based on section 51 of the Broadcasting Act 2001.

5 September 2006

Subsection (4) of this head grants the Minister the power, subject to the consent of the Minister for Finance, to make Exchequer funding available to Teilifís na Gaeilge for the purposes of the public service objects outlined in Head 114, payment of any sectoral levy and compliance with its proposed duties under heads 77, 79 and 108. This provision is based on section 51 of the Broadcasting Act 2001.

---

**Head 117 - Recommendations as to changes to public funding**

1. This section shall come into operation on such day as the Minister may appoint by order.
2. In this section-
  - “CPI” means the consumer price index as compiled by the Central Statistics Office;
  - “financial year” means a period of 12 months ending on 31 December;
  - “(Δ CPI)” means the annual percentage change in the CPI;
  - “annual television licence fee modification” =  $(\Delta \text{CPI}) + 1\% - X$ ; and
  - “X” means the adjustment recommended by the Authority.
3. The Authority, shall as soon as practicable after the commencement of this section, and every year thereafter, carry out a review of the extent to which the company has during the previous financial year fulfilled the commitments stated in its annual statement of commitments for that financial year.
4. The company shall each co-operate with the Authority in the exercise of a review under *subsection (3)*.
5. The Authority shall prepare and as soon as practicable submit to the Minister a report of the outcome of any review under *subsection (3)*.
6. The Authority shall on the basis of the review under *subsection (3)* recommend to the Minister an annual television set licence fee modification and the amount of any payment to be made to Teilifís na Gaeilge under *subsection (4) of section 116*.
7. The Minister shall publish a response to the recommendation of the Authority under *subsection (6)*.
8. The Minister shall cause copies of:
  - (a) the report of the Authority under *subsection (5)*
  - (b) the recommendation made by the Authority under *subsection (6)*
  - (c) his or her response to the recommendations of the Authority under *subsection (6)*to be laid before each House of the Oireachtas.

9. The Authority shall within a period of not more than five years after the commencement of this section, and every five years thereafter, or as directed by the Minister, carry out a review of the adequacy or otherwise, of public funding to enable the company to meet the objectives set out in *paragraphs (a),(b),(c),(d),(e), (f),(g),(h) and (i) of section 109 and paragraphs (a),(b),(c),(d),(e), (f),(g),(h) and (i) of section 114.*
10. In carrying out a review under *subsection (9)* the Authority shall take account of the following-
  - (a) The existing resources available to the company,
  - (b) The current level of public funding available to the company,
  - (c) The level of commercial funding available to the company pursuant to the objective set out in *paragraph (j) of section 109 or paragraph (j) of section 114,*
  - (d) The outcome of any review under *subsection (3),*
  - (e) The extant public service broadcasting charter for the company during the period under review,
  - (f) Developments in public service broadcasting internationally,
  - (g) Reports of the Compliance Committee,
  - (h) Such other matters as the Authority may consider relevant, and
  - (i) Such other matters which the Minister may consider relevant and has communicated to the Authority.
11. The company shall co-operate with the Authority in the exercise of a review under *subsection (9).*
12. The Authority shall prepare and as soon as practicable submit to the Minister a report of the outcome of any review under *subsection (9).*
13. The Authority shall on the basis of the review under *subsection (9)* make a recommendation to Minister as to, the level of adjustment to the television set licence fee, and the amount of any payment to be made to Teilifís na Gaeilge under *subsection (4) of section 116.*
14. The Minister shall submit to the Government-
  - (a) the report of the Authority under *subsection (12), and*
  - (b) the recommendations made by the Authority under *subsection (13).*
15. The Government shall publish a response to the recommendation of the Authority under *subsection (12).*
16. The Minister shall cause copies of:
  - (a) the report of the Authority under *subsection (12)*
  - (b) the recommendation made by the Authority under *subsection (13)*
  - (c) the Government's response to the recommendation of the Authority under *subsection (15)*to be laid before each House of the Oireachtas.

17. The Authority may appoint an agent to perform any acts and discharge any functions authorised by this section to be performed or discharged by the Authority.
18. The Minister may by order amend or revoke an order made under this section.
19. Every order made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and if either such House shall, within twenty-one days on which either such House has sat next after the regulation was laid before such Houses, pass a resolution annulling such regulation, such regulation shall be annulled accordingly but without prejudice to the validity of anything previously done under such regulation.

**Notes**

The purpose of this head is to establish a statutory mechanism for (i) annual reviews of public funding to RTÉ and Teilifís na Gaeilge and (ii) for a five year fundamental review of the adequacy or otherwise of public funding to RTÉ and Teilifís na Gaeilge.

The head proposes that on an annual basis the BAI, or an agent thereof, will review the extent to which RTÉ and Teilifís na Gaeilge have met their commitments under their annual statement of commitments and make a recommendation to the Minister as to how much the (a) licence fee should increase (capped at CPI + 1%) or decrease and (b) Exchequer amounts paid to Teilifís na Gaeilge or RTÉ should increase or decrease. The Minister will not be bound by the BAI's recommendation. The Minister will be required to publish his or her response to the BAI's recommendation.

The head also proposes that every five years, or at the direction of the Minister, the BAI will review the adequacy of public funding to support public service broadcasting against a number of set criteria (including the companies public service broadcasting charters). The BAI will make a recommendation to the Minister as to alterations in the television licence fee and the Exchequer amounts paid to Teilifís na Gaeilge or RTÉ and the Minister will take these recommendations to Government for decision. The Government will not be bound by the BAI's recommendation, but would be required to publish its response to the BAI's recommendation.

The head is based on Section 7 of the Telecommunications (Miscellaneous Provisions) Act, 1996 and Section 264 of the UK Communications Act 2003.

---

**Head 118 – Amendment of section 2(2) of the Act of 2003**

1. Section 2 of the Act of 2003 is amended by substituting the following for subsection (2):

“(2) A scheme—

(a) may only fund television programmes under *subsection (1)* which are broadcast—

(i) on a free television service which provides near universal coverage in the State, or

(ii) on a cable or MMD system as part of a community content contract under section 39 of the Act of 2001,

and which, other than in the case of programmes for children or educational programmes or programmes in the Irish language broadcast by commercial and community broadcasters (within the meaning of section 2 of the Broadcasting Act 2006), are broadcast during peak viewing times,

(b) may only fund radio programmes under subsection (1) which are carried on sound broadcasting services (within the meaning of section 2 of the Act of 1988) licensed by the Commission or operated by Radio Teilifís Éireann and which, other than in the case of programmes for children or educational programmes or programmes in the Irish language broadcast by commercial and community broadcasters (within the meaning of section 2 of the Broadcasting Act 2006), are broadcast during peak listening times,

(c) may provide funding for projects relating to matters such as research, needs assessments, analyses, feasibility studies and pilot projects in relation to subsection (1)(d), including such projects undertaken by or on behalf of the Minister, and

(d) may not provide funding for programmes which are produced primarily for news or current affairs.”

**Notes**

The purpose of this head is to permit the funding of Irish language programmes by community and commercial broadcasters in off-peak periods.

---

**PART XII - Transitional Provisions**

**Head 119 - Dissolution of the BCI**

1. On the establishment of the Authority the Broadcasting Commission of Ireland is dissolved;
2. Notwithstanding any of the conditions of their appointment, the term of a member of the Broadcasting Commission of Ireland shall terminate on the establishment of the Authority.

**Notes**

This head provides for the dissolution of the Broadcasting Commission of Ireland on the day that the BAI is established.

---

**Head 120 - Dissolution of the BCC**

1. On the establishment of the Compliance Committee the Broadcasting Complaints Commission is dissolved.
2. Notwithstanding any of the conditions of their appointment, the term of a member of the Broadcasting Complaints Commission shall terminate on the establishment of the Compliance Committee.

**Notes**

This head provides for the dissolution of the Broadcasting Complaints Commission on the day that the Compliance Committee is established.

---

**Head 121 - Dissolution of the RTÉ Authority**

1. On the vesting day of the company Radio Éireann is dissolved.

**Notes**

This head provides for the dissolution of the RTÉ Authority.

A similar transitional provision may be required in relation to Teilifís na Gaeilge.

-----

**Head 122 - Transitional provisions – general**

1. The functions, duties and powers of the Commission under the Act of 1988, the Act of 1990, the Act of 1998, the Act of 2001 and the Act of 2003 shall, on establishment day, stand transferred to the Authority, or a statutory committee of the Authority, and references to that Commission in any statute or in any instrument made under any statute and relating to these functions will be construed as references to the Authority, or a statutory committee of the Authority.

**Notes**

This head is intended to ensure that the BAI and its statutory committees will be substituted for existing legislative references to the BCI.

---

**Head 123 - Transitional provisions – BCI**

1. On establishment day all land which, immediately before that day, was vested in the Commission and all rights, powers and privileges relating to or connected with such land shall, without any conveyance or assignment, stand vested in the Authority for all the estate or interest for which immediately before the said day it was vested in the Commission, but subject to all trusts and equities affecting the land subsisting and capable of being performed.
2. On establishment day all property other than land, including choses-in-action, which immediately before that day was the property of the Commission shall stand vested in the Authority without any assignment.
3. Every chose-in-action transferred by *subsection (2)* to the Authority may, after establishment day, be sued on, recovered or enforced by it in its own name and it shall not be necessary for it or the Commission to give notice to the person bound by the chose-in-action of the transfer effected by that subsection.
4. All rights and liabilities of the Commission arising by virtue of any contract or commitment (express or implied) entered into by it before establishment day shall on that day stand transferred to the Authority.
5. Every right and liability transferred by *subsection (4)* to the Authority may, on and after establishment day, be sued on, recovered or enforced by or against it in its own name and it shall not be necessary for it or the Commission to give notice to the person whose right or liability is transferred by that subsection of such transfer.
6. Any legal proceedings pending immediately before establishment day to which the Commission is a party shall be continued with the substitution in the proceedings for the Commission of the Authority.
7. The following shall continue as if the Authority were substituted for the Commission:
  - (a) any codes or rules drawn up and continued by the Commission under the Act of 1988, the Act of 1990 or the Act of 2001; and
  - (b) any approved scheme under the Act of 2003
8. Any contract under the Act of 1988, the Act of 1990 or the Act of 2001 in force between the Commission and another party immediately before establishment day shall continue as if the Authority were substituted for the Commission on establishment day.

9. The following shall continue as if the Compliance Committee were substituted for the Commission:
  - (a) any investigations under section 13 of the Act of 1988; and
  - (b) any dispute referred for determination by the Commission under section 37(7) of the Act of 2001.
10. References to the Commission in section 6 of the Act of 1988 and section 55(3) of the Act of 2001 shall be construed as references to the Contract Awards Committee.
11. References to the Commission in section 14(1) and (2) of the Act of 1988 shall be construed as references to the Contract Awards Committee.
12. References to the Commission in sections 4(2)(a), 4(2)(b), 4(3), 4(4), 4(6), 7(2), 7(3), 7(4), 7(5), 8(1), 8(2), 14(3), 14(5), 17 and 18 of the Act of 1988 and sections 9, 12, 13, 14, 15, 16, 17, 34, 35, 36, 37(3), 37(4), 37(10), 37(11), 39, 40, 41 of the Act of 2001 and the Act of 2003 shall be construed as references to the Authority.
13. References to the Independent Radio and Television Commission in section 6(1) of the Act of 1990 and section 5(3) of the Act of 1998 shall be construed as references to the Authority.
14. Anything commenced but not completed before the establishment day by the Commission may be carried on and completed on or after that day by the Authority or its statutory committees.

**Notes**

This head provides that the BAI and its statutory committees on establishment will assume the assets, rights, proceedings and liabilities of the BCI. Subsections (1) to (6) are based on section 52(1) to (6) of the Broadcasting Act 2001.

-----

**Head 124 - Transitional provisions – BCC**

1. All rights, liabilities and assets of the Broadcasting Complaints Commission immediately before establishment day stand transferred to the Authority.
2. Any contracts or licences in force between the Broadcasting Complaints Commission and another party immediately before establishment day shall continue as if the Authority were substituted for the Broadcasting Complaints Commission.
3. Any pending legal proceedings to which the Broadcasting Complaints Commission is a party immediately before establishment day shall continue in the name of the Authority.
4. Any investigations being carried out by the Broadcasting Complaints Commission immediately before establishment day shall continue in the name of the Compliance Committee.
5. Anything commenced but not completed before the establishment day by the Broadcasting Complaints Commission may be carried on and completed on or after that day by the Compliance Committee.

**Notes**

This head provides that any assets, liabilities, contracts, proceedings or investigations relevant to the Broadcasting Complaints Commission would transfer to the Authority or the Compliance Committee on the establishment of the BAI and its statutory committees.

Subsection (5) is based on section 52(7) of the Broadcasting Authority Act 2001.

---

**Head 125 - Transitional provisions – broadcasting codes**

1. Pending the preparation of the codes under *subsection (1)* and the making of rules under *subsection (5)* of *section 41*, the provisions of a code or rule under section 4 of the Broadcasting Act 1990 or section 19 of the Broadcasting Act 2001, which are in force before the repeal by the Broadcasting Act 2001 of section 4 of the Broadcasting Act 1990 or the repeal by this Act of section 19 of the Broadcasting Act 2001 and which correspond to the matters to which those codes or those rules will relate shall, notwithstanding the repeal of section 4 of the Broadcasting Act 1990 or section 19 of the Broadcasting Act 2001, continue in force and have effect in relation to each class of broadcaster in relation to whom they had effect before that repeal.

**Notes**

This head provides that existing extant broadcasting codes or rules prepared under the Broadcasting Act 1990 or the Broadcasting Act 2001 shall continue in force until replaced by a code or rule prepared under this Act.

This head is based on section 19(17) of the Broadcasting Act 2001.

---

**Head 126 - Transitional provisions - RTÉ**

1. On vesting day all land which, immediately before that day, was vested in Radio Éireann and all rights, powers and privileges relating to or connected with such land shall, without any conveyance or assignment, stand vested in Radio Teilifís Éireann for all the estate or interest for which immediately before the said day it was vested in the said Radio Éireann, but subject to all trusts and equities affecting the land subsisting and capable of being performed.
2. On vesting day all property other than land, including choses-in-action, which immediately before that day was the property of Radio Éireann shall stand vested in Radio Teilifís Éireann without any assignment.
3. Every chose-in-action transferred by *subsection (2)* to Radio Teilifís Éireann may, after vesting day, be sued on, recovered or enforced by it in its own name and it shall not be necessary for it or Radio Éireann to give notice to the person bound by the chose-in-action of the transfer effected by that subsection.
4. All rights and liabilities of Radio Éireann arising by virtue of any contract or commitment (express or implied) entered into by it before vesting day shall on that day stand transferred to Radio Teilifís Éireann.
5. Every right and liability transferred by *subsection (4)* to Radio Teilifís Éireann may, on and after vesting day, be sued on, recovered or enforced by or against it in its own name and it shall not be necessary for it or Radio Éireann to give notice to the person whose right or liability is transferred by that subsection of such transfer.
6. Any legal proceedings pending immediately before vesting day to which Radio Éireann is a party shall be continued with the substitution in the proceedings of Radio Teilifís Éireann for Radio Éireann.
7. Anything commenced but not completed before vesting day by Radio Éireann may be carried on and completed on or after that day by Radio Teilifís Éireann.
8. References to the Authority in section 5(2) of the Act of 1998 shall be construed as a reference to the company.

**Notes**

This head provides for the transfer of all assets and liabilities of the RTÉ Authority to the new RTÉ company. The head is based on Section 52 of the Broadcasting Act 2001. It is intended that a similar transitional provision would be developed in relation to Teilifís na Gaeilge.

-----

**Head 127 - Final accounts of the BCI**

1. Final accounts of the Commission shall be drawn up by the Authority as soon as may be after the establishment day in such form as may be approved of by the Minister, and in respect of such period or periods as may be specified by the Minister.
2. Accounts prepared pursuant to this section shall be submitted as soon as may be by the Authority for audit, and, immediately after the audit, a copy of the income and expenditure account and of the balance sheet and of such other (if any) of the accounts as the Minister may direct and a copy of the auditor's report on the accounts shall be presented to the Minister who shall cause copies thereof to be laid before each House of the Oireachtas.

**Notes**

This head requires the BAI to prepare the final accounts of the BCI.

The head mirrors section 44 of the Digital Hub Development Agency Act 2003.

---

**Head 128 - Final accounts of RTÉ Authority**

1. Final accounts of Radio Éireann shall be drawn up by Radio Teilifís Éireann as soon as may be after vesting day in such form as may be approved of by the Minister, and in respect of such period or periods as may be specified by the Minister.
2. Accounts prepared pursuant to this section shall be submitted as soon as may be by Radio Teilifís Éireann for audit, and, immediately after the audit, a copy of the income and expenditure account and of the balance sheet and of such other (if any) of the accounts as the Minister may direct and a copy of the auditor's report on the accounts shall be presented to the Minister who shall cause copies thereof to be laid before each House of the Oireachtas.

**Notes**

This head requires the new RTÉ company to prepare the final accounts of the RTÉ Authority. The head is based on section 44 of the Digital Hub Development Agency Act 2003. A similar transitional provision may be required in relation to Teilifís na Gaeilge.

---

**Head 129 - Exemption from Stamp Duty**

1. Section 12 of the Finance Act, 1895, shall not apply to the vesting in the companies of any property or rights transferred by this Act.
2. Section 12 of the Finance Act, 1895, shall not apply to the vesting in the Authority of any property or rights transferred by this Act.

**Notes**

This head is intended to exempt the transfer of property from the BCI and the RTÉ Authority to the BAI and the new companies from any requirements in relation to stamp duty. The head is based on section 43 of the Postal and Telecommunications Services Act 1983.

---

**Schedule**Repeals  
Section 3

<i>Year and Number</i>	<i>Short Title</i>	<i>Extent of Repeal</i>
No. 45 of 1926	Wireless Telegraphy Act 1926	Section 3(3)(a)(i), 3(3)(b), 5(1B) and 6(3)
No. 10 of 1960	Broadcasting Authority Act 1960	The whole Act
No. 4 of 1964	Broadcasting Authority (Amendment) Act, 1964	The whole Act
No. 7 of 1966	Broadcasting Authority (Amendment) Act, 1966	The whole Act
No. 2 of 1971	Broadcasting Authority (Amendment) Act, 1971	The whole Act
No. 1 of 1973	Broadcasting Authority (Amendment) Act, 1973	The whole Act
No. 33 of 1974	Broadcasting Authority (Amendment) Act, 1974	The whole Act
No. 37 of 1976	Broadcasting Authority (Amendment) Act, 1976	Sections 3, 5, 6, 7 and 8
No. 5 of 1972	Wireless Telegraphy Act, 1972	Sections 2, 3, 4, 6, 14 and schedule
No. 24 of 1983	Postal and Telecommunications Services Act, 1983	Sections 76, 77, 78 and 79
No. 19 of 1988	Broadcasting and Wireless Telegraphy Act, 1988	Sections 2(2), 10, 11 and 19
No. 20 of 1988	Radio and Television Act, 1988	Section 3, 4(1), (7), (8), (9), (10) and (11), 9, 10, 11, 15, 16, 20 and schedule
No. 15 of 1993	Broadcasting Authority (Amendment) Act, 1993	Sections 1(2), 4 and 6

<i>Year and Number</i>	<i>Short Title</i>	<i>Extent of Repeal</i>
No. 4 of 2001	Broadcasting Act, 2001	Sections 10, 11, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28(6), 32(2), 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 56, 58, 59, 62 64, 65 and second schedule
No. 43 of 2003	Broadcasting (Funding) Act 2003	Section 4(3) and (4) and 6

**Notes**

This head principally repeals:

- (a) the legislative basis for the RTÉ Authority,
  - (b) the legislative basis for Teilifís na Gaeilge,
  - (c) the provisions of the Wireless Telegraphy Act 1926 and the Telecommunications Services Act 1983 which relate to An Post's and RTÉ's agency role in the collection of the television licence,
  - (d) The requirements of the Wireless Telegraphy Act 1972 and the Broadcasting and Wireless Telegraphy Act 1988 as regards the maintenance by television dealers of customer records for the purposes of collection of television licence fees, and
  - (e) Section 16 of the Radio and Television Act 1988 which empowers the Minister, at the request of the BCI, to require RTÉ to co-operate with sound broadcasting contractors for the use of RTÉ's infrastructure.
-