



Number 43 of 2003

BROADCASTING (FUNDING) ACT 2003

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
 2. Broadcasting funding scheme.
 3. Objectives of scheme.
 4. Amounts to be paid by Minister to scheme.
 5. Review of scheme.
 6. Details of scheme to be included in accounts and reports of Commission.
 7. Winding-up and dissolution of scheme.
 8. Expenses.
 9. Short title.
-

ACTS REFERRED TO

Broadcasting Act 2001	2001, No. 4
Broadcasting Authority Act 1960	1960, No. 10
Broadcasting Authority (Amendment) Act 1976	1976, No. 37
Radio and Television Act 1988	1988, No. 20
Wireless Telegraphy Act 1926	1926, No. 45
Wireless Telegraphy Act 1972	1972, No. 5



Number 43 of 2003

BROADCASTING (FUNDING) ACT 2003

AN ACT TO PROVIDE THAT THE BROADCASTING COMMISSION OF IRELAND PREPARE A SCHEME OR SCHEMES FOR THE FUNDING OF GRANTS TO SUPPORT CERTAIN TELEVISION AND RADIO PROGRAMMES AND PROJECTS OUT OF AN AMOUNT OF 5 PER CENT OF NET RECEIPTS FOR TELEVISION LICENCE FEES, TO OUTLINE THE OBJECTIVES OF A SCHEME AND TO PROVIDE FOR RELATED MATTERS.
[23rd December, 2003]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act—

Interpretation.

“Act of 1926” means Wireless Telegraphy Act 1926;

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

“Act of 2001” means Broadcasting Act 2001;

“Commission” means Broadcasting Commission of Ireland;

“free television service” means a television broadcasting service for the reception of which no charge is made by the person providing the service, and reception of which is available to at least 90 per cent of the population of the State;

“Minister” means Minister for Communications, Marine and Natural Resources;

“MMD system” has the meaning given to it in section 2 of the Act of 2001;

“programme material” means audio-visual or audio material, including advertising and similar material, which was broadcast in whole or in part or was recorded for broadcast, and includes stills and photographs produced from such material or in the context of the recording of such material;

“scheme” means a scheme prepared under *section 2*.

S.1

(2) In this Act—

- (a) a reference to a section is a reference to a section of this Act, unless it is indicated that a reference to some other enactment is intended,
- (b) a reference to a subsection or paragraph is a reference to a subsection or paragraph of the provision in which the reference occurs, unless it is indicated that a reference to some other provision is intended, and
- (c) a reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment including this Act.

Broadcasting
funding scheme.

2.—(1) The Commission shall prepare and submit to the Minister for his or her approval a scheme or a number of schemes for the granting of funds to support all or any of the following—

- (a) new television or radio programmes on Irish culture, heritage and experience, including—
 - (i) history (including history relating to particular areas, groups or aspects of experience, activity or influence),
 - (ii) historical buildings,
 - (iii) the natural environment,
 - (iv) folk, rural and vernacular heritage,
 - (v) traditional and contemporary arts,
 - (vi) the Irish language, and
 - (vii) the Irish experience in European and international contexts,
- (b) new television or radio programmes to improve adult literacy,
- (c) programmes under *paragraphs (a) and (b)* in the Irish language, and
- (d) the development of archiving of programme material produced in the State.

(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, are broadcast during peak viewing times,

- (b) may only fund radio programmes under *subsection (1)* S.2 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 Telefís Éireann and which, other than in the case of programmes for children or educational programmes, 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.
- (3) A scheme may provide—
- (a) for the making of applications by persons for funding under a scheme,
- (b) general terms and conditions of funding, or
- (c) that funding in a particular year will be directed at—
- (i) particular classes of television or radio programmes referred to in *subsection (1)* including but not limited to programmes of a specified nature or subject matter, or broadcast by means of a particular medium (including media of a local or regional nature such as local or community television or radio), or
- (ii) particular classes of projects referred to in *subsection (1)(d)*.
- (4) The Commission may attach to any particular funding under a scheme such particular terms or conditions as it considers appropriate in the circumstances.
- (5) The Commission, in preparing a scheme, shall have regard to the understanding and enjoyment of television programmes under the scheme by persons who are deaf or hard of hearing.
- (6) A scheme submitted by the Commission to the Minister under *subsection (1)* may be amended or revoked by the Commission.
- (7) The Minister may direct the Commission—
- (a) to prepare and submit to him or her a scheme relating to any matter in *subsection (1)*, or
- (b) to amend or revoke a scheme.
- The Commission shall comply with a direction under this section.
- (8) Any amendment or revocation of a scheme under *subsection (6)* or *(7)* shall be submitted by the Commission to the Minister for his or her approval.
- (9) A scheme shall, if approved of by the Minister, be—

S.2

- (a) published (including publication by electronic means capable of being read in legible form), and
- (b) carried out in accordance with its terms,

by the Commission.

- (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.

Objectives of scheme.

3.—(1) The objectives of a scheme in relation to programmes referred to in *section 2(1)(a)* are to—

- (a) develop high quality programmes based on Irish culture, heritage and experience,
- (b) develop these programmes in the Irish language,
- (c) increase the availability of programmes referred to in *paragraphs (a)* and *(b)* to audiences in the State,
- (d) represent the diversity of Irish culture and heritage,
- (e) record oral Irish heritage and aspects of Irish heritage which are disappearing, under threat, or have not been previously recorded, and
- (f) develop local and community broadcasting.

(2) The objective of a scheme in relation to the development of archiving of programme material produced in the State referred to in *section 2(1)(d)* is to develop an integrated approach to the archiving of programme material, including the development of suitable storage processes and formats and the accessing of material by interested parties.

(3) The Commission, in preparing a scheme and in considering applications for funding, shall have regard to the objectives of a scheme.

Amounts to be paid by Minister to scheme.

4.—(1) In this section—

“broadcasting licence fees” has the meaning given to it in *section 1(1)* (as amended by *subsection (4)*) of the Broadcasting Authority Act 1960;

“net receipts” in relation to the receipt of broadcasting licence fees, means the total receipts less any expenses in respect of those receipts certified by the Minister as having been incurred by him or her in that year in relation to the collection of the fees.

[2003.] *Broadcasting (Funding) Act 2003.* [No. 43.]

(2) The Minister, with the approval of the Minister for Finance, S.4 may pay to the Commission out of moneys provided by the Oireachtas for the purposes of grants under a scheme and any administration of or reasonable expenses relating to a scheme, in respect of each financial year, after the financial year ending on 31 December 2002, an amount being equal to 5 per cent of net receipts in that year in respect of broadcasting licence fees.

(3) Section 8(a) (as amended by section 23(5) of the Act of 2001) of the Broadcasting Authority (Amendment) Act 1976 is amended by inserting after subparagraph (i) the following:

“(ia) any amount paid under *section 4(2) of the Broadcasting (Funding) Act 2003,*”.

(4) Section 1(1) of the Broadcasting Authority Act 1960 is amended by substituting for the definition of “broadcasting licence fee” the following:

“‘broadcasting licence fee’ means a fee paid on a licence granted under section 5 of the Act of 1926 in respect of a television set (within the meaning of section 1 of the Wireless Telegraphy Act 1972);”.

5.—(1) The Commission shall review the operation, effectiveness and impact of a scheme not later than 3 years from the date on which it comes into operation, and every 3 years thereafter, or at such other time as may be requested by the Minister, and make a written report to the Minister on the review. Review of scheme.

(2) A copy of a report under *subsection (1)* 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.

(3) The Minister shall publish (including publication by electronic means capable of being read in legible form) a report made to him or her under *subsection (1)*.

6.—(1) The accounts of the Commission kept under paragraph 16 of the Schedule to the Act of 1988 shall include a special account of any scheme. Details of scheme to be included in accounts and reports of Commission.

(2) A report of the Commission under paragraph 17 of the Schedule to the Act of 1988 shall include details of any scheme.

7.—(1) The Minister may, with the consent of the Minister for Finance, direct the Commission to wind-up, where there is only one scheme, the scheme or, where there is more than one scheme, all schemes and to pay to the Minister any monies remaining in respect of the scheme or schemes. The Minister shall pay to Radio Telefís Éireann any such monies paid to him or her. Winding-up and dissolution of scheme.

(2) Where the Minister directs that the scheme or all schemes, as the case may be, be wound up in accordance with *subsection (1)*, he or she shall upon being satisfied that the scheme has or the schemes have been wound up in accordance with that subsection, by order (in this section referred to as a “dissolution order”) dissolve the scheme or schemes.

[No. 43.] *Broadcasting (Funding) Act 2003.* [2003.]

S.7

(3) Upon the commencement of a dissolution order no further scheme may be made under *section 2*.

(4) (a) A dissolution order shall be laid before each of the Houses of the Oireachtas as soon as practicable after it is made.

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

(c) The annulment of a dissolution order takes effect immediately on the passing of the resolution concerned, but does not affect anything that was done under the order before the passing of the resolution.

Expenses.

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

Short title.

9.—This Act may be cited as the Broadcasting (Funding) Act 2003.