SCHEDULE 1

Property Arrangements Schemes

The Authority's functions in relation to applications

3.—(1) On an application for the making of a property arrangements scheme, the Authority shall, in relation to any property, rights or liabilities in respect of which the application proposes provision of a kind mentioned in paragraph 1(1), determine whether provision of such a kind is, in relation to that property, or those rights or liabilities, necessary or expedient for unbundling purposes.

(2) Sub-paragraph (1) does not apply if the nominated transferee and the applicant for certification agree that provision of a kind mentioned in paragraph 1(1) is, in relation to the property, rights or liabilities concerned, necessary or expedient for unbundling purposes.

(3) If the Authority determines under sub-paragraph (1) that provision of a kind mentioned in paragraph 1(1) is not, in relation to any property, rights or liabilities, necessary or expedient for unbundling purposes, it shall refuse the application in relation to that property, or those rights or liabilities.

(4) If the Authority is minded to make a final decision to certify the applicant for certification pursuant to the qualifying application for certification and—

(a) the Authority determines under sub-paragraph (1) that provision of a kind mentioned in paragraph 1(1) is, in relation to any property, rights or liabilities, necessary or expedient for unbundling purposes; or

(b) the nominated transferee and the applicant for certification agree that that is the case,

the Authority shall, subject to paragraph 4(2), make a property arrangements scheme in relation to that property, or those rights or liabilities.

(5) The Authority shall publish the terms of any property arrangements scheme in such manner as the Authority considers appropriate for bringing it to the attention of persons likely to be affected by the scheme.

4.—(1) Subject to the following provisions of this paragraph, where the Authority is required to make a property arrangements scheme, the terms of the scheme shall be such as the nominated transferee and the applicant for certification may agree or, if they fail to agree, as the Authority may determine.

(2) The Authority may not include in a property arrangements scheme provision which would adversely affect a third party unless it determines that it is necessary or expedient for unbundling purposes for the provision to be made.

(3) Where the Authority does include in a property arrangements scheme provision which would adversely affect a third party, the Authority shall determine whether the scheme should include provision for compensation and, if so, what that provision should be.

(4) A property arrangements scheme shall not provide for any provision to come into operation before the end of the period of 21 days beginning with the day on which the scheme is made.

5.—(1) A determination under paragraph 4, so far as relating to any financial matter, shall be made on the basis of what is just in all the circumstances of the case.

(2) A determination under paragraph 4, so far as relating to any other matter, shall be made on the basis of what appears to the Authority to be appropriate in all the circumstances of the case having regard, in particular, to what is necessary or expedient for unbundling purposes.

6. The Authority may require any of the following persons to give it information and assistance in connection with the making of a determination under this Schedule, that is to say—

(a) the nominated transferee;

(b) the applicant for certification; and

(c) any person who makes representations to the Authority about the application for certification to which the determination relates.

7. The Authority may engage such consultants as it thinks fit for the purpose of advising it in relation to the making of a determination under this Schedule.