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*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Telecommunications Act 1984, SCHEDULE 5. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 5

Section 109.

#### GENERAL TRANSITIONAL PROVISIONS AND SAVINGS

##### PART I

###### PROVISIONS AND SAVINGS COMING INTO FORCE ON APPOINTED DAY

- 1 (1) Subject to the following provisions of this paragraph, a licence granted, or having effect as if granted, by the Secretary of State or British Telecommunications under section 15(1) of the 1981 Act which is effective on the appointed day shall have effect as if granted by the Secretary of State under section 7 of this Act, and the provisions of this Act shall apply accordingly.
- (2) Where immediately before the appointed day British Telecommunications has in its possession particulars of licences granted, or having effect as if granted, by it under section 15(1) of the 1981 Act, British Telecommunications shall, as soon as practicable after that day, send to the Secretary of State—
- (a) in the case of each of those licences which is contained in a single document, that document or a copy of that document or of such parts of it as contain the provisions of the licence; and
  - (b) in the case of each of those licences which is not so contained, a bundle of documents consisting of either the original or a copy of, or of the relevant part of, every document in the possession of British Telecommunications which is capable of being relied on as evidence of, or of any provision of, that licence.
- (3) Where a licence has effect by virtue of sub-paragraph (1) above as if granted by the Secretary of State under section 7 of this Act—
- (a) sections 7(7) and (8) and 19(2) of this Act shall not apply in relation to that licence;
  - (b) any provision of that licence made, or having effect as if made, by virtue of section 15(4) of the 1981 Act, being a provision under which any amount would fall to be paid after the appointed day to British Telecommunications, shall have effect as if it required that amount to be paid to the Secretary of State;
  - (c) the Secretary of State may revoke that licence at any time before the end of the relevant period and any provision of that licence under or in accordance with which the licence may be revoked by British Telecommunications shall be deemed to be omitted; and
  - (d) the licence shall expire at the end of the relevant period unless before the end of that period it has either been revoked under this paragraph or expired in accordance with its terms.

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- (4) Before revoking a licence under this paragraph the Secretary of State shall give notice—
- (a) stating that he proposes to revoke the licence;
  - (b) stating the reason why he proposes to revoke the licence; and
  - (c) specifying the time (not being less than 28 days from the date of the giving of the notice) within which representations or objections with respect to the proposed revocation may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (5) A notice under sub-paragraph (4) above shall be given—
- (a) in the case of a licence granted to a particular person, by sending a copy of the notice to that person; and
  - (b) in any other case, by publication of the notice in such manner as the Secretary of State considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.
- (6) Any sums received by the Secretary of State under this paragraph shall be paid into the Consolidated Fund.
- (7) In this paragraph “the relevant period” means the period of two years beginning with the appointed day or such other period beginning with that day as the Secretary of State may by order prescribe for the purposes of this paragraph.
- 2 (1) An approval issued under section 16(2) of the 1981 Act by the Secretary of State, by a person or body appointed by him for the purpose or by British Telecommunications which is effective on the appointed day shall have effect as if given by the Secretary of State under section 22(1) of this Act; and the provisions of this Act shall apply accordingly.
- (2) A standard approved under section 16(1) of the 1981 Act by the Secretary of State or by a person or body appointed by him for the purpose which is effective on the appointed day shall have effect as if designated by the Secretary of State under section 22(6) of this Act; and the provisions of this Act shall apply accordingly.
- (3) Any fee charged in respect of an approval which, by virtue of sub-paragraph (1) or (2) above, is to have effect as if issued under section 22(1) or (6) of this Act shall be deemed to have been validly charged.
- (4) Where immediately before the appointed day British Telecommunications has in its possession particulars of approvals issued by it under section 16(2) of the 1981 Act, British Telecommunications shall, as soon as practicable after that day, send those particulars to the Secretary of State.
- (5) Neither section 22(11) nor section 23(2) of this Act shall apply in relation to an approval issued by British Telecommunications under section 16(2) of the 1981 Act unless particulars of that approval are sent to the Secretary of State under sub-paragraph (4) above and, in its application in relation to such an approval, the reference in section 22(11)(a) to a copy of the approval shall have effect as a reference to a copy of the particulars so sent to the Secretary of State.

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- (6) An acknowledgement by the Secretary of State or a person appointed for the purposes of subsection (2) of section 16 of the 1981 Act that any apparatus conforms to a standard approved under subsection (1) of that section shall be treated for the purposes of this paragraph as an approval issued under the said subsection (2).
- 3 (1) An order made under section 17 of the 1981 Act which is in force on the appointed day shall have effect as if made under section 28 of this Act; and the provisions of this Act shall apply accordingly.
- (2) An order made under section 18 of the 1981 Act which is in force on the appointed day shall have effect as if made under section 29 of this Act; and the provisions of this Act shall apply accordingly.
- 4 An order made, or having effect as if made, by the Secretary of State under section 37 of the 1981 Act which is effective on the appointed day shall have effect as if made by the Department of Finance and Personnel for Northern Ireland under section 33 of this Act.
- 5 A compulsory purchase order made under section 38 or 39 of the 1981 Act which is effective on the appointed day shall have effect as if made with the consent of the Director under section 34 or 35 of this Act; and the provisions of the said section 34 or 35 shall apply accordingly.
- 6 An application for a vesting order made under section 40 of the 1981 Act which is effective on the appointed day shall have effect, as from that day, as if made with the consent of the Director under section 36 of this Act; and the provisions of the said section 36 shall apply accordingly.
- 7 An authorisation given by British Telecommunications under section 41, 42 or 43 of the 1981 Act which is effective on the appointed day shall have effect as if given by the Secretary of State under section 37, 38 or 39 of this Act on the nomination of British Telecommunications; and the provisions of the said section 37, 38 or 39 shall apply accordingly.
- 8 [F1(1) An order made under section 89 of the <sup>M1</sup>Post Office Act 1969 which relates to the running of a telecommunication system for the purposes of a cable programme service and is effective on the appointed day shall have effect as if made under section 57 of this Act in relation to the provision of that service; and the provisions of the said section 57 shall apply accordingly.]
- (2) A licence granted under section 89 of the Post Office Act 1969 which relates to the running of a telecommunication system for the purposes of a cable programme service provided by any person and is effective on the appointed day shall have effect as if granted under section 58 of this Act to that person in relation to the provision of that service; and the provisions of Part IV of this Act shall apply accordingly.

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[<sup>F1</sup>(3) Regulations made under section 90 of the Post Office Act 1969 which relate to the grant of licences under section 89 of that Act and are effective on the appointed day shall have effect as if made under section 58 of this Act in relation to the grant of licences under that section; and the provisions of the said section 58 shall apply accordingly.]

(4) In this paragraph “cable programme service” has the same meaning as in Part IV of this Act.

#### Textual Amendments

**F1** Sch. 5 para. 8(1)(3) repealed (1.1.1991) by Broadcasting Act 1990 (c.42, SIF 96), ss. 4(6), 87(6), 134, 203(3), 204(2), Sch. 12 Pt. II para. 1, **Sch. 21**; S.I. 1990/2347, art. 3(1), **Sch. 2** (subject to art. 3(2)(3))

#### Marginal Citations

**M1** 1969 c. 48.

9 An undertaking given, or having effect as if given, under section 55 of the 1981 Act which is effective on the appointed day shall have effect as if given to British Telecommunications under section 97 of this Act.

10 A direction given, or having effect as if given, under section 6(2) or (4) of the 1981 Act which is effective on the appointed day shall have effect as if given to British Telecommunications under section 94(1) or (2) of this Act.

11 Nothing done, on or after the appointed day, under, and in accordance with the terms of, the licence dated 1st March 1966 whereto the parties are Her Majesty, the Crown Estate Commissioners, the Postmaster General and Det Store Nordiske Telegraf-Selskab Aktieselskab (a company incorporated under the law of the Kingdom of Denmark and commonly known in the United Kingdom, and in that licence referred to, as the Great Northern Telegraph Company Limited) shall constitute a contravention of section 5(1) of this Act.

12 (1) Where immediately before the appointed day British Telecommunications—

- (a) are providing, or have acceded to an application for the provision of, any services for any persons; or
- (b) are supplying, or have acceded to an application for the supply of, any apparatus to any persons,

in pursuance of a scheme made under section 21 of the 1981 Act, British Telecommunications shall be deemed to have contracted with those persons for the provision of the services or the hire of the apparatus as from that day.

(2) The express terms and conditions of a contract which, by virtue of sub-paragraph (1) above, is deemed to have been made shall be such of the following as are applicable, namely—

- (a) the terms and conditions contained in the scheme; and

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- (b) where a scheme is made under this paragraph, the terms and conditions contained in the scheme so made.
- (3) British Telecommunications may make, as respects any of the services provided or apparatus supplied by it, a scheme for determining the terms and conditions which are to be incorporated in the contracts which, by virtue of sub-paragraph (1)(a) above, are to be deemed to have been made.
- (4) Nothing in the 1981 Act shall be taken to limit or restrict the provision which may be made by a scheme under this paragraph.
- (5) A scheme made under this paragraph may—
- (a) make different provision for different cases or classes of cases determined by, or in accordance with, the provisions of the scheme; and
  - (b) revoke or amend any scheme made under section 21 of the 1981 Act.
- (6) A scheme made under this paragraph shall be published in the London, Edinburgh and Belfast Gazettes before the appointed day and shall come into operation on that day; and conclusive evidence of a scheme so made may be given in all courts of justice and in all legal proceedings whatever by the production of a copy of any of those Gazettes purporting to contain it.
- (7) Terms and conditions incorporated in a contract by virtue of sub-paragraph (2) above shall not be regarded, for the purposes of section 29(1) of the <sup>M2</sup>Unfair Contract Terms Act 1977, as authorised by necessary implication of this paragraph.

#### Marginal Citations

M2 1977 c. 50.

- 13 Nothing in this Act shall affect the operation of section 22 of the 1981 Act in relation to any contract deemed to have been made before the appointed day.
- 14 Nothing in this Act shall affect the operation of section 23 of the 1981 Act in relation to any loss or damage suffered by reason of an act or omission taking place before the appointed day.
- [<sup>F2</sup>15 Nothing in this Act shall affect the operation of section 35(2) of the 1981 Act in relation to any order under section 19 of the <sup>M3</sup>Local Government Act 1974 which applies in relation to hereditaments occupied by British Telecommunications and is effective on the appointed day.]

#### Textual Amendments

F2 Sch. 5 para. 15 repealed (E.W.) by S.I. 1990/776, art. 3(1)(2), Sch. 1

#### Marginal Citations

M3 1974 c. 7.

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- 16 Subject to paragraph 4 above and paragraph 26 below, nothing in this Act shall affect the operation of any order made, or having effect as if made, under section 37 of the 1981 Act which is effective on the appointed day.
- 17 Nothing in this Act shall affect the operation of section 53 of the 1981 Act in relation to any sum which became due, or any charge which was levied, before the appointed day.
- 18 Subject to paragraph 49 below, nothing in this Act shall affect the operation of any order under section 19 of the <sup>M4</sup>Local Government Act 1974 (rating of certain public utilities and other bodies) which applies in relation to hereditaments occupied by British Telecommunications and is effective on the appointed day.

**Marginal Citations**

**M4** 1974 c. 7.

- 19 Subject to paragraph 50 below, nothing in this Act shall affect the operation of any order under section 6 of the <sup>M5</sup>Local Government (Scotland) Act 1975 (valuation by formula of certain lands and heritages) which applies in relation to lands and heritages occupied by British Telecommunications and is effective on the appointed day.

**Marginal Citations**

**M5** 1975 c. 30.

## PART II

### PROVISIONS AND SAVINGS COMING INTO FORCE ON TRANSFER DATE

- 20 A licence granted under section 7 of this Act to British Telecommunications which is effective on the transfer date shall have effect as if granted to the successor company.
- 21 An order made under section 9(1) of this Act which designates any telecommunication system or systems run by British Telecommunications and is effective on the transfer date shall have effect as if it designated the corresponding telecommunication system or systems run by the successor company.
- 22 An approval given under section 20(1) of this Act which applies for the purposes of a telecommunication system or systems run by British Telecommunications and is effective on the transfer date shall have effect as if it applied for the purposes of the corresponding telecommunication system or systems run by the successor company.

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- 23 An approval given, or having effect as if given, under section 22(1) of this Act, or a standard designated, or having effect as if designated, under section 22(6) of this Act, which (in either case) applies for the purposes of any telecommunication system or systems run by British Telecommunications and is effective on the transfer date shall have effect as if it applied for the purposes of the corresponding telecommunication system or systems run by the successor company.
- 24 An approval given under section 24(1) of this Act which applies for the purposes of any telecommunication system or systems run by British Telecommunications and is effective on the transfer date shall have effect as if it applied for the purposes of the corresponding telecommunication system or systems run by the successor company.
- 25 A recognition given under section 27(1) of this Act which applies for the purposes of any telecommunication system or systems run by British Telecommunications and is effective on the transfer date shall have effect as if it applied for the purposes of the corresponding telecommunication system or systems run by the successor company.
- 26 An order made, or having effect as if made, under section 33 of this Act which applies in relation to hereditaments occupied by British Telecommunications and is effective on the transfer date shall have effect as if it applied to the corresponding hereditaments occupied by the successor company.
- 27 A compulsory purchase order made, or having effect as if made, under section 34 or 35 of this Act which is effective on the transfer date shall have effect as if made by the successor company.
- 28 An application for a vesting order made, or having effect as if made, by British Telecommunications under section 36 of this Act which is effective on the transfer date shall have effect as if made by the successor company.
- 29 An authorisation given, or having effect as if given, by the Secretary of State under section 37, 38 or 39 of this Act on the nomination of British Telecommunications which is effective on the transfer date shall have effect as if given on the nomination of the successor company.
- [<sup>F3</sup>30 An order made under section 57 of this Act which relates to a cable programme service provided by British Telecommunications and is effective on the transfer date shall have effect as if it related to the corresponding cable programme service provided by the successor company.]

#### Textual Amendments

- F3** Sch. 5 para. 30 repealed (1.1.1991) by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), ss. 4(6), 87(6), 134, 203(3), 204(2), Sch. 12 Pt. II para. 1, [Sch. 21](#); S.I. 1990/2347, [art. 3\(1\)](#) (subject to [art. 3\(2\)\(3\)](#))

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- 31 A licence granted under section 58 of this Act to British Telecommunications which is effective on the transfer date shall have effect as if granted to the successor company.
- 32 An undertaking given, or having effect as if given, to British Telecommunications under section 97 of this Act which is effective on the transfer date shall have effect as if given to the successor company.
- 33 A direction given, or having effect as if given, to British Telecommunications under section 94(1) or (2) of this Act which is effective on the transfer date shall have effect as if given to the successor company.
- 34 (1) For the purposes of authorising the making, in relation to employees of the successor company or any of its subsidiaries, of provision corresponding to that authorised to be made, in relation to employees of British Telecommunications or any of its subsidiaries, by section 84 of the 1981 Act, that section shall have effect as if—
- (a) any reference to the Post Office or to employees of, persons employed by or employment by the Post Office were a reference to British Telecommunications or to employees of, persons employed by or employment by British Telecommunications; and
  - (b) any reference to a relevant body or to employees of, persons employed by or employment by a relevant body were a reference to the successor company or any subsidiary of the successor company or to employees of, persons employed by or employment by the successor company or any such subsidiary.
- (2) Nothing in sub-paragraph (1) above shall be taken as prejudicing the operation of section 84 of the 1981 Act as originally enacted.
- 35 Where immediately before the transfer date there is in force an agreement which—
- (a) confers or imposes on British Telecommunications any rights or liabilities which vest in the successor company by virtue of section 60 of this Act; and
  - (b) refers (in whatever terms and whether expressly or by implication) to a member or officer of British Telecommunications,
- the agreement shall have effect, in relation to anything falling to be done on or after that date, as if for that reference there were substituted a reference to such person as that company may appoint or, in default of appointment, to the officer of that company who corresponds as nearly as may be to the member or officer of British Telecommunications in question.
- 36 (1) Except as otherwise provided by the foregoing provisions of this Part of this Schedule (whether expressly or by necessary implication), any agreement made, transaction effected or other thing done by, to or in relation to British Telecommunications which is in force or effective immediately before the transfer date shall have effect as from that date as if made, effected or done by, to or in relation to the successor company, in all respects as if the successor company were the same person, in law, as British Telecommunications, and accordingly references to British Telecommunications—
- (a) in any agreement (whether or not in writing) and in any deed, bond or instrument;



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- (b) in any process or other document issued, prepared or employed for the purpose of any proceeding before any court or other tribunal or authority; and
    - (c) in any other document whatsoever (other than an enactment) relating to or affecting any property, right or liability of British Telecommunications which vests by virtue of section 60 of this Act in the successor company,shall be taken as from the transfer date as referring to the successor company.
  - (2) Nothing in sub-paragraph (1) above shall be taken as applying in relation to the deed of covenant by virtue of which the excepted liabilities subsist.
- 37 (1) It is hereby declared for the avoidance of doubt that—
- (a) the effect of section 60 of this Act in relation to any contract of employment with British Telecommunications in force immediately before the transfer date is merely to modify the contract (as from that date) by substituting the successor company as the employer (and not to terminate the contract or vary it in any other way); and
  - (b) that section is effective to vest the rights and liabilities of British Telecommunications under any agreement or arrangement for the payment of pensions, allowances or gratuities in the successor company along with all other rights and liabilities of British Telecommunications;
- and accordingly for the purposes of any such agreement or arrangement (as it has effect by virtue of paragraph 36 above in relation to employment with the successor company or with a wholly owned subsidiary of that company) any period of employment with British Telecommunications shall count as employment with the successor company or (as the case may be) with a wholly owned subsidiary of that company.
- (2) Nothing in sub-paragraph (1) above shall be taken as applying in relation to the excepted liabilities or to the deed of covenant by virtue of which those liabilities subsist.
- 38 (1) It shall be the duty of British Telecommunications and of the successor company to take, as and when during the transitional period the successor company considers appropriate, all such steps as may be requisite to secure that the vesting in the successor company by virtue of section 60 of this Act or this paragraph of any foreign property, right or liability is effective under the relevant foreign law.
- (2) During the transitional period, until the vesting in the successor company by virtue of section 60 of this Act or this paragraph of any foreign property, right or liability is effective under the relevant foreign law, it shall be the duty of British Telecommunications to hold that property or right for the benefit of, or to discharge that liability on behalf of, the successor company.
  - (3) Nothing in sub-paragraphs (1) and (2) above shall be taken as prejudicing the effect under the law of the United Kingdom or of any part of the United Kingdom of the vesting in the successor company by virtue of section 60 of this Act or this paragraph of any foreign property, right or liability.
  - (4) British Telecommunications shall have all such powers as may be requisite for the performance of its duty under this paragraph, but—
    - (a) it shall be the duty of the successor company during the transitional period to act on behalf of British Telecommunications (so far as possible)

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- in performing the duty imposed on British Telecommunications by this paragraph; and
- (b) any foreign property, rights and liabilities acquired or incurred by British Telecommunications during that period shall immediately become property, rights and liabilities of the successor company.
- (5) References in this paragraph to any foreign property, right or liability are references, respectively, to any property, right or liability as respects which any issue arising in any proceedings would have been determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom.
- (6) Any expenses incurred by British Telecommunications under this paragraph shall be met by the successor company.
- 39 (1) During the transitional period it shall be the duty of British Telecommunications to discharge the excepted liabilities as they fall to be discharged.
- (2) Subject to sub-paragraph (3) below, the excepted liabilities shall be discharged, and any expenses incurred by British Telecommunications under this paragraph shall be met, out of sums received by British Telecommunications in right of or on the disposal of such debentures of the successor company as the Secretary of State, with the approval of the Treasury, may transfer to British Telecommunications (in this paragraph referred to as “the transferred debentures”).
- (3) British Telecommunications may not dispose of any of the transferred debentures without the consent of the Secretary of State given with the approval of the Treasury.
- (4) Where so much of any sums so received as is held by British Telecommunications on any day exceeds the aggregate for that day of—
- (a) any excepted liability falling to be discharged; and
- (b) any expenses falling to be met under this paragraph,
- the excess shall be applied by British Telecommunications in such manner as the Secretary of State, with the approval of the Treasury, may direct; and a direction under this sub-paragraph may require the whole or any part of the excess to be paid into the Consolidated Fund.
- (5) Where so much of any sums so received as is held by British Telecommunications on any day falls short of the aggregate for that day of—
- (a) any excepted liability falling to be discharged; and
- (b) any expenses falling to be met under this paragraph,
- the deficiency shall be made good by the Secretary of State out of money provided by Parliament.
- (6) During the transitional period British Telecommunications shall, as respects its duties under this paragraph, keep proper accounts and proper records in relation thereto and shall, as soon as may be after the end of each financial year—
- (a) prepare a report on the performance by it during that year of those duties; and
- (b) transmit the report to the Secretary of State who shall consider it and lay copies of it before each House of Parliament.
- (7) British Telecommunications shall be exempt from income tax and corporation tax in respect of—

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- (a) income accruing to it in right of the transferred debentures; and  
(b) chargeable gains accruing to it on the disposal of those debentures;  
and in so far as the exemption conferred by this sub-paragraph calls for repayment of tax, effect shall be given thereto by means of a claim.
- (8) Nothing in section 72(1) of this Act shall be taken—  
(a) as requiring any payments made or expenses incurred by British Telecommunications under this paragraph to be regarded for corporation tax purposes as made or incurred by the successor company; or  
(b) as requiring any payments made by the successor company to British Telecommunications in pursuance of the transferred debentures to be disregarded for those purposes.
- (9) Section 82(4) of the 1981 Act (tax provisions) shall have effect during the transitional period as if any reference to persons who are employees of the Post Office included a reference to persons who are employees of the successor company.
- (10) In this paragraph—  
“debenture” includes debenture stock;  
“financial year” means the period beginning on the transfer date and ending with the next following 31st March or each subsequent period of twelve months ending with 31st March.
- 40 (1) Notwithstanding the repeal of subsection (12) of section 6 of the 1981 Act, it shall be the duty of British Telecommunications to make a report to the Secretary of State in accordance with that subsection in respect of the last accounting year of British Telecommunications ending before the transfer date.
- (2) Notwithstanding the repeal of section 31 of the 1981 Act, it shall be the duty of British Telecommunications to prepare statements of accounts in accordance with subsections (1)(b) and (c) of that section in respect of the last accounting year of British Telecommunications ending before the transfer date, and that section shall continue to apply during the transitional period in relation to those statements and in relation also to the auditing of accounts kept in accordance with subsection (1)(a) of that section in respect of that accounting year.
- (3) Any expenses incurred by British Telecommunications under this paragraph shall be met by the successor company.
- 41 For the purpose of enabling anything which, on the transfer date, remains to be done under the provisions of sections 10 and 81(1) of and Schedule 2 to the 1981 Act to be done after that date, those provisions shall have effect as if the successor company were the same person, in law, as British Telecommunications.
- 42 (1) Subject to sub-paragraph (2) below, nothing in this Act shall affect the operation of subsections (2) to (4) of section 28 of the 1981 Act in relation to any loan made to British Telecommunications under that section in respect of which any outstanding liability of British Telecommunications becomes a liability of the successor company on the transfer date.

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- (2) No further directions may be given by the Secretary of State under subsection (2) of that section on or after the transfer date, but those applying to any such loan immediately before that date shall apply in relation to payments by the successor company in respect of that loan.
- 43 Nothing in this Act shall affect the operation of any order made under section 33 of the 1981 Act before the transfer date or any duty imposed by subsection (3) of that section to amend any order so made.
- 44 Nothing in this Act shall affect the operation of section 56 of the 1981 Act in relation to any records of British Telecommunications which become records of the successor company on the transfer date or any records kept by British Telecommunications for the purposes of paragraph 39 above.
- 45 Where by virtue of anything done before the transfer date, any enactment amended by Schedule 4 to this Act has effect (whether or not as so amended) in relation to British Telecommunications, then, on and after that date, that enactment shall have effect in relation to the successor company as if that company were the same person, in law, as British Telecommunications.
- 46 (1) Section 6(2) of the <sup>M6</sup>Commonwealth Telegraph Act 1949 shall continue to have effect with the modifications made by section 34(1) of the 1981 Act and, subject to that, shall have effect as if references which include references to British Telecommunications, in paragraph (c) and sub-paragraphs (iv), (v) and (vi) of paragraph (d), included references to the successor company.
- (2) The power to make regulations conferred on the Secretary of State by section 49 of the <sup>M7</sup>Post Office Act 1969 shall include power to make such regulations as appear to him to be requisite for securing that persons to whom that section applies, and persons claiming in right of them, are not adversely affected in the matter of pension rights by reason only that—
- (a) in consequence of the 1981 Act, they ceased to be employed by the Post Office; or
  - (b) in consequence of section 60 of this Act, they cease to be employed by British Telecommunications.

#### Marginal Citations

**M6** 1949 c. 39.

**M7** 1969 c. 48.

- 47 (1) Nothing in this Act shall affect the validity of anything done by, or in relation to, British Telecommunications before the transfer date under or by virtue of the <sup>M8</sup>Public Utilities Street Works Act 1950; and anything which, immediately before that date, is in process of being done under, or by virtue of, that Act by or in relation to it (including, in particular, any legal proceedings to which it is a party) may be continued by, or in relation to, the successor company.
- (2) Any notice or direction given or other thing whatsoever done under the said Act of 1950 by British Telecommunications shall, if effective at the transfer date, continue in force and have effect as if similarly given or done by the successor company.

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**M8** 1950 c. 39.

- 48 (1) Where an asset, or the right to receive an asset, vests in the successor company by virtue of section 60 of this Act, then for the purposes of Part I of the <sup>M9</sup>Industry Act 1972 and Part II of the <sup>M10</sup>Industrial Development Act 1982—
- (a) so much of any expenditure incurred by British Telecommunications in providing that asset as is approved capital expenditure (of any description relevant for the purposes of regional development grant) in respect of which no payment of regional development grant has been made to British Telecommunications shall be treated as having been incurred by the successor company and not by British Telecommunications; and
  - (b) where the asset itself vests in the successor company by virtue of section 60 of this Act, it shall be treated as a new asset if it would have fallen to be so treated if it had remained vested in British Telecommunications.
- (2) In this paragraph “regional development grant” means a grant under Part I of the Industry Act 1972 or Part II of the Industrial Development Act 1982 and “approved capital expenditure” has the same meaning as it has for the purposes of the provisions relating to regional development grant.

**Marginal Citations**

**M9** 1972 c. 63.

**M10** 1982 c. 52.

- 49 An order under section 19 of the <sup>M11</sup>Local Government Act 1974 (rating of certain public utilities and other bodies) which applies in relation to hereditaments occupied by British Telecommunications and is effective on the transfer date shall have effect as if it applied to the corresponding hereditaments occupied by the successor company.

**Marginal Citations**

**M11** 1974 c. 7.

- 50 An order under section 6 of the <sup>M12</sup>Local Government (Scotland) Act 1975 (valuation by formula of certain lands and heritages) which applies in relation to lands and heritages occupied by British Telecommunications and is effective on the transfer date shall have effect as if it applied in relation to the corresponding lands and heritages occupied by the successor company.

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Telecommunications Act 1984, SCHEDULE 5. (See end of Document for details)*

### Marginal Citations

M12 1975 c. 30.

51 [F4(1) Where a distribution is proposed to be declared during the accounting reference period of the successor company which includes the transfer date or before any accounts are laid or filed in respect of that period, sections 270 to 274 and 275(7) of the Companies Act 1985 (accounts relevant for determining whether a distribution may be made by a company without contravening Part VIII of that Act) shall have effect as if—

- (a) the reference in section 270(2) to the company's accounts, and
- (b) references in section 273 to initial accounts,

included references to such accounts as, on the assumptions stated in subparagraph (3) below, would have been prepared under Part VII of that Act in respect of the relevant year.]

(3) The said assumptions are—

- (a) that the relevant year had been a financial year of the successor company;
- (b) that the vesting effected by section 60 of this Act had been a vesting of all the property, rights and liabilities (other than the excepted liabilities) to which British Telecommunications was entitled or subject immediately before the beginning of the relevant year and had been effected immediately after the beginning of that year;
- (c) that the value of any asset and the amount of any liability of British Telecommunications vested in the successor company by virtue of that section had been the value or (as the case may be) the amount assigned to that asset or liability for the purposes of the statement of accounts prepared by British Telecommunications in respect of the accounting year immediately preceding the relevant year;
- (d) that any securities of the successor company issued or allotted before the declaration of the distribution had been issued or allotted before the end of the relevant year; and
- (e) such other assumptions (if any) as may appear to the directors of the successor company to be necessary or expedient for the purposes of this paragraph.

(4) For the purposes of the said accounts the amount to be included in respect of any item shall be determined as if anything done by British Telecommunications (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise) had been done by the successor company.

Accordingly (but without prejudice to the generality of the preceding provision) the amount to be included in any reserves of the successor company as representing its accumulated realised profits shall be determined as if any profits realised and retained by British Telecommunications had been realised and retained by the successor company.

(5) The said accounts shall not be regarded as statutory accounts for the purposes of section 66 of this Act.

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*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Telecommunications Act 1984, SCHEDULE 5. (See end of Document for details)*

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(6) In this paragraph—

“complete accounting year” means an accounting year ending with 31st March;

“the relevant year” means the last complete accounting year of British Telecommunications ending before the transfer date;

“securities” has the same meaning as in Part V of this Act.

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**Textual Amendments**

**F4** Sch. 5 para. 51(1) substituted for Sch. 5 para. 51(1)(2) by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. 30, [Sch. 2](#)

**Status:**

Point in time view as at 01/02/1991.

**Changes to legislation:**

There are currently no known outstanding effects for the Telecommunications Act 1984, SCHEDULE 5.