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## SCHEDULES

### SCHEDULE 5

#### 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  - (d) the licence shall expire at the end of the relevant period unless before the end of that period it has either been revoked under this paragraph or expired in accordance with its terms.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.

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**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.

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**Marginal Citations**

**M5** [1975 c. 30.](#)

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