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SCHEDULES

SCHEDULE 11

TRANSITIONAL PROVISIONS RELATING TO IBA'S BROADCASTING SERVICES

PART III

REPLACEMENT OF DBS CONTRACTS BY LICENCES UNDER PART I

Replacement of DBS programme contract by domestic satellite licence

- 1 (1) Where any contract which, by virtue of paragraph 2(1) in Part II of this Schedule, has effect as a contract between the Commission and a DBS programme contractor is effective immediately before the relevant date—
- (a) the contract shall cease to have effect on that date; but
 - (b) the contractor shall be granted by the Commission as from that date a licence under Part I of this Act to provide a domestic satellite service which, in accordance with section 44(2) of this Act, authorises the provision of a multichannel service on the frequencies on which any DBS services consisting of programmes provided by him under the contract were being provided by the Commission down to that date.
- (2) In sub-paragraph (1) “multichannel service” means a service which to any extent consists in the simultaneous transmission of different programmes on different frequencies.
- (3) Any licence granted in pursuance of sub-paragraph (1) shall be so granted notwithstanding anything in sections 15 to 17 of this Act (as applied by section 44 of this Act); and nothing in section 19 of this Act (as so applied) shall apply to any such licence until such time (if any) as it is renewed in accordance with sub-paragraph (4).
- (4) Section 20 of this Act (as so applied) shall apply to any such licence as if—
- (a) in subsection (1), the first reference to a period of fifteen years were a reference to the period beginning with the relevant date and ending with the date on which the contract referred to in sub-paragraph (1) would have expired apart from that sub-paragraph;
 - (b) in subsection (6)(b), the words from “a different” to “as” were omitted; and
 - (c) in subsection (9)(a), the reference to any conditions included in the licence in pursuance of section 19 were a reference to any conditions so included in accordance with sub-paragraph (5) below.
- (5) Where any such licence is to be renewed in accordance with sub-paragraph (4), the Commission shall (notwithstanding section 3(4) of this Act) by notice served on the licence holder vary the licence, as from the date of its renewal, by including in it such conditions as appear to them to be necessary or expedient in consequence of sub-paragraph (3).

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- (6) Section 3(3) shall, in its application in relation to any such licence, have effect—
 - (a) with the omission of paragraph (a), and
 - (b) as if the reference to Part I of this Act included a reference to this Part of this Schedule.
- (7) Section 41 shall have effect in relation to any such licence with the omission of subsection (2); and the maximum amount which the holder of any such licence may be required to pay by way of a financial penalty imposed in pursuance of subsection (1)(a) of that section shall instead be the sum for the time being specified in section 45(6).
- (8) Except as provided in the preceding provisions of this paragraph, Part I of this Act applies to a licence granted in pursuance of this paragraph as it applies to any other licence to provide a domestic satellite service.
- (9) In this Part of this Schedule—
 - (a) “the relevant date” means the day immediately following the end of the interim period; and
 - (b) “additional services licence” and “domestic satellite licence” have the same meaning as in Part I of this Act.

Power to require licence holder to make additional payments under 1981 Act

- 2 (1) The Secretary of State may by order provide for such of the provisions of sections 32 to 35 of, and Schedule 4 to, the 1981 Act as are specified in the order to have effect (subject to such modifications as are so specified)—
 - (a) in relation to the holder of any licence granted in pursuance of paragraph 1 above, or
 - (b) in relation to any such licence,
 with a view to making provision for and in connection with the making by the holder of any such licence to the Commission of payments determined in accordance with section 32 of that Act in respect of profits or advertising revenue (or both) within the meaning of that section.
- (2) Any such order shall be so framed as to secure that, subject to such modifications as the Secretary of State considers appropriate and to sub-paragraph (4), the provisions of the 1981 Act applied by the order as mentioned in sub-paragraph (1)(a) and (b) so apply in a similar way to that in which they applied immediately before the relevant date in relation to a DBS programme contractor or (as the case may be) in relation to the contract of any such contractor.
- (3) Without prejudice to the generality of sub-paragraph (2), any such order shall provide for any excess of a DBS programme contractor's relevant expenditure over his relevant income to be carried forward and treated as relevant expenditure for the purpose of computing his profits as the holder of a licence granted in pursuance of paragraph 1 above.

Expressions used in this sub-paragraph which are also used in Schedule 4 to the 1981 Act have the same meaning as in that Schedule.
- (4) The power of the Secretary of State to make an order under subsection (8) of section 32 of the 1981 Act shall include power to make an order amending any of the provisions of subsections (4) and (5) of that section in so far as they have effect, by

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virtue of sub-paragraph (1), in relation to the holder of a licence granted in pursuance of paragraph 1 above.

- (5) Where an order under sub-paragraph (1) comes into force at any time after the relevant date, the Commission shall (notwithstanding section 3(4) of this Act) by notice served on the licence holder vary any licence granted in pursuance of paragraph 1 above by including in it such conditions as appear to them to be necessary or expedient in consequence of the order.
- (6) Nothing in any such order shall impose on the holder of any such licence any liability to make any payment in respect of any time when any conditions included in the licence in accordance with paragraph 1(5) above are in force.
- (7) An order shall not be made by the Secretary of State under sub-paragraph (1) unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

Replacement of DBS teletext contract by additional services licence

- 3 (1) Where any contract which, by virtue of paragraph 2(1) in Part II of this Schedule, has effect as a contract between the Commission and a DBS teletext contractor is effective immediately before the relevant date—
 - (a) the contract shall cease to have effect on that date; but
 - (b) the contractor shall be granted by the Commission as from that date an additional services licence under Part I of this Act which allocates for use under the licence all of the spare capacity within the frequencies on which any DBS services consisting of programmes provided by him as a DBS programme contractor were provided by the Commission down to that date.
- (2) Any such licence shall be so granted notwithstanding anything in sections 50 and 51 of this Act; and nothing in section 52 of this Act shall apply to any such licence until such time (if any) as it is renewed in accordance with sub-paragraph (3).
- (3) Section 53 of this Act shall apply to any such licence as if—
 - (a) in subsection (1)(a), the reference to a period of ten years were a reference to the period beginning with the relevant date and ending with the date on which any contract to which paragraph 1(1) above applies and to which the DBS teletext contractor was a party immediately before the relevant date would have expired apart from that provision;
 - (b) subsection (3) were omitted;
 - (c) in subsection (5), paragraph (a) were omitted;
 - (d) in subsection (7)(b), the words from “a different” to “as” were omitted; and
 - (e) in subsection (10), the reference to any conditions included in the licence in pursuance of section 52 were a reference to any conditions so included in accordance with sub-paragraph (4) below.
- (4) Where any such licence is to be renewed in accordance with sub-paragraph (3), the Commission shall (notwithstanding section 3(4) of this Act) by notice served on the licence holder vary the licence, as from the date of its renewal, by including in it such conditions as appear to them to be necessary or expedient in consequence of sub-paragraph (2).
- (5) Section 3(3) shall, in its application in relation to any such licence, have effect—
 - (a) with the omission of paragraph (a), and

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- (b) as if the reference to Part I of this Act included a reference to this Part of this Schedule.
- (6) Section 55 shall have effect in relation to any such licence with the omission of subsection (2); and the maximum amount which the holder of any such licence may be required to pay by way of a financial penalty imposed in pursuance of subsection (1) of that section shall instead be the sum for the time being specified in section 45(6).
- (7) In sub-paragraph (1)(b) above the reference to spare capacity within the frequencies referred to in that provision includes a reference to spare capacity within those frequencies which (not being spare capacity within the signals carrying a television broadcasting service) is not spare capacity within the meaning of Part I of this Act; and references in that Part of this Act (however expressed) to the spare capacity authorised to be used under an additional services licence shall, in relation to any such licence as is mentioned in sub-paragraph (1)(b), accordingly be construed as including a reference to spare capacity within those frequencies which is not spare capacity within the meaning of that Part of this Act.
- (8) Except as provided in the preceding provisions of this paragraph, Part I of this Act applies to a licence granted in pursuance of this paragraph as it applies to any other additional services licence.

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