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*Changes to legislation: There are currently no known outstanding effects for the Broadcasting Act 1990, Paragraph 2. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 9

#### SCHEME PROVIDING FOR DIVISION OF ASSETS OF IBA

##### *Making and modification of transfer scheme*

- 2 (1) The IBA shall make a scheme under this Schedule for the division of all their property, rights and liabilities between—
- (a) the Commission,
  - (b) the Radio Authority, and
  - (c) the nominated company;
- and references in this Schedule to the relevant transferees are references to the bodies specified in paragraphs (a) to (c) above.
- (2) Where such a scheme is made by the IBA, it shall not be capable of coming into force in accordance with section 127(1) of this Act unless it is approved by the Secretary of State.
- (3) Where such a scheme is submitted to the Secretary of State for his approval, he may modify the scheme before approving it.
- (4) If—
- (a) the IBA have not, before such time as the Secretary of State may notify to them as the latest time for the submission of such a scheme, submitted such a scheme for his approval, or
  - (b) the Secretary of State decides not to approve (either with or without modifications) a scheme that has been submitted to him by the IBA,
- the Secretary of State may himself make a scheme for the division of the IBA's property, rights and liabilities between the relevant transferees.
- (5) If, at any time after the Secretary of State has either—
- (a) approved (either with or without modifications) a scheme under this Schedule made by the IBA, or
  - (b) himself made such a scheme,
- but before the scheme has come into force in accordance with section 127(1) of this Act, the Secretary of State considers it appropriate to do so, he may determine that the scheme shall, on its so coming into force, come into force with such modifications as may be specified in his determination; and, in any such case, the scheme shall accordingly, on its coming into force, come into force with those modifications.
- (6) If at any time after a transfer scheme has come into force—
- (a) the Secretary of State considers it appropriate to make an order under this sub-paragraph, and
  - (b) every relevant transferee who would be affected by the order either—

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- (i) (in a case where any such transferee is the nominated company and that company has ceased to be wholly owned by the Crown) has consented to the making of the order, or
  - (ii) (in any other case) has been consulted by the Secretary of State,
- the Secretary of State may by order provide that the scheme shall for all purposes be deemed to have come into force with such modifications as may be specified in the order.
- (7) Any power to modify a transfer scheme which is conferred on the Secretary of State by this paragraph may be so exercised as to make any such provision as could have been made by the scheme, and an order under sub-paragraph (6) above may provide for any of its provisions to have effect as from the coming into force of the scheme to which it relates.
- (8) In determining whether and in what manner to exercise any power conferred on him by this paragraph the Secretary of State shall have regard to the need to ensure that the division of property, rights and liabilities between the relevant transferees which is effected under this Schedule allocates property, rights and liabilities to those transferees in such a manner as appears to him to be appropriate—
- (a) in the case of the Commission and the Radio Authority, in the light of the functions conferred on those bodies by this Act; and
  - (b) in the case of the nominated company, with a view to the carrying on by that company of a business consisting of—
    - (i) the provision of broadcasting transmission services and services related to such services, and
    - (ii) the carrying out of research and development work relating to broadcasting.
- (9) It shall be the duty of the IBA and each of the relevant transferees to provide the Secretary of State with all such information and other assistance as he may reasonably require for the purposes of, or in connection with, the exercise of any power conferred on him by this paragraph.
- (10) Nothing in this paragraph shall require a scheme under this Schedule to make provision—
- (a) with respect to any equipment or other asset which the IBA have agreed to dispose of in pursuance of section 132(1) or 133(6) of this Act, or
  - (b) with respect to any liabilities of the IBA which—
    - (i) have not yet become enforceable against the IBA, and
    - (ii) are not specifically and exclusively referable to any particular part or parts of the undertaking of the IBA which is or are transferred in accordance with any such scheme to one or more of the relevant transferees, or
  - (c) with respect to any such rights or liabilities as are mentioned in sub-paragraph (11).
- (11) Those rights and liabilities are rights and liabilities acquired by the IBA in connection with the sharing by the IBA and the BBC of the use of facilities (of whatever description) in connection with the transmission of television programmes or local sound broadcasts.

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