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SCHEDULES

SCHEDULE 11

TRANSITIONAL PROVISIONS RELATING TO IBA’S BROADCASTING SERVICES

PART IV

SOUND BROADCASTING SERVICES TO BE PROVIDED BY RADIO AUTHORITY

Certain local sound broadcasting services of IBA to be provided by Radio Authority as from transfer date

- 1 (1) So long as any contracts for the provision of local sound broadcasts continue in force on and after the transfer date by virtue of paragraph 2(1) below, the Authority shall provide, in accordance with this Part of this Schedule, local sound broadcasting services consisting in the broadcasting of programmes provided by the programme contractors under those contracts.
- (2) The services provided by the Authority as mentioned in sub-paragraph (1) shall be of high quality both as to the transmission and as to the matter transmitted, and shall be provided for the localities in the United Kingdom for which the programmes in question are to be provided by the programme contractors under their contracts.
- (3) As from the transfer date the following provisions of the 1981 Act, namely—
- (a) section 2(2),
 - (b) sections 3 to 9,
 - (c) sections 28 and 29, and
 - (d) Schedule 2,
- shall have effect in connection with the provision of those services by the Authority as they had effect, immediately before the transfer date, in connection with the provision of local sound broadcasting services by the IBA.
- (4) The provisions specified in sub-paragraph (3) above shall have effect in accordance with that sub-paragraph with the following general modifications, namely—
- (a) any reference to the IBA shall (subject to paragraph (b) and sub-paragraph (8) below) be construed as a reference to the Authority; and
 - (b) any reference to any of the broadcasting stations used by the IBA shall be construed as a reference to any of the broadcasting stations used in the provision of any of the services provided by the Authority as mentioned in sub-paragraph (1) above.
- (5) Section 3(2)(b) of the 1981 Act shall have effect in accordance with sub-paragraph (3) above with the substitution of the following sub-paragraph for sub-paragraph (ii)—
- “(ii) by reason of the termination of any contract with a programme contractor; and”.

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- (6) Section 8 of the 1981 Act shall have effect in accordance with sub-paragraph (3) above with the omission of subsections (6) to (9) of that section; but (except in the case of any programme to which the Authority determine that the following prohibition is not to apply) none of the broadcasting services provided by the Authority as mentioned in sub-paragraph (1) above shall include a programme which is sponsored by any person whose business consists, wholly or mainly—
- (a) in the manufacture or supply of a product, or
 - (b) in the provision of a service,
- the advertising of which in any such broadcasting service is prohibited by virtue of any provision of that Act (as applied by this paragraph) or of the code under section 9 of that Act (as so applied).
- (7) Section 9 of the 1981 Act shall have effect in accordance with sub-paragraph (3) above as if—
- (a) in subsection (1)(a), after “standards and practice in advertising” there were inserted “ and in the sponsoring of programmes ”;
 - (b) in subsection (1)(b), there were inserted at the end “ and as regards the sponsoring of programmes so broadcast ”; and
 - (c) after “methods of advertising” (wherever occurring) there were inserted “ or sponsorship ”;
- and the Authority may give effect to paragraph (a) above by making modifications to the code in force under section 9 immediately before the transfer date.
- (8) Section 29(5) of the 1981 Act shall have effect in accordance with sub-paragraph (3) above as if the reference to requiring the IBA by notice in writing to do, or not to do, anything mentioned in that provision were a reference to requiring the Authority by notice in writing to direct any programme contractor specified in the notice—
- (a) to do, or not to do, that thing, or
 - (b) (if the context so requires) to secure that that thing is or is not done.
- (9) Without prejudice to the generality of sub-paragraph (6) of paragraph 2 below, the Authority may make such variations of a contract to which sub-paragraph (1) of that paragraph applies as appear to them to be appropriate for facilitating or ensuring compliance with any direction or notice given to or served on them under section 28 or 29 of the 1981 Act (as applied by this paragraph).

Preservation of certain local sound broadcasting contracts

- 2 (1) Where—
- (a) the IBA has, at any time before the transfer date, entered into a contract with a programme contractor for the provision by the contractor of local sound broadcasts in any locality, and
 - (b) the contract is effective immediately before that date,
- then, unless the contract is one to which paragraph 2 in Part V of this Schedule applies (and subject to paragraph 1 in that Part)—
- (i) the contract shall continue to have effect on and after that date (subject to and in accordance with this Part of this Schedule) as a contract between the Authority and that contractor and any other party to it, and
 - (ii) any reference in the contract to the IBA shall accordingly be construed, in relation to any time falling on or after that date, as a reference to the Authority.

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- (2) Section 2(3) of the 1981 Act shall have effect in relation to the programmes broadcast by the Authority in accordance with paragraph 1(1) above as if—
- (a) any reference in that subsection to the IBA were a reference to the Authority; and
 - (b) the reference in that subsection to any such contracts as are there mentioned were a reference to contracts which continue in force by virtue of sub-paragraph (1) above.
- (3) As from the transfer date the following provisions of the 1981 Act, namely—
- (a) sections 19(1) to (2B) and 20(2) to (9),
 - (b) sections 21 to 25,
 - (c) sections 32 to 35, and
 - (d) Schedule 4,
- shall have effect in relation to any contract which continues in force by virtue of sub-paragraph (1), or (as the case may be) in relation to the programme contractor under any such contract, subject to the modifications specified in sub-paragraph (4).
- (4) The modifications of the provisions specified in sub-paragraph (3) are as follows—
- (a) any reference in those provisions to the IBA shall (subject to paragraphs (b) and (c) below) be construed as a reference to the Authority;
 - (b) sections 21 and 23 shall have effect as if any reference to the IBA's obligation to transmit the programmes supplied by a programme contractor were a reference to the right and the duty of the programme contractor under his contract to provide programmes for broadcasting in one of the services provided by the Authority as mentioned in paragraph 1(1) above;
 - (c) section 22 shall have effect as if any reference to the programmes supplied to the IBA were a reference to the programmes supplied for broadcasting in one of those services; and
 - (d) section 32(2)(a) shall have effect as if—
 - (i) for “the branch” there were substituted “ the part ”, and
 - (ii) for “section 36(2) in relation to that branch” there were substituted “ paragraph 12(1) of Schedule 8 to the Broadcasting Act 1990 in relation to that part ”.
- (5) The Authority shall do all that they can to secure that, so long as any contract continues in force by virtue of sub-paragraph (1), neither the programme contractor under the contract nor any associate of his—
- (a) holds any local licence, or
 - (b) controls any body which holds any such licence, or
 - (c) is a participant with more than a 20 per cent. interest in a body corporate which holds any such licence,
- in a case where the area or locality for which the licensed service is to be provided is to a significant extent the same as the locality for which local sound broadcasts are to be provided under the programme contractor's contract; and this sub-paragraph shall be construed in accordance with Part I of Schedule 2 to this Act.
- (6) The Authority may make such variations of a contract which continues in force by virtue of sub-paragraph (1) as appear to them to be appropriate in consequence of any of the provisions of this Part of this Schedule.

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Delivery of programmes by means of local delivery services

- 3 Part II of this Act shall have effect as if section 72(2) of this Act included a reference to any local sound broadcasting service provided by the Authority in accordance with this Part of this Schedule.

Provisions relating to Broadcasting Complaints Commission

- 4 (1) Part V of this Act shall have effect as if—
- (a) section 143(2) of this Act included a reference to any sound programme broadcast by the Authority in accordance with this Part of this Schedule; and
 - (b) (subject to sub-paragraph (2)) the Authority were, in relation to the provision by them of local sound broadcasting services in accordance with this Part of this Schedule, a broadcasting body within the meaning of that Part of this Act.
- (2) Sub-paragraph (1)(b) shall not have effect for the purposes of section 145(5) of this Act; and the Authority shall make such variations of any contract which continues in force by virtue of paragraph 2(1) above as appear to them to be appropriate—
- (a) for requiring the programme contractor under that contract—
 - (i) in the case of every programme provided by him which is broadcast by the Authority in accordance with this Part of this Schedule, to retain a recording of that programme for the period of 42 days beginning with the broadcast,
 - (ii) if requested to do so by the Authority for the purpose of enabling them to comply with any requirement imposed on them in pursuance of section 145(4), 155(3) or 167(1) of this Act, to produce any such recording to them, and
 - (iii) if requested to do so by the Authority for the purpose of enabling them to comply with any requirement imposed on them in pursuance of section 145(4) or 155(3) of this Act, to produce to them any transcript of any such programme which he is able to produce to them; and
 - (b) for ensuring compliance by the programme contractor with any request to which section 145(7) of this Act applies which may be made to him by the BCC.
- (3) For the financial year which includes the commencement of section 149 of this Act, and each subsequent financial year falling wholly or partly within the period during which the Authority provide local sound broadcasting services in accordance with this Part of this Schedule, the Secretary of State shall notify to the Authority the sum which he considers to be the appropriate contribution by that body, in respect of the programme contractors under contracts which continue in force by virtue of paragraph 2(1) above, towards the expenses of the BCC; and the Authority shall pay to the Secretary of State any sum notified to them under this sub-paragraph.
- (4) Paragraph 2(1)(g)(i) of Schedule 13 to this Act shall have effect during the period referred to in sub-paragraph (3) above as if the reference to the BBC or the Welsh Authority included a reference to the Authority.
- (5) In this paragraph “the BCC” means the Broadcasting Complaints Commission.

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Provisions relating to Broadcasting Standards Council

- 5 Part VI of this Act shall have effect as if—
- (a) section 152(2) of this Act included a reference to any sound programme broadcast by the Authority in accordance with this Part of this Schedule; and
 - (b) the Authority were, in relation to the provision by them of local sound broadcasting services in accordance with this Part of this Schedule, a broadcasting body within the meaning of that Part of this Act.

Supplementary provisions

- 6 (1) Any code, notice, direction, approval or other thing drawn up, given or done by or in relation to the IBA—
- (a) in pursuance of a provision of the 1981 Act which has effect as from the transfer date in accordance with this Part of this Schedule, and
 - (b) in connection with any of the IBA’s local sound broadcasting services which are to be provided by the Authority as from that date in accordance with paragraph 1(1) above,
- shall, if in force or effective immediately before that date, have effect as from that date for the relevant purposes as if drawn up, given or done by or in relation to the Authority.
- (2) Anything which immediately before that date was in the process of being done by or in relation to the IBA may, if it was being so done as mentioned in paragraphs (a) and (b) of sub-paragraph (1), be continued on or after that date by or in relation to the Authority.
- (3) As from that date sections 61 and 62 of the 1981 Act shall have effect for the relevant purposes as if any reference to the IBA were a reference to the Authority.
- (4) In this paragraph “the relevant purposes” means the purposes of the 1981 Act as it has effect as from the transfer date in accordance with this Part of this Schedule.

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