

SCHEDULES

SCHEDULE 5

Section 83(4).

TRANSITIONAL PROVISIONS

Supplementary provisions as to vesting of property etc. of BAA

- 1 Any agreement made, transaction effected or other thing done by, to or in relation to the BAA which is in force or effective immediately before the appointed day shall have effect as from that day 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 the BAA; and accordingly references to the BAA—
- (a) in any agreement (whether or not in writing) and in any deed, bond or instrument,
 - (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 whatever (other than an enactment) relating to or affecting any property, right or liability of the BAA which vests by virtue of section 2 in the successor company,
- shall be taken as from the appointed day as referring to the successor company.
- 2 Where immediately before the appointed day there is in force an agreement which—
- (a) confers or imposes on the BAA any rights or liabilities which vest in the successor company by virtue of section 2, and
 - (b) refers (in whatever terms and whether expressly or by implication) to a member or officer of the BAA,
- the agreement shall have effect, in relation to anything falling to be done on or after that day, 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 the BAA in question.
- 3 It is hereby declared for the avoidance of doubt that—
- (a) the effect of section 2 in relation to any contract of employment with the BAA in force immediately before the appointed day is merely to modify the contract (as from that day) 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 the BAA 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 the BAA;
- and accordingly for the purposes of any such agreement or arrangement (as it has effect by virtue of paragraph 1 in relation to employment with the successor

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company) any period of employment with the BAA shall count as employment with the successor company.

Financial provisions

- 4 The terms which, by virtue of section 4(2) of the 1975 Act, are applicable immediately before the appointed day to any such liability of the BAA as is mentioned in section 3(2) of this Act shall continue to apply to that liability after it becomes a liability of the successor company by virtue of section 2 of this Act, and section 4(3) of that Act shall continue to apply to sums received by the Secretary of State from the successor company by virtue of this paragraph.
- 5 The terms which, by virtue of section 6(2) of the 1975 Act, are applicable immediately before the appointed day to any such liability of the BAA as is mentioned in section 3(3) of this Act shall continue to apply to that liability after it becomes a liability of the successor company by virtue of section 2 of this Act, and section 6(4) of that Act shall continue to apply to sums received by the Secretary of State from the successor company by virtue of this paragraph.
- 6 Subsections (2) to (5) of section 7 of the 1975 Act (Treasury guarantees) shall continue to apply in relation to any guarantee given by the Treasury under that section with respect to a liability of the BAA which becomes a liability of the successor company by virtue of section 2 of this Act, but as if the reference to the BAA in subsection (4) of that section were a reference to the successor company.

Final statements of accounts etc.

- 7 (1) The successor company shall prepare a statement of the BAA's accounts for the period from the end of that dealt with in the last annual statement of accounts published by the BAA down to the appointed day (referred to in this paragraph and paragraph 8 as " the final period ").
- (2) The statement shall be in such form and contain such particulars, compiled in such a manner, as the Secretary of State may, with the approval of the Treasury, direct.
- (3) The successor company shall arrange for the accounts of the BAA for the final period to be audited by auditors appointed by the Secretary of State ; and a person shall not be qualified to be so appointed unless that person is a member of, or is a Scottish firm in which all the partners are members of, one or more bodies of accountants established in the United Kingdom and for the time being recognised by the Secretary of State for the purposes of section 389(1)(a) of the Companies Act 1985.
- 8 (1) The successor company shall make to the Secretary of State a report on the performance by the BAA of its functions during the final period.
- (2) The report shall—
- (a) set out any direction given to the BAA under section 2(7) of the 1975 Act during the final period, unless the Secretary of State has notified the successor company that in his opinion it is against the national interest to do so ; and
- (b) include such information relating to the activities of the BAA and its financial position during that period as the Secretary of State may direct.

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- (3) There shall be attached to the report a copy of the statement of accounts prepared in respect of the final period under paragraph 7 and a copy of any report made on the statement by the auditors.
- (4) The Secretary of State shall lay a copy of the report, and of the statements attached to it, before each House of Parliament.
- 9 (1) Where it is proposed to declare a distribution during the accounting reference period of the successor company which includes the appointed day, or before any accounts are laid or delivered to the registrar of companies in respect of that period, sections 270 to 276 of the Companies Act 1985 (relevant accounts) shall have effect as if—
- (a) such accounts as are mentioned in sub-paragraph (2) were accounts relevant under section 270, and
 - (b) references in section 273 to initial accounts included references to any such accounts.
- (2) The accounts referred to in sub-paragraph (1)(a) and (b) are such accounts as, on the assumptions stated in sub-paragraph (3), would have been prepared under section 227 of the Companies Act 1985 in respect of the relevant year.
- (3) Those assumptions are—
- (a) that the relevant year had been a financial year of the successor company ;
 - (b) that the vesting effected by section 2 of this Act had been a vesting of all the property, rights and liabilities to which the BAA 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 the BAA 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 the BAA in respect of its 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 such accounts as are mentioned in subparagraph (2) the amount to be included in respect of any item shall be determined as if anything done by the BAA (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 the BAA had been realised and retained by the successor company.
- (5) Any such accounts shall not be regarded as statutory accounts for the purposes of section 8 of this Act.
- (6) In this paragraph " the relevant year " means the accounting year of the BAA ending with the 31st March immediately preceding the appointed day.

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Compulsory purchase orders

- 10 A compulsory purchase order made under section 17 of the 1975 Act which is in force immediately before the appointed day shall have effect as if made under section 59 of this Act; and the provisions of section 59 shall apply accordingly.

Byelaws and regulations relating to airports

- 11 (1) Any byelaws made or having effect as if made under section 9 of the 1975 Act and in force in relation to any airport immediately before the appointed day shall, as from that day, have effect as if they were byelaws made under section 63 of this Act and the airport were an airport designated for the purposes of that section.
- (2) The provisions of any regulations made or having effect as if made under subsection (2)(f) of section 63 of this Act and the airport the 1975 Act, and in force in relation to any airport immediately before the appointed day shall, as from that day, have effect (with any necessary modifications) as if they were contained in byelaws made under subsection (2)(f) of section 63 of this Act and the airport were an airport designated for the purposes of that section; and any such provisions may accordingly be varied or revoked by byelaws so made.

Control of road traffic

- 12 Where immediately before the appointed day section 13 of the 1975 Act (control of road traffic) applies to any airport, then, as from that day and until such time as the airport is designated by an order under section 65 of this Act—
- (a) the airport shall be deemed to be an airport designated for the purposes of that section, and
 - (b) any order which, immediately before that day, is in force in relation to the airport under section 13(2) of the 1975 Act shall have effect as if made under section 65(2) of this Act.

Abandoned vehicles

- 13 Where immediately before the appointed day any order is in force in relation to an airport under section 14 of the 1975 Act (functions of BAA as respects abandoned vehicles) then, as from that day and until such time as the airport is designated by an order under section 66 of this Act—
- (a) the airport shall be deemed to be an airport designated for the purposes of that section, and
 - (b) the order shall have effect as if made under section 66(1).

Cargo areas

- 14 Notwithstanding the repeal by this Act of section 12 of the 1975 Act (prevention of theft from cargo areas at BAA's airports) any area which, immediately before the appointed day, is to be treated as a cargo area for the purposes of section 27 of the Aviation Security Act 1982 (prevention of thefts at designated airports) in accordance with subsection (7) of that section shall continue to be so treated as if this Act had not been passed.

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Extension of Shops (Airports) Act 1962

- 15 Any order designating an airport for the purposes of the Shops (Airports) Act 1962 and in force at the commencement of section 70 of this Act shall, as from that commencement, be treated as designating that airport for the purposes of that Act as amended by this Act.