

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1986, SCHEDULE 22. (See end of Document for details)

[^{F1}SCHEDULE 22

Section 111.

BROADCASTING: ADDITIONAL PAYMENTS BY PROGRAMME CONTRACTORS

Textual Amendments

F1 Sch. 22 repealed (*prosp.* as mentioned in S.I. 1990/2347, art. 3(3)) by Broadcasting Act 1990 (c.42, SIF 96), ss. 134, 203(3), 204(2), Sch. 12 Pt. II para. 1, **Sch. 21**

PART I

^{M1}AMENDMENT OF BROADCASTING ACT 1981

Marginal Citations

M1 1981 c. 68.

1 ^{F2}

Textual Amendments

F2 Sch. 22 paras. 1, 4–8 repealed by Finance Act 1989 (c.26, SIF 96), s. 187, **Sch. 17 Pt. XI**

- 2 (1) Section 34 of the Act of 1981 (instalments payable on account by programme contractors in respect of additional payments) shall be amended as follows.
- (2) In subsection (2)(b) the words from “when the” to the end shall be omitted.
- (3) For subsection (3) there shall be substituted the following subsection—
- “⁽³⁾ Where any amount falls to be paid to a programme contractor to adjust any overpayment made by him, that amount shall be paid to him—
- (a) if the contract is for the supply of programmes to be broadcast for reception in areas or localities all of which are in Great Britain, out of the Consolidated Fund of the United Kingdom;
- (b) if the contract is for the supply of programmes to be broadcast for reception in areas or localities all of which are in Northern Ireland, out of the Consolidated Fund of Northern Ireland; and
- (c) if the contract is one which falls within subsection (2) of section 33, out of each of those Funds, apportioned in the same way as receipts are apportioned under subsection (3)(c) of that section.”
- 3 (1) Section 35 of the Act of 1981 (provision for supplementing additional payments) shall be amended as follows.
- (2) In paragraph (a) of subsection (1) the words “or is” shall be inserted after the word “is”, where it last occurs.
- (3) For paragraph (b) of that subsection there shall be substituted the following paragraph—

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- “(b) the deficiency is, or would be, wholly or mainly attributable to either or both of the following—
 - (i) excessive expenditure forming part of the expenditure by reference to which those additional payments fall to be calculated;
 - (ii) in the case of second category profits, the receipt of consideration for the provision of any programme which is less than that which the contractor would have received had the transaction in question been in all respects at arm’s length.”

- (4) In subsection (4), for the words “the accounting period to which it relates” there shall be substituted the words “the period of six months beginning with the date on which the programme contractor furnishes to the Authority, in accordance with the terms of his contract as a programme contractor, a copy of his audited accounts for the accounting period to which the order relates”.

- (5) After subsection (2) there shall be inserted the following subsection—
 - “(2A) In determining, for the purposes of subsection (1) of this section, whether in the case of a programme contractor any consideration received by him for the provision of any programme is less than that which the contractor would have received had the transaction in question been in all respects at arm’s length, the Authority or the Secretary of State, as the case may be, shall have regard to such matters as they or he may consider relevant, and in particular to any available information as to—
 - (a) the consideration received for the provision by the contractor of the programme in other comparable markets;
 - (b) the consideration received by that or any other programme contractor for the provision of other comparable programmes in the same market.”

4—8. F3

Textual Amendments
 F3 Sch. 22 paras. 1, 4–8 repealed by Finance Act 1989 (c.26, SIF 96), s. 187, Sch. 17 Pt. XI

PART II

TRANSITIONAL PROVISIONS

- 9 (1) In this paragraph—
 - “new statutory provisions” means the provisions of the ^{M2}Broadcasting Act 1981 as amended by this Act; and
 - “existing statutory provisions” means the provisions of that Act as they had effect immediately before the passing of this Act.

- (2) Any contract between the Authority and a programme contractor which is in force immediately before the passing of this Act shall, until it is varied or superseded by a further contract between them or expires or is otherwise terminated (whichever first occurs) be deemed to be modified by virtue of this Schedule so as—

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- (a) to substitute provisions in conformity with the new statutory provisions for so much of the contract as is in accordance with the existing statutory provisions and is not in conformity with the new statutory provisions, and
- (b) to incorporate in the contract such additional provisions as a contract between the Authority and a programme contractor is required to include in accordance with the new statutory provisions;

and (subject to paragraph 4 of Schedule 4 to the Act of 1981) any provisions of the contract which provide for arbitration as to any matters contained in the contract in accordance with the existing statutory provisions shall be construed as making the like provision for arbitration in relation to matters deemed to be included in the contract by virtue of this sub-paragraph.

- (3) Where it appears to the Authority that the new statutory provisions call for the inclusion of additional terms in any such contract, but do not afford sufficient particulars of what those terms should be, the Authority may, after consulting the programme contractor, decide what those terms are to be.
- (4) This paragraph shall not be taken to have effect in relation to any contract entered into by a programme contractor and any person other than the Authority before the passing of this Act.

Marginal Citations

M2 1981 c. 68.

- 10 (1) This paragraph applies in relation to any accounting period of a programme contractor which begins before 1st April 1986 and ends after 31st March 1986 (“the accounting period”).
- (2) The additional payments payable by the programme contractor under section 32 of the Act of 1981 in relation to his profits for the accounting period shall be the aggregate of the following amounts—
- (a) the amount payable by him on the assumption—
 - (i) that section 111 of this Act was not in force at any time during the accounting period; and
 - (ii) that his profits for the accounting period were reduced by multiplying them

by $\frac{X}{X+Y}$; and

- (b) the amount payable by him on the assumption that that section was in force throughout the accounting period and that both his first category profits for that period and his second category profits for that period were reduced by multiplying them

by $\frac{Y}{X+Y}$;

where (taking any odd four days or more as a week)

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X is the number of weeks in the accounting period falling before 1st April 1986;
and

Y is the number of weeks in the accounting period falling after 31st March 1986.

- (3) For the purposes of the application of paragraph 2C of Schedule 4 to the Act of 1981 in relation to losses incurred by the programme contractor during the accounting period, those losses shall be reduced by multiplying them

$$\text{by } \frac{Y}{X + Y};$$

where X and Y have the same meaning as in sub-paragraph (2) above.]

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