

Status: Point in time view as at 24/07/1996.

Changes to legislation: Broadcasting Act 1996, Cross Heading: Compensation is up to date with all changes known to be in force on or before 20 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 5 U.K.

TRANSFER SCHEMES RELATING TO BBC TRANSMISSION NETWORK: SUPPLEMENTARY PROVISIONS

Modifications etc. (not altering text)

- C1** Sch. 5 extended (with modifications) (22.8.1997): to Guernsey by S.I. 1997/1755, art. 2, Sch.; to the Isle of Man by S.I. 1997/1756, art. 2, Sch.; to Jersey by S.I. 1997/1757, art. 2, Sch.

Compensation

- 8 (1) Where, in consequence of any provisions included in a transfer scheme for the purposes of any such division as is mentioned in paragraph 2(1), the interests, rights or liabilities of a third party are modified as mentioned in sub-paragraph (2), the third party shall be entitled to such compensation as may be just in respect of—
- (a) any diminution attributable to that modification in the value of any of his interests or rights, or
 - (b) any increase attributable to that modification in the burden of his liabilities.
- (2) The modifications mentioned in sub-paragraph (1) are modifications by virtue of which—
- (a) an interest of the third party in any property is transformed into, or replaced by—
 - (i) an interest in only part of that property, or
 - (ii) separate interests in different parts of that property,
 - (b) a right of the third party against the BBC is transformed into, or replaced by, two or more rights which do not include a right which, on its own, is equivalent (disregarding the person against whom it is enforceable) to the right against the BBC, or
 - (c) a liability of the third party to the BBC is transformed into, or replaced by, two or more separate liabilities at least one of which is a liability enforceable by a person other than the BBC.
- (3) Where—
- (a) a third party would, apart from any provisions of a transfer scheme or paragraph 3(3), have become entitled to, or to exercise, any interest or right arising or exercisable in respect of the transfer or creation in accordance with such a scheme of any property, rights or liabilities, and
 - (b) the provisions of that scheme or of paragraph 3(3) have the effect of preventing that person's entitlement to, or to exercise, that interest or right from arising on any occasion in respect of anything mentioned in paragraph (a), and

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(c) provision is not made by a transfer scheme for securing that an entitlement to, or to exercise, that interest or right or an equivalent interest or right, is preserved or created so as to arise in respect of the first occasion when corresponding circumstances next occur after the coming into force of the transfers for which the scheme provides,

the third party shall be entitled to such compensation as may be just in respect of the extinguishment of the interest or right.

(4) A liability to pay compensation under this paragraph shall fall on the persons not being themselves third parties who, as the case may be—

- (a) have interests in the whole or any part of the property affected by the modification in question,
- (b) are subject to the rights of the person to be compensated which are affected by the modification in question,
- (c) are entitled to enforce the liabilities of the person to be compensated which are affected by that modification, or
- (d) benefit from the extinguishment of the entitlement mentioned in sub-paragraph (3),

and that liability shall be apportioned between those persons in such manner as may be appropriate having regard to the extent of their respective rights or liabilities or the extent of the benefit they respectively obtain from the extinguishment.

(5) Where any liability falls by virtue of sub-paragraph (4) on the BBC, that sub-paragraph shall have effect subject to so much of any transfer scheme (including the one which gives rise to the liability) as makes provision for the transfer of that liability to any other person.

(6) Any dispute as to whether, or as to the person by whom, any compensation is to be paid under this paragraph, and any dispute as to the amount of any compensation to be paid by any person, shall be referred to and determined—

- (a) where the claimant requires the matter to be determined in England and Wales or in Northern Ireland, by an arbitrator appointed by the Lord Chancellor, or
- (b) where the claimant requires the matter to be determined in Scotland, by an arbiter appointed by the Lord President of the Court of Session.

(7) This paragraph shall have effect in relation to the provisions of any agreement or instrument entered into or executed in pursuance of an obligation imposed by virtue of paragraph 2(1)(g), and to any modification agreement, as it has effect in relation to the provisions of a transfer scheme.

(8) In this paragraph “third party”, in relation to provisions capable of giving rise to compensation under this paragraph, means any person other than—

- (a) the BBC or any of their wholly-owned subsidiaries (as defined by section 736 of the ^{M1}Companies Act 1985),
- (b) the Secretary of State, or
- (c) any person whose consent to those provisions has been given for the purposes of section 132(2) or who has agreed to those provisions by virtue of being a party to a modification agreement.

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Marginal Citations

M1 1985 c. 6.

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