



# British Telecommunications Act 1981

## 1981 CHAPTER 38

### PART III

#### MISCELLANEOUS AND GENERAL

#### **79 Powers of Treasury to dispose etc. of the shares of Cable and Wireless Limited**

- (1) The Treasury after consultation with the Secretary of State may at any time dispose of their interest in all or any of the shares of Cable and Wireless Limited in consideration of such sums as the Treasury may fix; and after any such disposal section 1(1) of the Imperial Telegraphs Act 1938 and section 3(5) of the Cable and Wireless Act 1946 (which require the payment into the Exchequer of dividends paid on the said shares) shall not apply to dividends so paid in respect of the shares to which the disposal relates.
- (2) The Treasury after consultation with the Secretary of State may at any time—
  - (a) acquire an interest in any shares or stock of Cable and Wireless Limited or any of its subsidiaries or in any rights to subscribe for any such shares; and
  - (b) dispose of an interest so acquired in consideration of such sum as the Treasury may fix.
- (3) Any sums required by the Treasury for making an acquisition under subsection (2) shall be paid out of moneys provided by Parliament; and any sums received by the Treasury in consideration of a disposal made under subsection (1) or (2), or by way of dividend or otherwise in right of any interest acquired by them under subsection (2), shall be paid into the Consolidated Fund.

#### **80 Amendment of the Telegraph Acts**

- (1) In section 3 of the Telegraph Act 1863 for the definition of "telegraph" there shall be substituted the following definition—

“The term 'telegraph' means—

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- (a) any wire, cable, tube, pipe or other thing whatsoever used or intended to be used for the purpose of transmitting telegraphic messages or maintaining telegraphic communication;
- (b) any casing, coating, tube, pipe or other thing whatsoever enclosing or intended to enclose anything falling within paragraph (a) of this definition ; and
- (c) any apparatus which is connected with any thing falling within the said paragraph (a) and is used or intended to be used for the purpose there mentioned.”

(2) For section 26 of the said Act of 1863 there shall be substituted the following section—

**“26 Determination of objection by arbitration.**

- (1) After the receipt by British Telecommunications of such a notice of objection, either party may require the objection to be referred to an arbitrator to be appointed, in default of agreement, by the President of the Chartered Institute of Arbitrators ; and the reasonable expenses and remuneration of the arbitrator shall be paid by British Telecommunications.
  - (2) In the application of this section and sections 27 to 29 and 33 of this Act to Scotland, any reference to an arbitrator shall be construed as a reference to an arbiter.
  - (3) The Arbitration Act (Northern Ireland) 1937, except the provisions set out in Schedule 3 to that Act, shall apply in relation to any arbitration under this section or section 33 of this Act in Northern Ireland as if the arbitration were pursuant to an arbitration agreement and as if this Act were such an agreement, except in so far as that Act is inconsistent with this Act.”
- (3) In consequence of subsection (2)—
- (a) in section 24 of the said Act of 1863 the words " and send " onwards shall be omitted ;
  - (b) in sections 27 to 29 of that Act for the words " Board of Trade ", wherever occurring, there shall be substituted the word " arbitrator ";
  - (c) in section 33 of that Act for the words " the Board of Trade" there shall be substituted the words " an arbitrator to be appointed, in default of agreement, by the President of the Chartered Institute of Arbitrators ; and the reasonable expenses and remuneration of the arbitrator shall be paid by British Telecommunications "; and
  - (d) section 34 of that Act shall be omitted.
- (4) Subsection (1) shall extend to the Isle of Man ; and, subject to subsection (5), subsections (2) and (3) shall come into operation on the appointed day.
- (5) Nothing in subsections (2) and (3) shall affect the operations of sections 26 to 29 and 34 of the said Act of 1863 in relation to any hearing begun before the appointed day.

**81 Stamp duty**

- (1) Stamp duty shall not be chargeable on any instrument which is certified to the Commissioners of Inland Revenue by the Corporation, the Post Office or any wholly owned subsidiary of either of those bodies as having been made or executed in

pursuance of section 10 or Schedule 2; but no such instrument shall be deemed to be duly stamped unless it is stamped with the duty to which it would but for this subsection be liable or it has, in accordance with the provisions of section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped.

- (2) Where the Commissioners of Inland Revenue are satisfied that the conditions specified in paragraph (a) or (b) of subsection (3) are fulfilled, stamp duty shall not be chargeable under section 47 of the Finance Act 1973 in respect of the amount which is to form the capital of a company or in respect of any increase in the capital of a company if or to the extent that the Commissioners are also satisfied—
  - (a) in a case falling within paragraph (a) of subsection (3), that the total issued capital of the company, whether share capital or loan capital, on the relevant transfer date referred to in the said paragraph (a) will not exceed the total value of the assets less the liabilities transferred ;
  - (b) in a case falling within paragraph (b) of that subsection, that the amount or aggregate amount of the increase of issued share capital or of the loan capital to be issued or of both does not exceed the total value of the assets less liabilities to be transferred.
- (3) The said conditions are—
  - (a) that the company is a company formed for the purpose of a transfer to be effected under section 4(7) or 60(7) and, in the case of an increase of issued share capital, that the increase is to take place on or before the transfer date;
  - (b) in the case of an increase of issued share capital to which paragraph (a) does not apply, that the increase is for the purpose of a transfer to be effected under section 4(7) or 60(7) and is to take place on or before the transfer date.

## **82 Tax provisions**

- (1) For the purposes of the Capital Gains Tax Act 1979 any asset transferred by this Act from the Post Office to the Corporation, or from the Corporation to the Post Office, shall be deemed to be for a consideration such that no gain or loss accrues to the transferor on its transfer; and Schedule 5 to that Act shall have effect in relation to any asset so transferred as if the acquisition or provision of it by the transferor, or the acquisition or provision of it by the Crown which is treated as the acquisition or provision of it by the transferor, had been the acquisition or provision of it by the transferee.
- (2) For the purposes of the Corporation Tax Acts—
  - (a) the part of the Post Office's trade transferred by this Act to the Corporation (" the transferred trade ") and the part thereof retained by the Post Office (" the retained trade ") shall be treated as having been, at all times since the commencement of the Post Office's trade, separate trades carried on by the Corporation and the Post Office respectively ; and
  - (b) the trade carried on by each of those bodies after the appointed day shall be treated as the same trade as that which, by virtue of paragraph (a), it is treated as having carried on before that day.
- (3) The aggregate of the amounts for which the Corporation and the Post Office are entitled to relief under section 177(1) of the Income and Corporation Taxes Act 1970, as for losses sustained by them before the appointed day in carrying on the transferred trade and the retained trade, shall not exceed the amount which, if subsection (2) had

not been enacted and the Post Office had continued to carry on both trades, would have been available to it for carrying forward against trading income from the trades in succeeding accounting periods.

- (4) Where, in the discharge of any liability which is transferred to the Corporation by this Act, the Corporation makes payments to the trustees of a retirement benefits scheme with a view to the provision of relevant benefits for persons who are employees of the Post Office, the Tax Acts shall have effect in relation to those payments—
- (a) as if those persons were employees of the Corporation ; and
  - (b) where the scheme is an exempt approved scheme, as if paragraph (a) of the proviso to section 21(3) of the Finance Act 1970 were omitted ;
- and in this subsection expressions which are also used in Chapter II of Part II of the said Act of 1970 have the same meanings as in that Chapter.
- (5) Any transfer by this Act of an interest in land from the Post Office to the Corporation, or from the Corporation to the Post Office, shall be deemed to be a disposal to which subsection (1) of section 20 of the Development Land Tax Act 1976 (groups of companies) applies.
- (6) For the purposes of section 21 of the Finance Act 1972 (value added tax: group registration) the Corporation, the Post Office and any bodies corporate resident in the United Kingdom or the Isle of Man which are subsidiaries of either of those bodies shall be eligible to be treated as members of a group until the expiration of the period of three years beginning with the appointed day; and where, by virtue of this subsection, two or more bodies are so treated, the Commissioners of Customs and Excise shall, as soon as practicable after the expiration of that period, by notice to those bodies, terminate that treatment from such date as may be specified in the notice.
- (7) Subsections (2) and (3) shall have effect in relation to accounting periods of the Corporation and of the Post Office ending on or after the appointed day.

### **83 Financial provisions**

- (1) There shall be paid out of moneys provided by Parliament—
- (a) any administrative expenses of the Secretary of State under this Act; and
  - (b) any increase attributable to the provisions of this Act in the sums which under any other enactment are paid out of moneys so provided.
- (2) There shall be paid out of the Consolidated Fund or the National Loans Fund any increase attributable to the provisions of this Act in the sums which under any other enactment are paid out of that Fund.

### **84 Power of managers of certain welfare funds to preserve their scope**

- (1) A fund to which this section applies is one (whether described by the addition thereto of the attribute " welfare ", " benevolent " or " mutual aid " or by the addition thereto of any other attribute) the objects of which consist in or include the provision for—
- (a) persons who are, or have been, employees of the Post Office, or for such persons of any class or description ; or
  - (b) for the relatives and dependants of any persons who are or have been so employed, or of such persons of any class or description,

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of benefits in case of need, sickness or distress, and a society or organisation to which this section applies is one (however described) the objects of which are similar; and in this section—

" managers " in relation to a fund, society or organisation, means the trustees, committee or other persons entrusted with its management;

" relevant body " means the Corporation or any of its subsidiaries or any subsidiary of the Post Office.

(2) The provisions of the trust deed, rules, regulations or other instrument constituting or regulating a fund, society or organisation to which this section applies may, by resolution of the managers of the fund, society or organisation, be altered—

(a) so as to permit persons who are employees (past or present) of a relevant body, or persons who are members of a class of persons of that description, to become members of, or subscribers to, the fund, society or organisation;

(b) so as, in the case of persons of the said description or persons who are members of a class of persons of that description, to entitle them and persons claiming in right of them (subject to such, if any, terms and conditions as may be specified in the resolution) to receive benefits from the fund, society or organisation if, and to the extent that, they would be entitled to receive benefits therefrom if employment by a relevant body were employment by the Post Office ;

but so that no alteration be made that alters the character of the fund, society or organisation.

(3) If a resolution of the managers of a fund, society or organisation to which this section applies so provides—

(a) any reference in the trust deed, rules, regulations or other instrument constituting or regulating the fund, society or organisation to the Post Office (not being a reference in a context referring, in whatever terms, to persons employed by the Post Office or persons so employed of a specified description) shall be construed as referring (or, if the context so requires, as including a reference) to a relevant body ; and

(b) any reference in that instrument, in whatever terms, to persons so employed or persons so employed of a specified description shall be construed as referring (or, if the context so requires, as including a reference) to persons employed by a relevant body or, as the case may be, to persons so employed of a corresponding description.

(4) For the purposes of a resolution deriving validity from this section, the definition of a class of persons may be framed by reference to any circumstances whatever.

## **85 General interpretation**

(1) In this Act—

" the 1953 Act " means the Post Office Act 1953 ;

" the 1969 Act " means the Post Office Act 1969 ;

" the appointed day " has the meaning given by section 1(2);

" the Corporation " means British Telecommunications ;

" outside persons " means persons other than the Corporation, the Post Office and wholly owned subsidiaries of either of those bodies;

" pension " includes allowance and gratuity ;

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" statutory maximum ", in relation to a fine on summary conviction, means—

- (a) in England and Wales, Northern Ireland and the Isle of Man, the prescribed sum within the meaning of section 32 of the Magistrates' Courts Act 1980 (£1,000 at the passing of this Act);
- (b) in Scotland, the prescribed sum within the meaning of section 289B of the Criminal Procedure (Scotland) Act 1975 (£1,000 at the passing of this Act);

and for the purposes of the application of this definition in Northern Ireland and the Isle of Man the provisions of the said Act of 1980 which relate to the sum mentioned in paragraph (a) shall extend to Northern Ireland and the Isle of Man ;

" statutory provision", except in relation to Northern Ireland or the Isle of Man, has the same meaning as in section 57(1) of the Harbours Act 1964, in relation to Northern Ireland, has the same meaning as in section 1(f) of the Interpretation Act (Northern Ireland) 1954 and, in relation to the Isle of Man, means an Act of Tynwald.

- (2) Any reference in this Act to a subsidiary shall be construed in accordance with section 154 of the Companies Act 1948 and any reference to a wholly owned subsidiary shall be construed in accordance with section 150(4) of that Act.
- (3) This section shall extend to the Isle of Man and the Channel Islands.

## **86 Application to Northern Ireland**

- (1) In the application of this Act to Northern Ireland any reference—
  - (a) to an enactment comprised in Northern Ireland legislation (except a reference to Schedule 6 to the Local Government Act (Northern Ireland) 1972 or Schedule 8 to the Health and Personal Social Services (Northern Ireland) Order 1972); or
  - (b) to an enactment which the Northern Ireland Assembly has power to amend, shall, except in Schedule 3, be construed as including a reference to any enactment comprised in Northern Ireland legislation passed or made after this Act and re-enacting the said enactment with or without modification.
- (2) Regulations made by the Secretary of State under the Civil Defence Act (Northern Ireland) 1950 may apply to the Corporation such of the provisions of the Civil Defence Act (Northern Ireland) 1939 (except section 7(4) thereof) relating to public utility undertakers as may be specified in the regulations and may specify the Secretary of State as the appropriate department in relation to the Corporation for the purpose of the application of any provisions so specified to the Corporation.
- (3) There shall be excluded from the workers in relation to whom the Road Haulage Wages Council (Northern Ireland) and any wages council established under the Wages Councils Act (Northern Ireland) 1945 may operate any person employed by the Corporation on road haulage work within the meaning of paragraph 1 of the Schedule to the Road Haulage Wages Council (Northern Ireland) (Variation) Order 1952.

## **87 Consequential amendments**

- (1) The amendments contained in Schedule 3 shall have effect, being minor amendments or amendments consequential on the foregoing provisions of this Act.
- (2) This section and Schedule 3 shall extend to the Isle of Man, so far as regards any enactment mentioned in that Schedule that so extends, and shall extend to the Channel Islands so far as regards any enactment so mentioned that so extends.

## **88 Transitional provisions**

- (1) The general transitional provisions contained in Schedule 4, and the special transitional provisions with respect to patents for inventions and registered designs contained in Schedule 5, shall have effect.
- (2) This section and schedule 4 and 5 shall extend to the Isle of Man and this section and Schedule 4 shall extend to the Channel Islands.

## **89 Repeals and savings**

- (1) The enactments mentioned in Part I of Schedule 6 (which includes some that are spent or no longer of practical utility) shall on the passing of this Act be repealed to the extent specified in the third column of that Schedule; and the enactments mentioned in Part II of that Schedule shall on the appointed day, be repealed to the extent specified in that column.
- (2) By reason of the repeal by this section of the Post Office Act 1961, there shall be inserted in Schedule 9 to the 1969 Act (general transitional provisions) at the end of paragraph 2 the following sub-paragraph—
  - “(4) With respect to instruments and documents executed or signed before the appointed day—
    - (a) every instrument or document purporting to be executed or signed by or on behalf of the Postmaster General shall be deemed to be so executed or signed unless the contrary is shown; and
    - (b) a certificate signed before the appointed day by the Postmaster General that any instrument or document purporting to be executed or signed on his behalf was so executed or signed shall be conclusive evidence of that fact.”
- (3) Notwithstanding the repeal by this section of the said Act of 1961, the Exchequer and Audit Departments Act 1866 and the Exchequer and Audit Departments Act 1921 shall continue to have effect with the amendments made by Schedule 1 to the said Act of 1961.
- (4) The repeal by this section of section 2 of the Post Office (Data Processing Service) Act 1967 and section 65 of the 1969 Act shall not affect the operation of those sections in relation to information obtained before the appointed day.
- (5) This section and Schedule 6 shall extend to the Isle of Man so far as regards any enactment mentioned in that Schedule that so extends (other than an enactment contained in the Telegraph Act 1863), and shall extend to the Channel Islands so far as regards any enactment so mentioned that so extends.

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**90 Short title and extent**

- (1) This Act may be cited as the British Telecommunications Act 1981.
- (2) This Act extends to Northern Ireland.