

SCHEDULES

SCHEDULE 2

AMENDMENTS OF BROADCASTING ACT 1990 RELATING TO RESTRICTIONS ON HOLDING OF LICENCES

PART I

AMENDMENTS OF PART I OF SCHEDULE 2

- 1 (1) In Part I of Schedule 2, paragraph 1 (which contains interpretative provisions) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) before the definition of “advertising agency” there is inserted—

““the 1996 Act” means the Broadcasting Act 1996;”,
 - (b) for paragraph (a) of the definition of “associate” there is substituted—

“(a) in relation to a body corporate, shall be construed in accordance with paragraph (1A), and”,
 - (c) in paragraph (b) of the definition of “control” for “by virtue of the rules regulating that or any other body” there is substituted “by whatever means and whether directly or indirectly”,
 - (d) after the definition of “control” there is inserted—

““coverage area”, in relation to a service, shall be construed in accordance with paragraph 3A;

“digital programme service” has the same meaning as in Part I of the 1996 Act;”,
 - (e) after the definition of “local delivery service” there is inserted—

““local digital sound programme service” and “national digital sound programme service” have the same meaning as in Part II of the 1996 Act;

“local radio multiplex service” and “national radio multiplex service” have the same meaning as in Part II of the 1996 Act;”, and
 - (f) at the end there is inserted—

““television multiplex service” means a multiplex service within the meaning of Part I of the 1996 Act.”.
- (3) After sub-paragraph (1) there is inserted—
- “(1A) For the purpose of determining the persons who are the associates of a body corporate for the purposes of this Schedule—

Status: This is the original version (as it was originally enacted).

- (a) an individual shall be regarded as an associate of a body corporate if he is a director of that body corporate, and
- (b) a body corporate and another body corporate shall be regarded as associates of each other if one controls the other or if the same person controls both.”

(4) For sub-paragraph (3) there is substituted—

“(3) For the purposes of this Schedule a person controls a body corporate if—

- (a) he holds, or is beneficially entitled to, more than 50 per cent. of the equity share capital in the body, or possesses more than 50 per cent. of the voting power in it, or
- (b) although he does not have such an interest in the body, it is reasonable, having regard to all the circumstances, to expect that he will be able, by whatever means and whether directly or indirectly, to achieve the result that the affairs of the body are conducted in accordance with his wishes; or
- (c) he holds, or is beneficially entitled to, 50 per cent. of the equity share capital in that body, or possesses 50 per cent. of the voting power in it, and an arrangement exists between him and any other participant in the body as to the manner in which any voting power in the body possessed by either of them is to be exercised, or as to the omission by either of them to exercise such voting power.

(3A) For the purposes of sub-paragraph (3)(c)—

- (a) “arrangement” includes any agreement or arrangement, whether or not it is, or is intended to be, legally enforceable, and
- (b) a person shall be treated—
 - (i) as holding, or being beneficially entitled to, any equity share capital which is held by a body corporate which he controls or to which such a body corporate is beneficially entitled, and
 - (ii) as possessing any voting power possessed by such a body corporate.”

(5) Sub-paragraph (4) is omitted.

(6) For sub-paragraph (6) there is substituted—

“(6) In this Schedule any reference to a participant with more than a 20 per cent. interest in a body corporate is a reference to a person who—

- (a) holds or is beneficially entitled to more than 20 per cent. of the shares in that body, or
- (b) possesses more than 20 per cent. of the voting power in that body.

(7) Sub-paragraph (6) shall have effect subject to the necessary modifications in relation to other references in this Schedule—

- (a) to an interest of more than a specified percentage in a body corporate, or
- (b) to an interest of a specified percentage or more in a body corporate.

- (8) Any reference in this Schedule to a person who is over a particular age is a reference to a person who has attained that age.”