
EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules set out the procedure for the conduct of postal administration proceedings in Scotland. Postal administration is a special insolvency regime specifically created for companies that are designated under section 35 of the Postal Services Act 2011 (c.5) (the 2011 Act) as universal service providers.

The framework for the postal administration regime is set out in Part 4 of the 2011 Act.

The main features of postal administration are:

- (a) the company enters the procedure by court order on application by the Secretary of State or with the consent of the Secretary of State, by OFCOM;
- (b) the order appoints a postal administrator;
- (c) the objective of a postal administration is to secure that a universal postal service is provided in accordance with the standards set out in the universal postal service order; and
- (d) in other respects the process is the same as for normal administration under the Insolvency Act 1986 (c.45), subject to modifications specified in Schedule 10 to the 2011 Act.

These Rules are based upon the provisions of the existing Insolvency (Scotland) Rules 1986 (S.I. 1986/1915) but are a stand-alone set of rules applicable only to postal administration proceedings. These Rules apply to universal service providers which the courts in Scotland have jurisdiction to wind up. There are separate Rules (The Postal Administration Rules 2013 – S.I. 2013/3208) which apply to universal service providers which the courts in England and Wales have jurisdiction to wind up.

Part 1 of these Rules contains the interpretation and application provisions. Rule 4 provides that these Rules must be reviewed by 1st October 2021.

Part 2 sets out the procedure to be followed in relation to proceedings for the appointment of a postal administrator and on whom such proceedings must be served.

Part 3 details the initial steps to be taken in postal administration proceedings. These include the notification and advertisement of the postal administrator's appointment and the preparation of a statement of the company's affairs. Part 3 also sets out the information that must be given to creditors in the postal administrator's proposals.

Part 4 governs the conduct of creditors and company meetings called by a postal administrator during postal administration proceedings. Part 4 also deals with the provision of progress reports relating to the administration and applications by the administrator to dispose of secured property.

Part 5 makes provision in respect of claims in the postal administration and how they are to be established and quantified, as well as the voting rights that flow from claims which are accepted. It also provides for a criminal offence in respect of false claims by creditors.

Part 6 concerns distributions to creditors of the company and the expenses of the postal administration. It sets out the order of priority in any distribution and the mechanism for calculating the outlays and remuneration of the postal administrator.

Part 7 sets out the arrangements for ending a postal administration. There are specific provisions detailing the ending of a postal administration by court order, as well as the process by which a company administration moves into either a creditors' voluntary liquidation or dissolution of the company.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Part 8 deals with the requirements and procedures for replacing a postal administrator and includes provisions relating to the resignation of a postal administrator and the removal of a postal administrator from office by court order.

Part 9 makes provision in respect of the share of the assets of the company for unsecured creditors (the prescribed part).

Part 10 makes provision for the use of proxies at creditors' or members' meetings held during a postal administration, including the rights of inspection of such proxies and the procedure to be followed where a proxy-holder has a financial interest in the outcome of a resolution to be voted on at the meeting.

Part 11 deals with the rules relating to the giving of notices in relation to the postal administration. It includes provisions relating to electronic delivery and the use of websites by the postal administrator.

Part 12 deals with miscellaneous provisions, including the postal administrator's caution, electronic submission of forms, content of notices and provides the court with power to cure defects in procedure.

The Schedule to the Rules contains the forms that are to be used in postal operator administration proceedings. The forms in this Schedule are based upon the forms contained in the Insolvency (Scotland) Rules 1986 which deal with ordinary administration, but have been modified for the purposes of postal administration.

A full impact assessment has not been produced for this instrument. An Impact Assessment for the 2011 Act is available on website of the Department for Business, Innovation and Skills - <https://www.gov.uk/government/publications/postal-services-bill-2010-impact-assessment>.