
STATUTORY INSTRUMENTS

2016 No. 900

The Postal Administration (Scotland) Rules 2016

PART 11

Giving of Notice

Application

79.—(1) Subject to paragraph (2), this Part applies where a notice or other document is required or authorised to be given, delivered or sent under the 1986 Act or these Rules.

(2) This Chapter does not apply to the service of—

- (a) the lodging of any petition or application or other document with the court;
- (b) the service of any application or other document lodged with the court;
- (c) the service of any order of the court; or
- (d) the submission of documents to the registrar of companies.

Personal delivery of documents

80. Personal delivery of a notice or other document is permissible in any case.

Sending by post

81.—(1) Unless in any particular case some other form of delivery is required by the 1986 Act, these Rules or an order of the court, a notice or other document may be sent by post, and subject to the following provisions of this Rule, any form of post may be used.

(2) For a notice or other document to be properly sent by post, it must be contained in an envelope addressed to the person to whom it is to be sent, and pre-paid for either first or second class post.

(3) Any notice or other document to be sent by post may be sent to the last known address of the person to whom the document is to be sent.

(4) Where first class post is used, the document is to be deemed to be received on the second business day after the date of posting, unless the contrary is shown.

(5) Where second class post is used, the document is to be deemed to be received on the fourth business day after the date of posting unless the contrary is shown.

Notice by and to representatives

82. Where under the 1986 Act or these Rules a notice or other document is required or authorised to be given, sent or delivered by a person (“the sender”) to another (“the recipient”), it may be given, sent or delivered by any person duly authorised by the sender to do so to any person duly authorised by the recipient to receive or accept it.

Notice to joint postal administrators

83. Where two or more persons are acting jointly as the postal administrator in relation to a postal administration, delivery of a document to one of them is to be treated as delivery to them all.

The form of notices and other documents

84. Subject to any order of the court, any notice or other document required to be given, delivered or sent must be in writing and where electronic delivery is permitted a notice or other document in electronic form is treated as being in writing if a copy of it is capable of being produced in legible form.

Certificate of giving notice etc

85.—(1) Where in any proceedings a notice or other document is required to be given, delivered or sent by the postal administrator, the date of giving, sending or delivering it may be proved by means of a certificate signed by the postal administrator or on the postal administrator’s behalf by the postal administrator’s solicitor, or a partner or employee of either of them, that the notice or other document was duly given, posted or otherwise sent, or delivered, on the date stated in the certificate.

(2) In the case of a notice or other document to be given, delivered or sent by a person other than the postal administrator, the giving delivering or sending of it may be proved by means of a certificate by that person—

- (a) that the notice or document was given, delivered or sent by that person; or
- (b) that another person (named in the certificate) was instructed to give, deliver or send it.

(3) A certificate under this Rule may be endorsed on a copy of the notice or document to which it relates.

(4) A certificate purporting to be signed by or on behalf of the postal administrator, or by the person mentioned in paragraph (2), shall be deemed unless the contrary is shown, to be sufficient evidence of the matters stated in the certificate.

Electronic delivery in postal administration proceedings – general

86.—(1) Unless in any particular case some other form of delivery is required by the 1986 Act, these Rules or an order of the court and subject to paragraph (3), a notice or other document may be given, delivered or sent by electronic means provided that the intended recipient of the notice or other document has—

- (a) consented (whether in the specific case or generally) to electronic delivery (and has not revoked that consent); and
- (b) provided an electronic address for delivery.

(2) Where a postal administrator gives, sends or delivers a notice or other document to any person by electronic means, it must contain or be accompanied by a statement that the recipient may request a hard copy of the notice or document, and specify a telephone number, e-mail address and postal address which may be used to make such a request.

(3) Where a hard copy of the notice or other document is requested, it must be sent within 5 business days of receipt of the request by the postal administrator, who may not make a charge for sending it in that form.

(4) In the absence of evidence to the contrary, a notice or other document is presumed to have been delivered where—

- (a) the sender can produce a copy of the electronic message which—

- (i) contained the notice or other document, or to which the notice or other document was attached; and
 - (ii) shows the time and date the message was sent; and
- (b) that electronic message contains the address supplied under paragraph (1)(b).
- (5) A message sent electronically is deemed to have been delivered to the recipient no later than 9.00am on the next business day after it was sent.

Use of websites by postal administrator

- 87.**—(1) This Rule applies for the purposes of section 246B of the 1986 Act (use of websites)(1).
- (2) A postal administrator required to give, deliver or send a document to any person may (other than in a case where personal service is required) satisfy that requirement by sending that person a notice—
- (a) stating that the document is available for viewing and downloading on a website;
 - (b) specifying the address of that website together with any password necessary to view and download the document from that site; and
 - (c) containing a statement that the person to whom the notice is given, delivered or sent may request a hard copy of the document and specifying a telephone number, e-mail address and postal address which may be used to request a hard copy.
- (3) Where a notice to which this Rule applies is sent, the document to which it relates must—
- (a) be available on the website for a period of not less than 3 months after the date on which the notice is sent; and
 - (b) must be in such a format as to enable it to be downloaded from the website within a reasonable time of an electronic request being made for it to be downloaded.
- (4) Where a hard copy of the document is requested it must be sent within 5 business days of the receipt of the request by the postal administrator, who may not make a charge for sending it in that form.
- (5) Where a document is given, delivered or sent to a person by means of a website in accordance with this Rule, it is deemed to have been delivered—
- (a) when the document was first made available on the website; or
 - (b) if later, when the notice under paragraph (2) was delivered to that person.

Special provision on account of expense as to website use

- 88.**—(1) Where the court is satisfied that the expense of sending notices in accordance with Rule 86 would, on account of the number of persons entitled to receive them, be disproportionate to the benefit of sending notice in accordance with that Rule, it may order that the requirement to give, deliver or send a relevant document to any person may (other than in a case where personal service is required) be satisfied by the postal administrator sending each of those persons a notice—
- (a) stating that all relevant documents will be made available for viewing and downloading on a website;
 - (b) specifying the address of that website together with any password necessary to view and download a relevant document from that site; and
 - (c) containing a statement that the person to whom the notice is given, delivered or sent may at any time request that hard copies of all, or specific, relevant documents are sent to that

(1) Section 246B was inserted by [S.I. 2010/18](#), Article 3.

person, and specifying a telephone number, e-mail address and postal address which may be used to make that request.

- (2) A document to which this Rule relates must—
 - (a) be available on the website for a period of not less than 12 months from the date when it was first made available on the website or, if later, from the date upon which the notice was sent; and
 - (b) must be in such a format as to enable it to be downloaded from the website within a reasonable time of an electronic request being made for it to be downloaded.
- (3) Where hard copies of relevant documents have been requested, they must be sent by the postal administrator—
 - (a) within 5 business days of the receipt of the postal administrator of the request to be sent hard copies, in the case of relevant documents first appearing on the website before the request was received; or
 - (b) within 5 business days from the date a relevant document first appears on the website, in all other cases.
- (4) A postal administrator must not require a person making a request under paragraph (3) to pay a fee for the supply of the document.
- (5) Where a relevant document is given, delivered or sent to a person by means of a website in accordance with this Rule, it is deemed to have been delivered—
 - (a) when the relevant document was first made available on the website; or
 - (b) if later, when the notice under paragraph (1) was delivered to that person.
- (6) In this Rule a relevant document means any document which the postal administrator is first required to give, deliver or send to any person after the court has made an order under paragraph (1).