



# Postal Services Act 2000

## 2000 CHAPTER 26

### PART I

#### INTRODUCTORY

#### **1 The Postal Services Commission.**

- (1) There shall be a body corporate to be known as the Postal Services Commission (in this Act referred to as “the Commission”).
- (2) The functions of the Commission shall be performed on behalf of the Crown.
- (3) Schedule 1 (which makes further provision about the Commission) shall have effect.
- (4) The body which, immediately before the coming into force of this subsection, was known as the Postal Services Commission and was designated in accordance with Article 22 of the Postal Services Directive as a national regulatory authority for the postal sector in the United Kingdom is hereby abolished.

#### **<sup>F1</sup>2 The Consumer Council for Postal Services.**

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#### **Textual Amendments**

- F1** S. 2 repealed (21.12.2007 for specified purposes) by [Consumers, Estate Agents and Redress Act 2007](#) (c. 17), s. 66(2), [Sch. 8](#); S.I. 2007/3546, art. 3, Sch.

#### **3 Duty of the Commission to ensure provision of a universal postal service.**

- (1) The Commission shall exercise its functions in the manner which it considers is best calculated to ensure the provision of a universal postal service.

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*Status: Point in time view as at 21/12/2007.*

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- (2) The Commission may, in particular, impose as a condition of a licence under Part II a requirement that the licence holder provides a universal postal service or part of such a service.
- (3) Where the Commission has imposed such a condition, it may include in the licence such conditions and other provisions as it considers appropriate in relation to the provision of such a service (including conditions and other provisions about activities which do not require a licence under Part II).

#### **4 Provision of a universal postal service: meaning.**

- (1) For the purposes of this Act and subject to subsection (2), a universal postal service is provided if—
  - (a) except in such geographical conditions or other circumstances as the Commission considers to be exceptional—
    - (i) at least one delivery of relevant postal packets is made every working day to the home or premises of every individual or other person in the United Kingdom or to such identifiable points for the delivery of relevant postal packets as the Commission may approve, and
    - (ii) at least one collection of relevant postal packets is made every working day from each access point,
  - (b) a service of conveying relevant postal packets from one place to another by post and the incidental services of receiving, collecting, sorting and delivering such packets are provided at affordable prices determined in accordance with a public tariff which is uniform throughout the United Kingdom, and
  - (c) a registered post service is provided at such prices.
- (2) For the purposes of subsection (1)—
  - (a) the interruption, suspension or restriction of any service in cases of emergency, or
  - (b) the conclusion with customers of individual agreements as to prices,shall not be taken to preclude the provision of a universal postal service.
- (3) References in this Act to a universal service provider shall be construed as references to any person—
  - (a) whose identity is notified by the Secretary of State to the European Commission in accordance with Article 4 of the Postal Services Directive as that of a person providing a universal postal service or a part of such a service in the United Kingdom, and
  - (b) on whom the Secretary of State has served a notice informing him of that fact and the fact that he will be treated as a universal service provider for the purposes of this Act.
- (4) If no-one falls within subsection (3) because there is no Community obligation to notify the European Commission of the identity of a person providing a universal postal service or a part of such a service in the United Kingdom, references in this Act to a universal service provider shall be construed as references to any person who is treated by the Secretary of State as a universal service provider for the purposes of this Act and on whom the Secretary of State has served a notice informing him of that fact.

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- (5) The Secretary of State shall take such steps as he considers appropriate for the purpose of bringing to the attention of the public the identity of any person who is a universal service provider for the purposes of this Act.
- (6) References in this Act to the provision of a universal postal service shall, in relation to a universal service provider who provides part of a universal postal service, be construed as references to the provision of that part of such a service.
- (7) In this section—
- “access point” means any box, receptacle or other facility provided by a universal service provider for the purpose of receiving relevant postal packets, or any class of relevant postal packets, for onwards transmission in connection with the provision of a universal postal service,
- “permitted limits”, in relation to the dimensions of a postal packet, means the minimum and maximum dimensions laid down in the <sup>M1</sup>Convention and the Agreement concerning Postal Parcels adopted by the Universal Postal Union, and
- “relevant postal packets” means postal packets whose weight does not exceed 20 kilograms and whose dimensions fall within permitted limits.

#### Marginal Citations

M1 Cm 2837.

## 5 Other duties of the Commission in the consumer interest.

- (1) Subject to section 3, the Commission shall exercise its functions in the manner which it considers is best calculated to further the interests of users of postal services, wherever appropriate by promoting effective competition between postal operators.
- (2) In performing its duty under subsection (1), the Commission shall have regard to the interests of—
- individuals who are disabled or chronically sick,
  - individuals of pensionable age,
  - individuals with low incomes, and
  - individuals residing in rural areas,
- but that is not to be taken as implying that regard may not be had to the interests of other descriptions of users.
- (3) Subject to section 3 and subsection (1), the Commission shall exercise its functions in the manner which it considers is best calculated to promote efficiency and economy on the part of postal operators.
- (4) In exercising any of its functions in relation to licence holders under Part II, the Commission shall have regard to the need to ensure that such licence holders are able to finance activities authorised or required by their licences.

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## PART II

### LICENCES FOR POSTAL SERVICES

#### *Restriction on provision of postal services*

#### **6 Restriction on provision of postal services.**

- (1) Subject to section 7, no person shall convey a letter from one place to another unless—
  - (a) he holds a licence authorising him to do so, or
  - (b) he is acting as an employee or agent of a person who is authorised by a licence to do so.
- (2) A person who contravenes subsection (1) commits an offence and shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum,
  - (b) on conviction on indictment, to a fine.
- (3) No proceedings shall be instituted in England and Wales or Northern Ireland in respect of an offence under subsection (2) except by or on behalf of the Commission or the Secretary of State.
- (4) Without prejudice to subsection (2), compliance with subsection (1) shall be enforceable by civil proceedings by or on behalf of the Commission or the Secretary of State for an injunction or interdict or for any other appropriate relief or remedy.
- (5) Without prejudice to subsections (2) and (4)—
  - (a) the obligation to comply with subsection (1) shall be a duty owed to any person who may be affected by a contravention of subsection (1), and
  - (b) where a duty is owed by virtue of paragraph (a) to any person, any breach of that duty which causes that person to sustain loss or damage shall be actionable at the suit or instance of that person.
- (6) Any reference in this section [<sup>F2</sup>or section 7(1) or (1A)] to conveying a letter from one place to another, or the conveyance of a letter, includes a reference to performing, or the performance of, any of the incidental services of receiving, collecting and delivering a letter.
- (7) For the purposes of this Part references to a licence are to a licence under this Part and references to a licence holder shall be construed accordingly.

#### **Textual Amendments**

**F2** Words in s. 6(6) substituted (1.1.2003) by S.I. 2002/3050, reg. 2

#### **7 Exceptions from section 6.**

- (1) Section 6(1) is not contravened by the conveyance of a letter—
  - (a) which is conveyed in consideration of a payment of not less than £1 made by or on behalf of the person for whom it is conveyed, or
  - (b) which weighs not less than 350 grams.

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[<sup>F3</sup>(1A) Section 6(1) is not contravened by the conveyance of a letter in circumstances where the service of conveying the letter is outside the scope of the universal postal service in the United Kingdom.]

(2) Section 6(1) is not contravened by—

- (a) the conveyance and delivery of a letter personally by the sender,
- (b) the conveyance and delivery of a letter by a personal friend of the sender,
- (c) the conveyance and delivery of a single letter by a messenger sent for the purpose by either correspondent,
- (d) the conveyance of an overseas letter out of the United Kingdom [<sup>F4</sup>, and the collection of letters for that purpose],
- (e) the conveyance and delivery of any documents in respect of which a method of service other than by post is required or authorised by law,
- (f) the conveyance of letters from merchants who are the owners of a merchant ship or commercial aircraft, or of goods carried in such a ship or aircraft, by means of that ship or aircraft, and the delivery of the letters to the addressees by any person employed for the purpose by those merchants, provided that no payment or reward, profit or advantage of any kind is given or received for the conveyance or delivery of those letters,
- (g) the conveyance and delivery of letters by any person which are letters concerning, and for delivery with, goods carried by that person, provided that no payment or reward, profit or advantage of any kind is given or received for the conveyance or delivery of those letters,
- (h) the conveyance and delivery to a licence holder of pre-paid letters for conveyance and delivery by that person to the addressees, and the collection of such letters for that purpose,
- (i) the conveyance and delivery of letters by a person who has a business interest in those letters, and the collection of letters for that purpose,
  - [<sup>F5</sup>(ia) the conveyance and delivery of letters, and the collection of letters for that purpose, by a person who is not a licence holder, who provides those services under a contract for services where the other party to the contract is the sender and who does not provide those services to any person other than the sender]
- (j) the conveyance and delivery of banking instruments from one bank to another or from a bank to a government department, and the collection of such instruments for that purpose,
- (k) the collection, conveyance and delivery of coupons or other entry forms issued by authorised promoters,
- (l) the collection, conveyance and delivery of Christmas cards by a charity, provided that the activity concerned takes place during the period starting with 25th November in any year and ending with 1st January in the following year,
- (m) the conveyance and delivery of letters from one government department to another or within the same government department, and the collection of letters for that purpose,
- (n) the conveyance of letters of members of a document exchange from a departure facility for that exchange to an arrival facility for another document exchange by persons who are not members of either exchange, and the collection and delivery by such persons for that purpose of letters delivered to the departure facility concerned,

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- (o) the conveyance and delivery of brokers' research, during the relevant period and by any person who has printed it, from the business premises where it is printed to the premises of any person who is to convey it onwards,
  - (p) the conveyance and delivery by any person of brokers' research within the period of 24 hours starting with its delivery to his premises or its collection by him during the relevant period from a collection point, and any such collection.
- (3) Nothing in paragraphs [F6(a) to (c) and (e) to (g)] of subsection (2) shall authorise any person to make a collection of letters for the purpose of their being conveyed in any manner authorised by those paragraphs.
- (4) For the purposes of paragraph (i) of subsection (2) a person has a business interest in a letter if, and only if—
- (a) he is an employee of one of the correspondents or of a member of the same group as one of the correspondents and the letter relates to the business affairs of that correspondent, or
  - (b) he and one of the correspondents are employees of the same person or of different members of the same group and the letter relates to the business affairs of that person or (as the case may be) the employer of that correspondent.
- (5) In this section—
- “arrival facility”, in relation to a document exchange, means any box, receptacle or other facility associated with that exchange which is provided for the receipt of letters from members of another document exchange which are conveyed to the facility from a departure facility for that other exchange for collection by members of the first exchange,
- [F7 “ authorised promoter ” means—
- (a) a registered pool promoter, or
  - (b) a person who is or has at any time been an associate (within the meaning of section 184 of the M2 Consumer Credit Act 1974) of such a promoter, ]

[F7 “ authorised promoter ” means—

    - (a) the holder of a pool betting operating licence under Part 5 of the Gambling Act 2005,
    - (b) a person authorised under section 93(3) of that Act to do anything on behalf of the holder of a pool betting operating licence, and
    - (c) an associate, within the meaning of section 184 of the Consumer Credit Act 1974 (c. 39), of a person within paragraph (a) or (b),]

[F8“bank” means—

      - (a) the Bank of England,
      - (b) a deposit taker,
      - (c) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the Financial Services and Markets Act 2000 which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits, or
      - (d) the central bank of an EEA State other than the United Kingdom. ]

“banking instrument” means—

        - (a) any cheque or other instrument to which section 4 of the M3 Cheques Act 1957 applies,

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- (b) any document issued by a public officer which is intended to enable a person to obtain payment from a government department of the sum mentioned in the document,
- (c) any bill of exchange not falling within paragraph (a) or (b) or any promissory note,
- (d) any postal order or money order,
- (e) any credit transfer, credit advice or debit advice, or
- (f) any list of items, or any copy of an item, falling within paragraphs (a) to (e),

“brokers’ research” means any printed documentation prepared by persons licensed or authorised to trade on any regulated stock, share, futures, foreign exchange or commodities market which contains research, analysis and information relating to items traded on that market and which has not been prepared for or on the instructions of any particular person to whom it is addressed or delivered,

“charity” means a body, or the trustees of a trust, established for charitable purposes only,

“collection point” means any business premises where brokers’ research is printed or an international airport,

“departure facility”, in relation to a document exchange, means any box, receptacle or other facility associated with that exchange which is provided for the collection of letters of members of that exchange which are delivered to the facility by those members for conveyance to an arrival facility for another document exchange for collection by members of that other exchange,

[<sup>F9</sup>“deposit taker” means a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, but does not include—

- (a) a credit union, within the meaning of the Credit Unions Act 1979 <sup>F10</sup> or the Credit Unions (Northern Ireland) Order 1985 <sup>F11</sup>,
- (b) a specially authorised society within the meaning of section 7(1)(f) of the Friendly Societies Act 1974 <sup>F12</sup>,
- (c) a person who has permission to accept deposits only for the purpose of carrying on another regulated activity in accordance with that permission.]

“document exchange” means a system involving at least three members for the exchange of letters between members of the system,

“EEA State” means a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993,

“government department” includes any Minister of the Crown, any part of the Scottish Administration, the National Assembly for Wales, the Northern Ireland Assembly, any Northern Ireland Minister or Northern Ireland junior Minister and any Northern Ireland department,

“group” means a body corporate and all of its wholly owned subsidiaries taken together,

“overseas letter” means a letter which is directed to a specific person or address outside the United Kingdom,

“pre-paid letter” includes any letter which, in pursuance of arrangements made with a licence holder, does not require to be pre-paid,

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“registered pool promoter” has the meaning given by section 4(2) of the <sup>M4</sup>Betting, Gaming and Lotteries Act 1963, and

“relevant period” means—

- (a) in the case of a collection from an international airport, the period starting with 6.00 pm on any day other than Friday or Saturday and ending with 10.00 am on the next day and the period starting with 6.00 pm on any Friday or Saturday and ending with noon on the next day, and
- (b) in any other case, the period starting with 6.00 pm on any day and ending with 6.00 am on the next day.

[<sup>F13</sup>(6) In subsection (5), paragraph (c) of the definition of “bank” and the definition of “deposit taker” must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.]

#### Textual Amendments

- F3** S. 7(1A) inserted (1.1.2003) by [S.I. 2002/3050, reg. 3\(2\)](#)
- F4** Words in s. 7(2)(d) inserted (5.2.2002) by [S.I. 2002/200, art. 2\(2\)](#)
- F5** S. 7(2)(ia) inserted (1.1.2003) by [S.I. 2002/3050, reg. 3\(3\)](#)
- F6** Words in s. 7(3) substituted (5.2.2002) by [S.I. 2002/200, art. 2\(3\)](#)
- F7** Words in s. 7 substituted (E.W.S.) (1.9.2007) by [Gambling Act 2005 \(c. 19\), s. 358\(1\), Sch. 16 para. 15](#) (with [ss. 352, 354, Sch. 16 para. 21](#)); [S.I. 2006/3272, art. 2\(4\)\(5\), Sch. 3B](#) (with [arts. 7-11 arts. 7-12 Sch. 4](#)) (as inserted by [S.I. 2007/2169, arts. 3, 6, Sch.](#))
- F8** Definition of “bank” in s. 7(5) substituted (1.12.2001) by [S.I. 2001/3649, arts. 1, 362\(2\)](#)
- F9** Definition of “deposit taker” in s. 7(5) inserted (1.12.2001) by [S.I. 2001/3649, arts. 1, 362\(3\)](#)
- F10** [1979 c. 34](#)
- F11** [S.I. 1985/1205 \(N.I. 12\)](#).
- F12** [1974 c. 46](#).
- F13** S. 7(6) inserted (1.12.2001) by [S.I. 2001/3649, arts. 1, 362\(4\)](#)

#### Marginal Citations

- M2** [1974 c. 39](#).
- M3** [1957 c. 36](#).
- M4** [1963 c. 2](#).

[<sup>F14</sup>7A

Scope of the universal postal service: meaning

- (1) For the purposes of section 7(1A), a postal service is outside the scope of the universal postal service in the United Kingdom if it is not, or is not substantially similar to, a postal service within subsection (2).
- (2) A postal service is within this subsection if it is a postal service—
  - (a) which a postal operator is required to provide in the discharge of any duty to provide a universal postal service, or part of such a service,—
    - (i) imposed under section 3(2) as a condition of the operator’s licence under Part II, or
    - (ii) included in his licence as a condition by virtue of section 13(1), or



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- (b) which a postal operator is required to provide in the discharge of any duty to provide a postal service imposed on him by an order under section 102(2).
- (3) For the purposes of subsection (1), a postal service is not to be regarded as being not substantially similar to a postal service within subsection (2) merely because—
  - (a) the service in question does not comply with section 4(1),
  - (b) where the person providing the service provides it only to persons within a class specified by him for the purposes of its provision, it is not available to all persons within that class, or
  - (c) where the service has the characteristic of three day delivery, it also has one or more of the characteristics mentioned in subsection (4).
- (4) Those characteristics are that—
  - (a) the service provides for the collection of a postal packet at a place specified by the sender of the packet,
  - (b) the service provides for the delivery of a postal packet at or by a time specified by the sender of the packet,
  - (c) the service provides for the delivery of a postal packet to be recorded, and
  - (d) the service provides for postage to be chargeable in a form or manner, or to be paid at a time or in a manner, different from that provided for by a postal service within subsection (2).
- (5) For the purposes of subsection (3)(c), a postal service has the characteristic of three day delivery if, in all or the majority of cases in which a postal packet is sent by it, it seeks to deliver the packet before the end of the period of three working days beginning with the day after the day on which it is received or collected.]

#### Textual Amendments

**F14** S. 7A inserted (1.1.2003) by [S.I. 2002/3050, reg. 4](#)

### **8 Power to modify section 7 by order.**

- (1) The Secretary of State may by order modify section 7.
- (2) No such order shall be made except on the recommendation of the Commission.
- (3) Before making such a recommendation, the Commission shall consult—
  - (a) the Council,
  - (b) licence holders, and
  - (c) such other persons as the Commission considers appropriate.
- (4) Where the Commission makes such a recommendation but the Secretary of State decides not to make an order under this section, the Secretary of State shall lay before each House of Parliament a report containing the reasons for his decision.

### **9 General power to suspend the restriction.**

- (1) The Secretary of State may by order suspend the operation of section 6.
- (2) No such order shall be made except on the recommendation of the Commission.

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- (3) Where the Commission makes a recommendation to make an order under this section but the Secretary of State decides not to make such an order, the Secretary of State shall lay before each House of Parliament a report containing the reasons for his decision.

## **10 Emergency power to suspend the restriction.**

The Secretary of State may, if he considers it expedient in the national interest, by order suspend the operation of section 6—

- (a) for such period not exceeding six months as may be specified in the order, and
- (b) to such extent as may be so specified.

### *Licences*

## **11 Licences: general.**

- (1) The Commission may, on an application by a person under section 12, grant a licence to that person authorising him to do anything which—
- (a) would otherwise contravene section 6(1), and
  - (b) is specified in the licence or determined by or under it.
- (2) A licence shall not be valid unless it is in writing.
- (3) A licence shall not be transferred.
- (4) A licence shall, unless it previously ceases to have effect in accordance with its provisions, continue in force for the period specified in it or determined by or under it.

## **12 Licences: grant.**

- (1) An application for a licence shall be made in writing to the Commission in accordance with such requirements as the Commission may specify.
- (2) The Commission may, in particular, require the application to be accompanied by such reasonable application fee as it may determine.
- (3) Before granting a licence the Commission shall—
- (a) publish a notice in such manner as the Commission considers appropriate for bringing it to the attention of persons likely to be affected by the grant,
  - (b) serve a copy of the notice on the Council, and
  - (c) consider any representations made in accordance with the notice and not withdrawn.
- (4) The notice shall—
- (a) state that the Commission proposes to grant the licence and the reasons for so proposing, and
  - (b) state the period (not less than 28 days starting with the date of publication of the notice) within which representations may be made regarding the proposed licence.
- (5) As soon as practicable after granting a licence the Commission shall send a copy of it to the Secretary of State and the Council.

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#### Commencement Information

- II** S. 12 wholly in force; s. 12 not in force at Royal Assent see s. 130; s. 12(1)(2)(3)(a)(c)(4) in force at 6.11.2000 and s. 12 in force insofar as not already in force at 1.1.2001 by [S.I. 2000/2957](#), [art. 2\(1\)\(2\)](#), [Sch. 1](#), [Sch. 2](#) (with transitional provisions in [arts. 3-8](#))

#### [<sup>F15</sup>12A Licences: refusal

Where the Commission determines not to grant a licence (in whole or in part), it shall, as soon as practicable after making that determination, notify the applicant and give him a written statement of its reasons for the determination.]

#### Textual Amendments

- F15** S. 12A inserted (1.1.2003) by [S.I. 2002/3050](#), [reg. 5](#)

#### [<sup>F16</sup>12B Licences: determination of applications

- (1) For the purposes of this section—

“non-reservable service” means a service of conveying letters from one place to another, where each letter has either or both of the following characteristics, namely—

- (a) that it is conveyed in consideration of a payment of not less than [<sup>F17</sup>65 pence] made by or on behalf of the person for whom it is conveyed, or
- (b) that it weighs not less than [<sup>F17</sup>50 grams];

“reservable service” means a service of conveying letters from one place to another, where each letter—

- (a) is conveyed in consideration of a payment of less than [<sup>F18</sup>65 pence] made by or on behalf of the person for whom it is conveyed, and
- (b) weighs less than [<sup>F18</sup>50 grams];

and subsection (6) of section 6 applies as it applies for the purposes of that section.

- (2) Where an application for a licence seeks authority for the provision of a reservable service which no person (other than a universal service provider) is authorised by a licence to provide in the manner sought in the application—

- (a) in a case where the application seeks authority for the provision of that service alone, the Commission shall grant a licence if, and only if, it is satisfied that the requirements of subsections (5) and (6) will be met in relation to the licence (if and when it is granted), and
- (b) in any other case, the Commission shall grant a licence so far as the application relates to the provision of that service if, and only if, it is satisfied that (if and when the licence is granted) those requirements will be met in relation to so much of the licence as relates to the provision of that service.

- (3) Where an application for a licence seeks authority for the provision of a reservable service which a person (other than a universal service provider) is authorised by a licence to provide in the manner sought in the application—

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- (a) in a case where the application seeks authority for the provision of that service alone, the Commission shall grant a licence if, and only if, it is satisfied that the requirements of subsection (5) will be met in relation to the licence (if and when it is granted), and
  - (b) in any other case, the Commission shall grant a licence so far as the application relates to the provision of that service if, and only if, it is satisfied that (if and when the licence is granted) those requirements will be met in relation to so much of the licence as relates to the provision of that service.
- (4) Where an application for a licence seeks authority for the provision of a non-reservable service, the Commission—
- (a) in a case where the application seeks authority for the provision of that service alone, shall grant a licence if, and only if, it is satisfied that the requirements of subsection (5) will be met in relation to the licence (if and when it is granted), and
  - (b) in any other case, shall grant a licence so far as the application relates to the provision of that service if, and only if, it is satisfied that (if and when the licence is granted) those requirements will be met in relation to so much of the licence as relates to the provision of that service.
- (5) The requirements of this subsection are—
- (a) that the licence includes provisions designed to safeguard the provision of a universal postal service,
  - (b) that the licence includes provisions designed to ensure that the holder complies with such requirements as the Commission considers necessary for the purpose of—
    - (i) safeguarding confidentiality in connection with the sending, conveyance and delivery of letters;
    - (ii) safeguarding security where dangerous goods are transported;
    - (iii) safeguarding the confidentiality of information conveyed;
    - (iv) preserving privacy;
    - (v) protecting the environment;
    - (vi) promoting such policies as the Secretary of State may from time to time have in respect of regional planning and development, and
  - (c) that the holder of the licence is in a position to comply with any requirement imposed on him by provision made under paragraph (a) or (b).
- (6) The requirement of this subsection is that—
- (a) the grant of the licence, and
  - (b) the grant to the holder or any other person of any licence of a similar nature, does not endanger the ability of a universal service provider to provide basic postal services.
- (7) In subsection (6) “basic postal services”, in relation to a universal service provider, means such postal services as he is required to provide in the discharge of any duty to provide a universal postal service, or part of such a service,—
- (a) imposed under section 3(2) as a condition of his licence,
  - (b) included in his licence as a condition by virtue of section 13(1), or
  - (c) imposed on him by an order under section 102(2).]

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#### **Textual Amendments**

- F16** S. 12B inserted (1.1.2003) by [S.I. 2002/3050, reg. 6](#)
- F17** Words in s. 12B substituted (1.1.2006) by [Postal Services \(EC Directive\) Regulations 2002 \(S.I. 2002/3050\), regs. 1\(5\), 8\(a\)](#)
- F18** Words in s. 12B substituted (1.1.2006) by [Postal Services \(EC Directive\) Regulations 2002 \(S.I. 2002/3050\), regs. 1\(5\), 8\(b\)](#)

### **13 Licences: conditions and other provisions.**

- (1) A licence may include such provisions as the Commission considers appropriate; and a provision need not relate to anything authorised by the licence.
- (2) The provisions of a licence may, in particular, require a payment to the Commission on the grant of the licence, or payments while the licence is in force, or both, of such amount or amounts as may be specified in the licence or determined by or under it.
- (3) Such provisions of a licence as the Commission considers appropriate may be expressed as conditions.
- (4) The Commission shall consult any person who is to be granted a licence about any conditions that the Commission proposes to include in the licence (other than any condition which the Commission is required to include in the licence by virtue of this Act).
- (5) References in this Act to a condition of a licence are to a provision of a licence which is expressed as a condition.
- (6) Subject to subsection (7) no action shall lie or, in Scotland, be competent in respect of a contravention by a licence holder of a condition of his licence.
- (7) Subsection (6) does not affect—
  - (a) a right of action in respect of an act or omission which takes place in the course of the provision of any postal services or the doing of anything else to which the condition relates,
  - (b) the power to make an order under section 22 or 23, confirm an order made under section 23 or impose a penalty under section 30,
  - (c) the duty to comply with any such order or pay any such penalty and a power to bring proceedings in respect of such a duty.

#### *Modification of licences*

### **14 Modification of licences by agreement.**

- (1) The Commission may modify the conditions of a licence if its holder consents to the modifications.
- (2) Before making modifications under this section the Commission shall—
  - (a) give notice of the modifications, and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- (3) The notice shall state—

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- (a) that the Commission proposes to make the modifications,
  - (b) the effect of the modifications,
  - (c) the reasons for the modifications, and
  - (d) the period (not less than 28 days starting with the date of publication of the notice) within which representations may be made in relation to the proposed modifications.
- (4) A notice under subsection (2) shall be given by—
- (a) serving a copy of the notice on the licence holder, the Council and the Secretary of State, and
  - (b) publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.
- (5) The Secretary of State may, within the period stated under subsection (3)(d), direct the Commission not to make any proposed modification if he considers that the modification should be made, if at all, under section 17.
- (6) As soon as practicable after making modifications under this section the Commission shall send a copy of the modifications to the licence holder, the Council and the Secretary of State.

## **15 References to the Competition Commission.**

- (1) The Commission may make to the Competition Commission a reference requiring the Competition Commission to investigate and report on—
- (a) whether any matters, which are specified in the reference and which relate to the provision of postal services whose provision is authorised or required by a licence, operate against the public interest or may be expected to do so,
  - (b) if so, whether the effects adverse to the public interest which the matters have or may be expected to have could be remedied or prevented by modifying the conditions of the licence.
- (2) The Commission may at any time by notice given to the Competition Commission vary a reference by adding to the matters specified in it or by excluding from it one or more of those matters; and on receiving a notice the Competition Commission shall give effect to the variation.
- (3) The Commission may, for the purpose of assisting the Competition Commission in its investigation on the reference or the reference as varied, specify in the reference or a variation of it—
- (a) any effects adverse to the public interest which it considers that the matters specified in the reference or variation have or may be expected to have,
  - (b) any modifications of the conditions of the licence by which it considers that those effects could be remedied or prevented.
- (4) As soon as practicable after making a reference or variation the Commission shall give notice of it by—
- (a) serving a copy of the reference or variation on the licence holder and the Secretary of State, and
  - (b) publishing particulars of the reference or variation in such manner as the Commission considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it.

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- (5) The Secretary of State may, before the end of the period of 28 days starting with the day on which he receives the copy, direct the Competition Commission not to proceed with the reference or not to give effect to the variation.
- (6) The Commission shall, for the purpose of assisting the Competition Commission in carrying out an investigation on a reference under this section, give to the Competition Commission—
  - (a) any information the Commission has which relates to matters within the scope of the investigation and which the Competition Commission requests,
  - (b) any information the Commission has which relates to matters within the scope of the investigation and which the Commission considers that it would be appropriate for it to give without a request,
  - (c) any other assistance which the Commission is able to give in relation to matters within the scope of the investigation and which the Competition Commission requests.
- (7) In carrying out the investigation concerned the Competition Commission shall have regard to any information given under subsection (6).
- (8) In deciding under this section whether a matter operates, or may be expected to operate, against the public interest the Competition Commission shall have regard to the matters as respects which duties are imposed on the Commission by sections 3 and 5.

#### [<sup>F19</sup>15A References under section 15: time limits

- (1) Every reference under section 15 shall specify a period (not longer than six months beginning with the date of the reference) within which a report on the reference is to be made.
- (2) A report of the Competition Commission on a reference under section 15 shall not have effect (and no action shall be taken in relation to it under section 17) unless the report is made before the end of the period specified in the reference or such further period (if any) as may be allowed by the Commission under subsection (3).
- (3) The Commission may, if it has received representations on the subject from the Competition Commission and is satisfied that there are special reasons why the report cannot be made within the period specified in the reference, extend that period by no more than six months.
- (4) No more than one extension is possible under subsection (3) in relation to the same reference.
- (5) The Commission shall, in the case of an extension made by it under subsection (3)—
  - (a) publish that extension in such manner as it considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it; and
  - (b) send a copy of what has been published by it under paragraph (a) to the licence holder and the Secretary of State.]

#### Textual Amendments

- F19** Ss. 15A, 15B inserted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278(1), 279, [Sch. 25 para. 42\(2\)](#); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

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## 15B <sup>F20</sup> References under section 15: application of Enterprise Act 2002

- (1) The following sections of Part 3 of the Enterprise Act 2002 shall apply, with the modifications mentioned in subsections (2) and (3), for the purposes of references under section 15 as they apply for the purposes of references under that Part—
  - (a) section 109 (attendance of witnesses and production of documents etc.);
  - (b) section 110 (enforcement of powers under section 109: general);
  - (c) section 111 (penalties);
  - (d) section 112 (penalties: main procedural requirements);
  - (e) section 113 (payments and interest by instalments);
  - (f) section 114 (appeals in relation to penalties);
  - (g) section 115 (recovery of penalties); and
  - (h) section 116 (statement of policy).
- (2) Section 110 shall, in its application by virtue of subsection (1), have effect as if—
  - (a) subsection (2) were omitted; and
  - (b) in subsection (9) the words from “or section” to “section 65(3)” were omitted.
- (3) Section 111(5)(b)(ii) shall, in its application by virtue of subsection (1), have effect as if—
  - (a) for the words “published (or, in the case of a report under section 50 or 65, given)” there were substituted “made”;
  - (b) for the words “published (or given)”, in both places where they appear, there were substituted “made”; and
  - (c) the words “by this Part” were omitted.
- (4) Section 117 of the Enterprise Act 2002 (false or misleading information) shall apply in relation to functions of the Competition Commission in connection with references under section 15 as it applies in relation to its functions under Part 3 of that Act but as if, in subsections (1)(a) and (2), the words [<sup>F21</sup>“the OFT, OFCOM,”] and “or the Secretary of State” were omitted.
- (5) Provisions of Part 3 of the Enterprise Act 2002 which have effect for the purposes of sections 109 to 117 of that Act (including, in particular, provisions relating to offences and the making of orders) shall, for the purposes of the application of those sections by virtue of subsection (1) or (4), have effect in relation to those sections as applied by virtue of those subsections.
- (6) Accordingly, corresponding provisions of this Act shall not have effect in relation to those sections as applied by virtue of those subsections.

### Textual Amendments

**F20** Ss. 15A and 15B inserted (20.06.2003) by 2002 c. 40, ss. 278(1), 279, **Sch. 25 para. 42(2)**

**F21** Words in s. 15B(4) substituted (29.12.2003) by **Communications Act 2003 (c. 21)**, s. 411(2), **Sch. 16 para. 6(2)** (with **Sch. 18**); S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

## 16 Reports on references.

- (1) In making a report on a reference under section 15 the Competition Commission—



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- (a) shall include definite conclusions on the questions contained in the reference and such an account of its reasons for the conclusions as it considers facilitates a proper understanding of the questions and of the conclusions,
  - (b) if it concludes that any of the matters specified in the reference operate against the public interest or may be expected to do so, shall specify the effects adverse to the public interest which the matters have or may be expected to have,
  - (c) if it concludes that any adverse effects so specified could be remedied or prevented by modifications of the conditions of the licence, shall specify modifications by which the effects could be remedied or prevented.
- (2) A report of the Competition Commission on a reference under section 15 shall be made to the Commission.
- (3) The Commission—
  - (a) shall, on receiving such a report, serve a copy on the Secretary of State, and
  - (b) shall, after the end of the specified period and subject to subsection (4), publish the report in such manner as the Commission considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it.
- (4) If the Secretary of State considers that the publication of any matter would be against the public interest or any person's commercial interests, he may before the end of the specified period direct the Commission to exclude the matter from every copy of the report to be published as mentioned in subsection (3)(b).
- (5) In this section “the specified period” means the period of 14 days starting with the day on which the Secretary of State receives the copy under subsection (3)(a).

#### **[<sup>F22</sup>16A Reports on references under section 15: further provision**

- (1) For the purposes of sections 17 and 18, a conclusion contained in a report of the Competition Commission is to be disregarded if the conclusion is not that of at least two-thirds of the members of the group constituted in connection with the reference concerned in pursuance of paragraph 15 of Schedule 7 to the Competition Act 1998.
- (2) If a member of a group so constituted disagrees with any conclusions contained in a report made on a reference under section 15 as the conclusions of the Competition Commission, the report shall, if the member so wishes, include a statement of his disagreement and of his reasons for disagreeing.
- (3) For the purposes of the law relating to defamation, absolute privilege attaches to any report made by the Competition Commission on a reference under section 15.
- (4) In making any report on a reference under section 15 the Competition Commission must have regard to the following considerations before disclosing any information.
- (5) The first consideration is the need to exclude from disclosure (so far as practicable) any information whose disclosure the Competition Commission thinks is contrary to the public interest
- (6) The second consideration is the need to exclude from disclosure (so far as practicable)
  - (a) commercial information whose disclosure the Competition Commission thinks might significantly harm the legitimate business interests of the undertaking to which it relates, or

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- (b) information relating to the private affairs of an individual whose disclosure the Competition Commission thinks might significantly harm the individual's interests.
- (7) The third consideration is the extent to which the disclosure of the information mentioned in subsection (6)(a) or (b) is necessary for the purposes of the report.]

#### Textual Amendments

**F22** S. 16A inserted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278(1), 279, [Sch. 25 para. 42\(3\)](#); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

### 17 Modification following report.

- (1) This section applies if a report of the Competition Commission on a reference under section 15—
- (a) includes conclusions to the effect that any of the matters specified in the reference operate against the public interest or may be expected to do so,
  - (b) specifies effects adverse to the public interest which the matters have or may be expected to have,
  - (c) includes conclusions to the effect that the effects could be remedied or prevented by modifications of the conditions of the licence, and
  - (d) specifies modifications by which the effects could be remedied or prevented.
- (2) The Commission shall, subject as follows, make such modifications of the conditions of the licence as it considers are needed for the purpose of remedying or preventing the adverse effects specified in the report.
- (3) Before making any such modifications, the Commission shall—
- (a) have regard to the modifications specified in the report,
  - (b) give notice of its proposed modifications, and
  - (c) consider any representations made in accordance with the notice and not withdrawn.
- (4) If, after considering any such representations, the Commission decides to make any modifications for the purpose of remedying or preventing the adverse effects specified in the report, the Commission shall give notice of the modifications to the Competition Commission.
- (5) If no direction is given to the Commission under section 18(2) within the period of four weeks starting with the date on which the notice under subsection (4) is given, the Commission shall make the modifications set out in the notice.
- (6) If a direction is given to the Commission under section 18(2)(b) within the period of four weeks starting with the date on which the notice under subsection (4) is given, the Commission shall make the modifications which are set out in the notice and are not specified in the direction.

### 18 Power of intervention of the Competition Commission.

- (1) The Competition Commission may give a direction under subsection (2) if it considers that the modifications set out in a notice under section 17(4) are not the modifications

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which are needed for the purpose of remedying or preventing all or any of the adverse effects specified by it in the report as effects which could be remedied or prevented by modifications.

- (2) The Competition Commission may direct the Commission—
  - (a) not to make the modifications concerned, or
  - (b) not to make such of the modifications as may be specified in the direction.
- (3) Subject to subsection (4), the Competition Commission may only give a direction under subsection (2) within the period of four weeks starting with the date on which the notice under section 17(4) is given.
- (4) The Secretary of State may, on the application of the Competition Commission and within the period mentioned in subsection (3), direct that the period (and, accordingly, the period mentioned in section 17(5) and (6)) shall be extended by 14 days.
- (5) The Competition Commission may itself make such modifications as it considers are needed for the purpose of remedying or preventing—
  - (a) if the direction was given under subsection (2)(a), the adverse effects specified in the report as effects which could be remedied or prevented by modifications,
  - (b) if the direction was given under subsection (2)(b), such of those adverse effects as are not remedied or prevented by the modifications made by the Commission under section 17(6).
- (6) In exercising its functions under subsection (5), the Competition Commission shall have regard to the matters to which the Commission is required to have regard when determining the conditions of a licence.
- (7) The Commission shall, for the purpose of assisting the Competition Commission in exercising its functions under this section, give to the Competition Commission—
  - (a) any information the Commission has which relates to the exercise of the functions and which the Competition Commission requests,
  - (b) any information the Commission has which relates to the exercise of the functions and which the Commission considers that it would be appropriate for it to give without a request,
  - (c) any other assistance which the Commission is able to give in relation to the exercise of the functions and which the Competition Commission requests.
- (8) In exercising its functions under this section, the Competition Commission shall have regard to any information given under subsection (7).

## **19 Procedural requirements in relation to modifications.**

- (1) A notice under section 17(3) shall state—
  - (a) that the Commission proposes to make the modifications,
  - (b) the effect of the modifications,
  - (c) the reasons for the modifications, and
  - (d) the period (not less than 28 days starting with the date of publication of the notice) within which representations may be made in relation to the proposed modifications.
- (2) Such a notice shall be given by—

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- (a) serving a copy of the notice on the licence holder, and
  - (b) publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.
- (3) A notice under section 17(4) shall state—
  - (a) that the Commission proposes to make the modifications,
  - (b) the effect of the modifications, and
  - (c) the reasons for the modifications.
- (4) The Commission shall include with such a notice—
  - (a) a copy of any representations made in accordance with the notice under section 17(3) and not withdrawn, and
  - (b) such information (including information about any change in circumstances since the report was made) as the Commission considers it desirable for the Competition Commission to have.
- (5) As soon as practicable after making modifications under section 17 the Commission shall send a copy of the modifications to the licence holder, the Council and the Secretary of State.
- (6) The Competition Commission shall give notice of any direction given by it under section 18(2).
- (7) The notice shall state—
  - (a) the modifications proposed by the Commission,
  - (b) the terms of the direction, and
  - (c) the reasons for giving it.
- (8) Before making modifications under section 18(5) the Competition Commission shall—
  - (a) give notice of the modifications, and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- (9) The notice shall state—
  - (a) that the Competition Commission proposes to make the modifications,
  - (b) the effect of the modifications,
  - (c) the reasons for the modifications, and
  - (d) the period (not less than 28 days starting with the date of publication of the notice) within which representations may be made in relation to the proposed modifications.
- (10) A notice under subsection (6) or (8) shall be given by—
  - (a) serving a copy of the notice on the licence holder, the Commission and the Secretary of State, and
  - (b) publishing the notice in such manner as the Competition Commission considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.
- (11) As soon as practicable after making modifications under section 18(5) the Competition Commission shall send a copy of the modifications to the licence holder, the Commission, the Council and the Secretary of State.

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### **[<sup>F23</sup>19A Sections 18 and 19: further provision**

- (1) For the purposes of the law relating to defamation, absolute privilege attaches to any notice under section 19(6) or (8).
- (2) In giving any notice under section 19(6) or (8), the Competition Commission must have regard to the following considerations before disclosing any information.
- (3) The first consideration is the need to exclude from disclosure (so far as practicable) any information whose disclosure the Competition Commission thinks is contrary to the public interest.
- (4) The second consideration is the need to exclude from disclosure (so far as practicable)
  - (a) commercial information whose disclosure the Competition Commission thinks might significantly harm the legitimate business interests of the undertaking to which it relates, or
  - (b) information relating to the private affairs of an individual whose disclosure the Competition Commission thinks might significantly harm the individual's interests.
- (5) The third consideration is the extent to which the disclosure of the information mentioned in subsection (4)(a) or (b) is necessary for the purposes of the notice.
- (6) The following sections of Part 3 of the Enterprise Act 2002 shall apply, with the modifications mentioned in subsections (7) and (8), in relation to any investigation by the Competition Commission for the purposes of the exercise of its functions under section 18 as they apply for the purposes of any investigation on references under that Part—
  - (a) section 109 (attendance of witnesses and production of documents etc. );
  - (b) section 110 (enforcement of powers under section 109: general);
  - (c) section 111 (penalties);
  - (d) section 112 (penalties: main procedural requirements);
  - (e) section 113 (payments and interest by instalments);
  - (f) section 114 (appeals in relation to penalties);
  - (g) section 115 (recovery of penalties); and
  - (h) section 116 (statement of policy).
- (7) Section 110 shall, in its application by virtue of subsection (6), have effect as if—
  - (a) subsection (2) were omitted;
  - (b) in subsection (4), for the words from “the publication” to “reference concerned” there were substituted “the sending of a copy to the Secretary of State under section 19(11) of the Postal Services Act 2000 of the modifications made by the Competition Commission in connection with the reference concerned or, if no direction has been given by the Competition Commission under section 18(2) of that Act in connection with the reference concerned and within the period permitted for that purpose, the latest day on which it was possible to give such a direction within the permitted period”; and
  - (c) in subsection (9) the words from “or section” to “section 65(3)” were omitted.
- (8) Section 111(5)(b) shall, in its application by virtue of subsection (6), have effect as if for sub-paragraph (ii) there were substituted—

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- (“ if earlier, the day on which a copy of the modifications made by the Competition Commission in connection with the reference concerned is sent to the Secretary of State under section 19(11) of the Postal Services Act 2000 or, if no direction is given by the Competition Commission under section 18(2) of that Act in connection with the reference concerned and within the period permitted for that purpose, the latest day on which such a direction may be given within the permitted period. ”
- (9) Section 117 of the Enterprise Act 2002 (false or misleading information) shall apply in relation to functions of the Competition Commission in connection with the exercise of its functions under section 18 as it applies in relation to its functions under Part 3 of that Act but as if, in subsections (1)(a) and (2), the words [<sup>F24</sup> “the OFT, OFCOM,”] and “or the Secretary of State” were omitted.
- (10) Provisions of Part 3 of the Enterprise Act 2002 which have effect for the purposes of sections 109 to 117 of that Act (including, in particular, provisions relating to offences and the making of orders) shall, for the purposes of the application of those sections by virtue of subsection (6) or (9), have effect in relation to those sections as applied by virtue of those subsections.
- (11) Accordingly, corresponding provisions of this Act shall not have effect in relation to those sections as applied by virtue of those subsections.]

#### Textual Amendments

- F23** S. 19A inserted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278(1), 279, [Sch. 25 para. 42\(4\)](#); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)
- F24** Words in [s. 19A\(9\)](#) substituted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 16 para. 6\(3\)](#) (with [Sch. 18](#)); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

## <sup>F25</sup>20 Application of competition legislation to references etc.

#### Textual Amendments

- F25** S. 20 repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 42\(5\)](#), [Sch. 26](#); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

## 21 Modification by order under other enactments.

- [<sup>F26</sup>(1) Where the Office of Fair Trading, the Competition Commission or (as the case may be) the Secretary of State (in this section “ the relevant authority ”) makes a relevant order, the order may also provide for the modification of the conditions of a licence to such extent as may appear to the relevant authority to be requisite or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.
- (2) In subsection (1) above “ relevant order ” means—
- (a) an order under section 75, 83 or 84 of, or paragraph 5, 10 or 11 of Schedule 7 to, the Enterprise Act 2002 where—

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- (i) one or more than one of the enterprises which have, or may have, ceased to be distinct enterprises was engaged in the provision of postal services; or
  - (ii) one or more than one of the enterprises which will or may cease to be distinct enterprises is engaged in the provision of postal services; or
  - (b) an order under section 160 or 161 of that Act where the feature, or combination of features, of the market in the United Kingdom for goods or services which prevents, restricts or distorts competition relates to the provision of postal services.]
- (5) As soon as practicable after making modifications under this section the [<sup>F27</sup>relevant authority] shall send a copy of the modifications to the licence holder, the Commission and the Council.
- [<sup>F28</sup>(6) Expressions used in subsection (2) above and in Part 3 or (as the case may be) Part 4 of the Enterprise Act 2002 have the same meanings in that subsection as in that Part.]

#### Textual Amendments

- F26** S. 21(1)(2) substituted for s. 21(1)-(4) (20.6.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 9 para. 14\(2\)](#); S.I. 2003/1397, art. 2(1), Sch.
- F27** Words in s. 21(5) substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 9 para. 14\(3\)](#); S.I. 2003/1397, art. 2(1), Sch.
- F28** S. 21(6) substituted (20.6.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 9 para. 14\(4\)](#); S.I. 2003/1397, art. 2(1), Sch.

#### Modifications etc. (not altering text)

- C1** S. 21(2)(a) amended (20.6.2003) by [Enterprise Act 2002 \(Protection of Legitimate Interests\) Order 2003 \(S.I. 2003/1592\), art. 1\(1\), Sch. 4 para. 16](#)

### *Enforcement orders*

## 22 Final orders.

- (1) If the Commission is satisfied that a licence holder—
- (a) is contravening any condition of his licence, or
  - (b) is likely to contravene any such condition,
- the Commission shall by order make such provision as is needed for the purpose of securing compliance with the condition.
- (2) An order under subsection (1)—
- (a) shall require the licence holder to do, or not to do, such things as are specified in the order or are of a description so specified,
  - (b) shall take effect at such time, being the earliest practicable time, as is determined by or under the order, and
  - (c) may be revoked at any time by the Commission.
- (3) An order under subsection (1) shall have effect until such time (if any) as the Commission revokes it.
- (4) This section is subject to section 25.

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(5) In this Act “final order” means an order under this section.

### **23 Provisional orders.**

(1) If—

- (a) the Commission is not satisfied that a licence holder is contravening any condition of his licence or is likely to contravene any such condition, but
- (b) the requirements in subsection (2) are met,

the Commission shall by order make such provision as it considers is needed for the purpose of securing compliance with the licence condition.

(2) The requirements are that it appears to the Commission—

- (a) that the licence holder is contravening any condition of his licence or is likely to contravene any such condition, and
- (b) that an order under subsection (1) is needed.

(3) In deciding whether an order under subsection (1) is needed the Commission shall have regard, in particular, to the extent to which any person is likely to sustain loss or damage as a result of anything likely to be done or omitted in contravention of the licence condition before a final order may be made.

(4) An order under subsection (1)—

- (a) shall require the licence holder to do, or not to do, such things as are specified in the order or are of a description so specified,
- (b) shall take effect at such time, being the earliest practicable time, as is determined by or under the order, and
- (c) may be revoked at any time by the Commission.

(5) An order under subsection (1) shall, subject to any earlier revocation by the Commission, have effect for such period not exceeding three months as is determined by or under the order and which starts when the order takes effect.

(6) An order under subsection (1) shall not be made in any case where a previous such order has been made in respect of the same contravention or apprehended contravention by the licence holder.

(7) This section is subject to section 25.

(8) In this Act “provisional order” means an order under this section.

### **24 Confirmation of provisional orders.**

(1) The Commission shall confirm a provisional order (with or without modifications) if—

- (a) it is satisfied that the licence holder is contravening any condition of his licence or is likely to contravene any such condition, and
- (b) it considers that confirmation of the order (with any modifications) is needed for the purpose of securing compliance with the condition.

(2) Where the Commission confirms a provisional order under subsection (1), the order continues to have effect until such time (if any) as the Commission revokes it.

(3) This section is subject to section 25.



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## **25 Exceptions from duty to make or confirm enforcement orders.**

The Commission shall not make a final order or make or confirm a provisional order if it is satisfied that—

- (a) the duties imposed on it by sections 3 and 5 preclude it from doing so,
- (b) the licence holder has agreed to take and is taking all the steps that the Commission considers appropriate to secure or facilitate compliance with the condition concerned, or
- (c) the contraventions or apprehended contraventions are trivial.

## **26 Enforcement orders: main procedural requirements.**

(1) Before making a final order or confirming a provisional order, the Commission shall—

- (a) give notice of the proposed order or confirmation, and
- (b) consider any representations made in accordance with the notice and not withdrawn.

(2) The notice shall state—

- (a) that the Commission proposes to make or confirm the order,
- (b) the effect of the order,
- (c) the condition for the purpose of securing compliance with which the order is to be made or confirmed,
- (d) the acts or omissions which the Commission considers constitute or would constitute contraventions of that condition,
- (e) any other facts which the Commission considers justify the making or confirmation of the order, and
- (f) the period (not less than 21 days starting with the date of publication of the notice) within which representations may be made in relation to the proposed order or confirmation.

(3) A notice under subsection (1) shall be given by—

- (a) serving on the licence holder and the Council a copy of the notice and a copy of the order proposed (or proposed to be confirmed), and
- (b) publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.

(4) As soon as practicable after making a final order, or making or confirming a provisional order, the Commission shall—

- (a) serve a copy of the order on the licence holder and the Council, and
- (b) publish the order in such manner as the Commission considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it.

(5) This section has effect subject to section 27.

## **27 Enforcement orders: further procedural requirements.**

(1) The Commission shall not make a final order with modifications, or confirm a provisional order with modifications, unless—

- (a) the licence holder consents to the modifications and the Commission complies with the requirements of subsection (2), or

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- (b) the Commission complies with the requirements of subsection (3).
- (2) The requirements of this subsection are that the Commission shall—
    - (a) give notice of the proposed modifications to the Council, and
    - (b) consider any representations made in accordance with the notice and not withdrawn.
  - (3) The requirements of this subsection are that the Commission shall—
    - (a) give notice of the proposed modifications, and
    - (b) consider any representations made in accordance with the notice and not withdrawn.
  - (4) A notice under subsection (2) or (3) shall state—
    - (a) the proposed modifications,
    - (b) the reasons for them, and
    - (c) the period (not less than 7 days starting with the date of the giving of the notice under subsection (2) or (as the case may be) the publication of the notice under subsection (3)) within which representations may be made in relation to the proposed modifications.
  - (5) Before revoking a final order or a provisional order which has been confirmed, the Commission shall—
    - (a) give notice of the proposed revocation, and
    - (b) consider any representations made in accordance with the notice and not withdrawn.
  - (6) The notice shall state—
    - (a) that the Commission proposes to revoke the order,
    - (b) the effect of the proposed revocation, and
    - (c) the period (not less than 21 days starting with the date of publication of the notice) within which representations may be made in relation to the proposed revocation.
  - (7) As soon as practicable after revoking a final order or a provisional order which has been confirmed, the Commission shall give notice of the revocation.
  - (8) If, after giving notice under section 26(1) or subsection (3) or (5) of this section, the Commission decides not to make a final order or confirm a provisional order or (as the case may be) revoke the order, it shall give notice of that decision.
  - (9) If, after giving notice under subsection (2), the Commission decides not to make a final order or confirm a provisional order, it shall give notice of that decision to the licence holder concerned and the Council.
  - (10) A notice under subsection (2) shall be given by serving a copy of the notice on the Council and a notice under subsection (9) shall be given by serving a copy of the notice on the licence holder and the Council.
  - (11) Any other notice under this section shall be given by—
    - (a) serving a copy of the notice on the licence holder and the Council, and
    - (b) publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.

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## **28 Validity of enforcement orders.**

- (1) This section applies if a licence holder to whom a final or provisional order relates is aggrieved by the order and wants to question its validity on the ground that—
  - (a) its making or confirmation was not within the powers conferred by section 22, 23 or (as the case may be) 24, or
  - (b) any of the requirements of sections 26 and 27 have not been complied with in relation to the making or confirmation of the order.
- (2) The licence holder may apply to the court.
- (3) If a copy of the order as made or confirmed was served on the licence holder the application to the court shall be made within the period of 42 days starting with the day on which the copy was served on the licence holder.
- (4) On an application under this section the court may quash the order or any provision of it if the court considers it appropriate to do so and is satisfied that—
  - (a) the making or confirmation of the order was not within the powers conferred by section 22, 23 or (as the case may be) 24, or
  - (b) any of the requirements of sections 26 and 27 have not been complied with in relation to the making or confirmation of the order and the interests of the licence holder have been substantially prejudiced by the non-compliance.
- (5) Where an application has been made under this section, the licence holder concerned shall not be required to comply with the order to which the application relates until the application has been determined, withdrawn or otherwise dealt with; and section 29 shall be construed accordingly.
- (6) Except as provided by this section, the validity of a final or provisional order shall not be questioned in any legal proceedings.
- (7) In this section “the court” means,
  - (a) in relation to England and Wales or Northern Ireland, the High Court,
  - (b) in relation to Scotland, the Court of Session.

## **29 Effect of enforcement orders.**

- (1) The licence holder to whom a final or provisional order relates shall have a duty to comply with it.
- (2) The duty shall be owed to any person who may be affected by a contravention of the order.
- (3) Any breach of the duty which causes such a person to sustain loss or damage shall be actionable by him.
- (4) In any proceedings brought against a licence holder under subsection (3) it shall be a defence for the licence holder to show that he took all reasonable steps and exercised all due diligence to avoid contravening the order.
- (5) Compliance with a final or provisional order shall also be enforceable by civil proceedings brought by the Commission for an injunction or for interdict or for any other appropriate relief or remedy.

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- (6) Subsection (5) shall not prejudice any right that a person may have by virtue of subsection (3) to bring civil proceedings for contravention or apprehended contravention of a final or provisional order.

### *Financial penalties*

## **30 Financial penalties.**

- (1) If the Commission is satisfied that a licence holder—
- (a) has contravened any condition of his licence, or
  - (b) is contravening any such condition,
- the Commission may impose on the licence holder a penalty of such amount as is reasonable.
- (2) No such penalty shall exceed 10 per cent. of the turnover of the licence holder (determined in accordance with provisions specified in an order made by the Secretary of State).
- (3) The Commission may impose a penalty under this section in respect of a contravention of a licence condition irrespective of whether it has made or may make a final or provisional order in respect of that contravention.

### **Commencement Information**

- I2** S. 30 wholly in force; s. 30 not in force at Royal Assent see s. 130; s. 30(2) in force at 6.11.2000 and s. 30 in force insofar as not already in force at 26.3.2001 by [S.I. 2000/2957](#), [art. 2\(1\)\(3\)](#), [Sch. 1](#), [Sch. 3](#) (with transitional provisions in [arts. 3-8](#))

## **31 Statement of policy in relation to penalties.**

- (1) The Commission shall prepare and publish a statement of policy in relation to the imposition of penalties and the determination of their amount.
- (2) In deciding whether to impose a penalty, and in determining the amount of any penalty, the Commission shall have regard to the statement of policy which was most recently published at the time when the contravention concerned occurred.
- (3) The Commission may revise its statement of policy and, where it does so, it shall publish the revised statement.
- (4) Publication under this section shall be in such manner as the Commission considers appropriate for the purpose of bringing the matters contained in the statement of policy to the attention of persons likely to be affected by them.
- (5) The Commission shall consult the Council and such other persons as it considers appropriate when preparing or revising its statement of policy.

## **32 Imposition of penalties: main procedural requirements.**

- (1) Before imposing a penalty under section 30, the Commission shall—
- (a) give notice of the proposed penalty, and

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- (b) consider any representations made in accordance with the notice and not withdrawn.
- (2) The notice shall state—
- (a) that the Commission proposes to impose a penalty,
  - (b) the amount of the proposed penalty,
  - (c) the condition which the Commission is satisfied has been contravened or is being contravened,
  - (d) the acts or omissions which the Commission considers constitute the contravention,
  - (e) any other facts which the Commission considers justify the imposition of a penalty and the amount of the proposed penalty,
  - (f) the manner in which, and place at which, it is proposed to require the penalty to be paid, and
  - (g) the period (not less than 21 days starting with the date of publication of the notice) within which representations may be made in relation to the proposed penalty.
- (3) As soon as practicable after imposing a penalty, the Commission shall give notice of the penalty.
- (4) The notice shall state—
- (a) that the Commission has imposed a penalty on the licence holder,
  - (b) the amount of the penalty,
  - (c) the condition which the Commission is satisfied has been contravened or is being contravened,
  - (d) the acts or omissions which the Commission considers constitute the contravention,
  - (e) any other facts which the Commission considers justify the imposition of a penalty and the amount of the penalty,
  - (f) the manner in which, and place at which, the penalty is required to be paid, and
  - (g) the date or dates, no earlier than the end of the period of 42 days from the date of service of the notice on the licence holder, by which the penalty or (as the case may be) different portions of it are required to be paid.
- (5) The licence holder may, within 21 days of the date of service on him of a notice under subsection (3), apply to the Commission for it to specify a different date or (as the case may be) different dates by which the penalty or (as the case may be) different portions of it are to be paid.
- (6) A notice under this section shall be given by—
- (a) serving a copy of the notice on the licence holder and the Council, and
  - (b) publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.
- (7) This section has effect subject to section 33.

### **33 Penalties: further procedural requirements.**

- (1) The Commission shall not vary the proposed amount of a penalty as stated in a notice under section 32(1) unless—

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- (a) the licence holder consents to the variation, or
  - (b) the Commission complies with the requirements of subsection (2).
- (2) The requirements are that the Commission shall—
  - (a) give notice of the proposed variation, and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- (3) The notice shall state—
  - (a) the proposed variation,
  - (b) the reasons for it, and
  - (c) the period (not less than 7 days starting with the date of publication of the notice) within which representations may be made in relation to the proposed variation.
- (4) If, after giving notice under section 32(1) or subsection (2) of this section, the Commission decides not to impose a penalty, it shall give notice of that decision.
- (5) A notice under this section shall be given by—
  - (a) serving a copy of the notice on the licence holder and the Council, and
  - (b) publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.

### **34 Time-limits on the imposition of penalties.**

- (1) No penalty shall be imposed under section 30 in respect of a contravention of a licence condition—
  - (a) where a provisional order has been made but not confirmed in respect of the contravention and no final order has been made in respect of it, unless a copy of the notice under section 32(1) has been served on the licence holder no later than six months starting with the date on which the provisional order was made,
  - (b) where a provisional order has been confirmed or a final order made in respect of the contravention, unless a copy of the notice under section 32(1) has been served on the licence holder no later than three months starting with the date on which the order was confirmed or (as the case may be) made.
- (2) No penalty shall be imposed under section 30 in respect of a contravention of a licence condition for which no provisional or final order has been made unless a copy of the notice under section 32(1) has been served on the licence holder within twelve months from the time of the contravention.

### **35 Interest and payments by instalment.**

- (1) If the whole or any portion of a penalty is not paid by the date by which it is required to be paid, the unpaid balance from time to time shall carry interest at the rate for the time being specified in section 17 of the <sup>M5</sup>Judgments Act 1838.
- (2) Where an application has been made under section 32(5), the penalty shall not be required to be paid until the application has been determined, withdrawn or otherwise dealt with.

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- (3) If a portion of a penalty has not been paid by the date required for it, the Commission may, where it considers it appropriate to do so, require so much of the penalty as has not already been paid to be paid immediately.

**Marginal Citations**

M5 1838 c. 110.

**36 Appeals.**

- (1) This section applies if a licence holder on whom a penalty is imposed under section 30 is aggrieved by—
- the imposition of the penalty,
  - the amount of the penalty, or
  - the date by which the penalty is required to be paid or (as the case may be) the different dates by which portions of the penalty are required to be paid.
- (2) The licence holder may apply to the court.
- (3) If a copy of the notice under section 32(3) was served on the licence holder, the application to the court shall, subject to subsection (4), be made within the period of 42 days starting with the day on which the copy was served on the licence holder.
- (4) If the application relates to a decision of the Commission on an application by a licence holder under section 32(5), the application to the court shall be made within the period of 42 days starting with the day on which the licence holder is notified of the decision.
- (5) On an application under this section, the court may—
- quash the penalty,
  - substitute a penalty of such lesser amount as the court considers appropriate, or
  - in a case falling within subsection (1)(c), substitute for the date or dates imposed by the Commission an alternative date or dates,
- if it considers it appropriate to do so and is satisfied of one or more of the grounds mentioned in subsection (6).
- (6) The grounds are—
- that the imposition of the penalty was not within the powers of the Commission under section 30,
  - that any of the requirements of section 32 or 33 have not been complied with in relation to the imposition of the penalty and the interests of the licence holder have been substantially prejudiced by the non-compliance,
  - that it was unreasonable of the Commission to require the penalty to be paid by the date concerned or (as the case may be) to require portions of it to be paid by the dates concerned.
- (7) Where an application has been made under this section, the penalty shall not be required to be paid until the application has been determined, withdrawn or otherwise dealt with.

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- (8) Where the court substitutes a penalty of a lesser amount it may require the payment of interest on the substituted penalty at such rate, and from such date, as it considers appropriate.
- (9) Where the court specifies as a date by which the penalty, or a portion of the penalty, is to be paid a date before the determination of the application under this section it may require the payment of interest on the penalty, or portion, from that date at such rate as it considers appropriate.
- (10) Except as provided by this section, the validity of a penalty shall not be questioned in any legal proceedings.
- (11) In this section “the court” means—
  - (a) in relation to England and Wales or Northern Ireland, the High Court, and
  - (b) in relation to Scotland, the Court of Session.

### **37 Recovery of penalties.**

Where a penalty imposed under section 30, or any portion of such a penalty, has not been paid by the date on which it is required to be paid and—

- (a) no application relating to the penalty has been made under section 36 during the period within which such an application may be made, or
- (b) any such application which has been made has been determined, withdrawn or otherwise dealt with,

the Commission may recover from the licence holder any of the penalty and any interest which has not been paid; and in England and Wales and Northern Ireland such penalty and interest may be recovered as a civil debt due to the Commission.

### *Miscellaneous*

### **38 Register.**

- (1) The Commission shall compile and maintain a register for the purposes of this Part.
- (2) The register shall be kept at such premises and in such form as the Commission considers appropriate.
- (3) The Commission shall cause the following matters to be entered in the register—
  - (a) the provisions of every licence,
  - (b) every modification, revocation or surrender of a licence,
  - (c) the provisions of every direction or determination made or consent or approval given under a licence,
  - (d) the terms of every final or provisional order made or confirmed and every revocation of such an order,
  - (e) every penalty imposed under section 30 and every notice under section 32(3).
- (4) The duty in subsection (3) does not extend to anything of which the Commission is unaware.
- (5) So far as practicable the Commission shall secure the exclusion from the register of any matter relating to the affairs of a person if the Commission considers that its inclusion would or might seriously and prejudicially affect the person’s interests.



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- (6) Subsection (5) does not apply if—
- (a) the person concerned consents to the matter being entered in the register, or
  - (b) the Commission considers that entering the matter in the register would be in the public interest.
- (7) If the Secretary of State considers that entry of anything in the register would be against the public interest or any person’s commercial interests, he may direct the Commission not to enter it.
- (8) The Commission shall secure that the contents of the register are available for inspection by the public—
- (a) during such hours as may be specified in an order made by the Secretary of State, and
  - (b) subject to such reasonable fees (if any) as the Commission may determine.
- (9) If requested by any person to do so and subject to such reasonable fees (if any) as the Commission may determine, the Commission shall supply the person concerned with a copy (certified to be true) of the register or of an extract from it.

### 39 Recovery of costs of the Council etc.

The Secretary of State may give directions to the Commission as to—

- (a) the inclusion in any licence of conditions requiring the payment of sums relating to the expenses of [<sup>F29</sup>the Consumer Council for Postal Services], <sup>F30</sup>...
- (b) the exercise of any power of the Commission to determine anything falling to be determined under such conditions.

#### Textual Amendments

- F29** Words in s. 39 substituted (21.12.2007) by [Consumers, Estate Agents and Redress Act 2007 \(c. 17\)](#), s. 66(2), [Sch. 1 para. 30\(a\)](#) (with s. 6(9)); S.I. 2007/3546, art. 3, Sch.
- F30** Words in s. 39 repealed (21.12.2007) by [Consumers, Estate Agents and Redress Act 2007 \(c. 17\)](#), s. 66(2), [Sch. 1 para. 30\(b\)](#), [Sch. 8](#) (with s. 6(9)); S.I. 2007/3546, art. 3, Sch.

### [<sup>F31</sup>39A Licences and the new arrangements

- (1) The conditions of a licence may require the payment by the licence holder of sums relating to any of the expenses mentioned in subsection (2).
- (2) The expenses within this subsection are—
- (a) the appropriate proportion of the expenses of the Council (including expenses which relate to its establishment but not expenses within paragraph (c));
  - (b) the appropriate proportion of the expenses of the Secretary of State which relate to the establishment of the Council;
  - (c) any expenses of the Council, the Secretary of State or the Consumer Council for Postal Services which relate to a transfer scheme made in respect of the Consumer Council for Postal Services under section 35(2)(a) or (7) of the [Consumers, Estate Agents and Redress Act 2007](#);
  - (d) the expenses of the Secretary of State which relate to the abolition of the Consumer Council for Postal Services;

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- (e) the expenses of the Office of Fair Trading which relate to the expansion of an OFT scheme to enable it to cater for postal services consumers;
  - (f) the appropriate proportion of the expenses of the Office of Fair Trading on, or in connection with, the support of any OFT scheme.
- (3) The “appropriate proportion” of any expenses means such proportion of the expenses as the Secretary of State considers is reasonable having regard to—
- (a) in the case of expenses within subsection (2)(a) or (b), the functions exercisable by the Council in relation to postal services consumers, and
  - (b) in the case of expenses within subsection (2)(f), the functions under the OFT scheme which are exercisable in relation to those consumers.
- (4) The Commission may, in accordance with this section, modify any condition included in a licence by virtue of section 39 where the Commission considers it necessary or expedient to do so in consequence of, or of preparations for—
- (a) the establishment of the Council, or
  - (b) the abolition of the Consumer Council for Postal Services.
- (5) The Commission may, in accordance with this section, make such incidental or consequential modifications of the other conditions of a licence, as it considers necessary or expedient in consequence of, or of preparations for, an event mentioned in subsection (4)(a) or (b).
- (6) Before modifying the conditions of a licence under subsection (4) or (5) the Commission must consult the licence holder.
- (7) The powers of the Commission under subsection (4) or (5) may not be exercised after the end of the period of 2 years beginning with the commencement of those subsections.
- (8) The Secretary of State may give directions to the Commission for the purpose of securing that sums relating to any of the expenses mentioned in subsection (2) are included in the sums payable by virtue of conditions in licences and the Commission must comply with any such direction.
- (9) In this section—
- “consumer” has the same meaning as in Part 1 of the Consumers, Estate Agents and Redress Act 2007 (see section 3 of that Act);
  - “postal services consumers” means consumers in relation to relevant postal services (within the meaning of section 41);
  - “OFT scheme” means any public consumer advice scheme supported by the Office of Fair Trading.]

#### Textual Amendments

**F31** S. 39A inserted (21.12.2007) by [Consumers, Estate Agents and Redress Act 2007 \(c. 17\)](#), s. 66(2), [Sch. 1 para. 31](#) (with s. 6(9)); S.I. 2007/3546, art. 3, Sch.

## 40 Directors’ remuneration.

- (1) This section applies to any licence holder which is a company.

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- (2) As soon as practicable after the end of each financial year of the company it shall make a statement to the Commission—
  - (a) disclosing whether or not remuneration has been paid or become due during that financial year to the directors of the company as a result of arrangements falling within subsection (3), and
  - (b) where such remuneration has been paid or become due, describing the arrangements and the remuneration.
- (3) Arrangements fall within this subsection if they are arrangements for linking the remuneration of the directors to standards of performance—
  - (a) specified for the company in its licence, or determined for the company by or under the licence, or
  - (b) set or agreed to by the company,in relation to the provision of services authorised or required by the licence.
- (4) A description under subsection (2)(b) shall include—
  - (a) a statement of when the arrangements were made,
  - (b) a description of the standards of performance in question,
  - (c) an explanation of the means by which the standards of performance are assessed, and
  - (d) an explanation of how the remuneration was calculated.
- (5) The statement required by subsection (2) shall also state—
  - (a) whether or not there are in force in respect of the financial year during which the statement is made arrangements falling within subsection (3),
  - (b) if not, whether the company intends that such arrangements will be in force at some time during that financial year,and if there are, or it is intended that there will be, such arrangements in force the statement shall describe those arrangements.
- (6) A description under subsection (5) shall—
  - (a) include the matters mentioned in subsection (4)(a) to (c), and
  - (b) where the arrangements described are different from any arrangements described under subsection (2)(b), state the likely effect of those differences on the remuneration of each director of the company.
- (7) The statement required by subsection (2) shall be made to the Commission in such manner as may be required by the Commission.
- (8) The statement required by subsection (2)—
  - (a) shall be published by the company making the statement in such manner as it considers will secure adequate publicity for the statement, and
  - (b) may be published by the Commission in such manner as it may consider appropriate.
- (9) The duty of a company under this section applies in relation to any person who has at any time been a director of the company.
- (10) In this section—

“company” means a company within the meaning of the <sup>M6</sup>Companies Act 1985, or the <sup>M7</sup>Companies (Northern Ireland) Order 1986, which is limited by shares,

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- “remuneration” in relation to a director of a company—
- (a) means any form of payment, consideration or other benefit (including pension benefit) paid or due to or in respect of the director, and
  - (b) includes remuneration in respect of any of his services while a director of the company.

#### **Marginal Citations**

**M6** 1985 c. 6.

**M7** S.I. 1986/1032 (N.I. 6).

#### **41 Free services for the blind and partially sighted.**

- (1) The Secretary of State may direct the Commission to impose, as a condition of a relevant licence, a requirement that the licence holder provide such free postal services as may be specified in the direction to such descriptions of blind or partially sighted persons as may be so specified.
- (2) The requirement shall not come into force unless—
  - (a) the Secretary of State directs the Commission to bring it into force, and
  - (b) the Commission gives notice of the direction to the licence holder.
- (3) The Secretary of State shall consult the Commission and the Council before giving any direction under this section.
- (4) In this section “relevant licence” means a licence to be granted which is to require the person holding it to provide a universal postal service or part of such a service.

### **PART III**

#### OTHER FUNCTIONS OF THE COMMISSION AND THE COUNCIL

##### *The Commission*

#### **42 Duties in relation to public post offices.**

- (1) The Commission shall provide advice and information to the Secretary of State about—
  - (a) the number and location of public post offices of such descriptions as the Secretary of State may specify, and
  - (b) their accessibility<sup>12</sup> to users of postal and other services.
- (2) The Commission shall consult the Council before providing any advice or information under this section.
- (3) In this Act “public post office” means any post office from which any postal services are provided directly to the public (whether or not together with other services).

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#### Commencement Information

- I3** S. 42 wholly in force; s. 42 not in force at Royal Assent see s. 130; s. 42(3) in force at 6.11.2000 and s. 42 in force insofar as not already in force at 1.1.2001 by [S.I. 2000/2957](#), [art. 2\(1\)\(2\)](#), [Sch. 1](#), [Sch. 2](#)

### 43 Duties in relation to social and environmental matters.

- (1) The Commission shall, in exercising its functions, have regard to any guidance given by the Secretary of State under this section.
- (2) The Secretary of State shall from time to time give guidance about the making by the Commission of a contribution towards the attainment of any social or environmental policies set out or referred to in the guidance.
- (3) Before giving any such guidance, the Secretary of State shall consult—
  - (a) the Commission,
  - (b) the Council,
  - (c) any universal service provider,
  - (d) any licence holder under Part II who is not a universal service provider, and
  - (e) such other persons as the Secretary of State considers appropriate.
- (4) A draft of any guidance proposed to be given under this section shall be laid before each House of Parliament.
- (5) Guidance shall not be given under this section until after the period of 40 days starting with—
  - (a) the day on which the draft is laid before each House of Parliament, or
  - (b) if the draft is laid before the House of Lords on one day and the House of Commons on another day, the later of those two days.
- (6) If, before the end of that period, either House resolves that the guidance should not be given, the Secretary of State shall not give it.
- (7) In reckoning any period of 40 days for the purposes of subsection (5) or (6), no account shall be taken of any time during which—
  - (a) Parliament is dissolved or prorogued, or
  - (b) both Houses are adjourned for more than four days.
- (8) The Secretary of State shall publish any guidance given by him under this section in such manner as he considers appropriate.

#### Commencement Information

- I4** S. 43 wholly in force; s. 43 not in force at Royal Assent see s. 130; s. 43(1)(2)(3)(a)(c)-(e)(4)-(8) in force at 6.11.2000 and s. 43 in force insofar as not already in force at 1.1.2001 by [S.I. 2000/2957](#), [art. 2\(1\)\(2\)](#), [Sch. 1](#), [Sch. 2](#) (with transitional provisions in [arts.3-8](#))

### 44 Review and information.

- (1) So far as the Commission considers it practicable to do so with a view to facilitating the exercise of its functions, it shall—

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- (a) keep under review the provision (in the United Kingdom, other member States and elsewhere) of postal services,
  - (b) collect information about the provision (in the United Kingdom, other member States and elsewhere) of those services.
- (2) The Secretary of State may give directions indicating considerations to which the Commission is to have particular regard in deciding the order of priority in which matters are to be reviewed in performing its duty under subsection (1)(a).
- (3) So far as the Commission considers it practicable to do so with a view to facilitating the exercise of its functions, it shall, in particular, collect information which enables comparisons to be made between the efficiency and economy of different postal operators (whether in the United Kingdom, other member States or elsewhere).
- (4) The Commission shall from time to time collect information in relation to the standards of performance achieved by—
- (a) any universal service provider in the provision of a universal postal service, and
  - (b) so far as not falling within paragraph (a), licence holders under Part II in the provision of services authorised or required by their licences.
- (5) The Commission may collect such information as is necessary for it to comply with a notice of the Council under section 58(1).
- (6) If the Commission considers it expedient or is asked by the Secretary of State to do so, it shall provide information, advice and help to the Secretary of State regarding any matter in relation to which the Commission has a function.

#### **Commencement Information**

**I5** S. 44 wholly in force; s. 44 not in force at Royal Assent see s. 130; s. 44(1)-(4)(6) in force at 6.11.2000 and s. 44 in force insofar as not already in force at 1.1.2001 by [S.I. 2000/2957](#), [art. 2\(1\)\(2\)](#), [Sch. 1](#), [Sch. 2](#) (with transitional provisions in [arts. 3-8](#))

#### **45 Annual and other reports: the Commission.**

- (1) The Commission shall, as soon as practicable after the end of each financial year, make a report to the Secretary of State on its activities during that year (“the annual report”).
- (2) The annual report for each year shall, in particular, include—
- (a) a general survey of developments in relation to matters falling within the scope of the Commission’s functions,
  - (b) a report as to the manner in which the Commission has complied with its obligations under the Postal Services Directive,
  - (c) a report as to whether each licence holder under Part II has achieved any standards of performance specified for him in his licence, or determined for him by or under it, in relation to the provision of services authorised or required by his licence,
  - (d) a summary of final and provisional orders made under Part II during that year, of provisional orders confirmed under that Part during that year, and penalties imposed under that Part during that year,

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- (e) a report on the progress of the projects described in the forward work programme for that year (within the meaning of section 61),
  - (f) a report on such other matters as the Secretary of State may from time to time require.
- (3) The Secretary of State shall consult the Commission before exercising his power under subsection (2)(f) in relation to any matter.
- (4) The Secretary of State shall—
- (a) lay a copy of each annual report before each House of Parliament, and
  - (b) publish the report in such manner as he considers appropriate.
- (5) The Commission may prepare other reports in relation to any matter falling within the scope of its functions and may publish any such report in such manner as it considers appropriate.
- (6) The Commission shall send a copy of each annual or other report published under this section to the Council.
- (7) So far as practicable the Commission shall secure the exclusion from any report under this section of any matter relating to the affairs of a person if the Commission considers that its inclusion would or might seriously and prejudicially affect the person's interests.
- (8) Subsection (7) does not apply if—
- (a) the person concerned consents to inclusion of the matter in the report, or
  - (b) the Commission considers that inclusion of the matter in the report would be in the public interest.

#### **46 Publication of information and advice: the Commission.**

- (1) The Commission may publish such information and advice as it considers expedient to give to—
- (a) a universal service provider,
  - (b) any licence holder under Part II who is not a universal service provider, or
  - (c) users of postal services.
- (2) Publication under this section shall be in such form and manner as the Commission considers appropriate.
- (3) So far as practicable the Commission shall secure the exclusion of any matter relating to the affairs of a person if the Commission considers that its publication would or might seriously and prejudicially affect the person's interests.
- (4) Subsection (3) does not apply if—
- (a) the person concerned consents to publication of the matter, or
  - (b) the Commission considers that publication of the matter would be in the public interest.

#### **47 Power of the Commission to require information.**

- (1) The Commission may, for any relevant purpose, serve notice on any person requiring him—

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- (a) to produce any documents which are specified or described in the notice and are in that person's custody or under his control, and
  - (b) to produce them at a time and place so specified and to a person so specified.
- (2) The Commission may, for any relevant purpose, serve notice on any person who carries on any business requiring him—
- (a) to supply to the Commission such information as may be specified or described in the notice, and
  - (b) to supply it at a time and place and in a form and manner so specified and to a person so specified.
- (3) The person to whom any document is produced in accordance with a notice under this section may, for any relevant purpose, copy the document so produced.
- (4) No person shall be required under this section—
- (a) to produce any documents which he could not be compelled to produce in civil proceedings before the court, or
  - (b) to supply any information which he could not be compelled to supply in evidence in such proceedings.
- (5) Any reference in this section to the production of a document includes a reference to the production of a legible and intelligible copy of information recorded otherwise than in legible form.
- (6) In this section—
- “the court”—
    - (a) in relation to England and Wales or Northern Ireland, means the High Court, and
    - (b) in relation to Scotland, means the Court of Session,
  - “relevant purpose” means any purpose connected with—
    - (a) the investigation of an offence under section 6 or any proceedings for such an offence, or
    - (b) the exercise of the Commission's functions under section 22, 23, 24, 30, 42 or 44(4) or (5).

#### Commencement Information

**I6** S. 47 wholly in force; s. 47 not in force at Royal Assent see s. 130; s. 47 in force for specified purposes at 6.11.2000, for further specified purposes at 1.1.2001 and in force insofar as not already in force at 26.3.2001 by [S.I. 2000/2957](#), [art. 2\(1\)-\(3\)](#), [Schs. 1, 2, 3](#) (with transitional provisions in [arts. 3-8](#))

#### 48 Information powers: enforcement.

- (1) A person commits an offence if, without reasonable excuse, he fails to do anything required of him by a notice under section 47.
- (2) A person commits an offence if he intentionally obstructs or delays any person in the exercise of his powers under section 47(3).
- (3) A person who commits an offence under subsection (1) or (2) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.



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- (4) A person commits an offence if he—
  - (a) intentionally alters, suppresses or destroys any document which he has been required to produce by a notice under section 47, or
  - (b) in supplying any information required of him by a notice under section 47, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular.
- (5) A person who commits an offence under subsection (4) shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum,
  - (b) on conviction on indictment, to a fine.
- (6) If a person makes default in complying with a notice under section 47, the court may, on the application of the Commission, make such order as the court considers appropriate for requiring the default to be made good.
- (7) Any such order may, in particular, provide that all the costs or expenses of and incidental to the application shall be borne—
  - (a) by the person in default, or
  - (b) if officers of a company or other association are responsible for its default, by those officers.
- (8) The reference in this section to the production of a document includes a reference to the production of a legible and intelligible copy of information recorded otherwise than in legible form; and the reference to suppressing a document includes a reference to destroying the means of reproducing information recorded otherwise than in legible form.
- (9) In this section “the court”—
  - (a) in relation to England and Wales or Northern Ireland, means the High Court, and
  - (b) in relation to Scotland, means the Court of Session.

#### **49 Powers of entry and seizure.**

- (1) Subsection (2) applies where, on an application made by a constable or the Commission, a justice of the peace or, in Scotland, a sheriff is satisfied that there are reasonable grounds for suspecting—
  - (a) that a person has committed an offence under section 6 (“the suspect”), and
  - (b) that articles or documents of a particular description which are required for the purposes of an investigation of the offence are on particular premises.
- (2) The justice or sheriff may issue a warrant authorising a person appointed by him (“the appointed person”) to enter the premises concerned, search for the articles or documents and, subject to subsection (3), seize and remove any that he may find.
- (3) A warrant issued under subsection (2) shall not authorise the seizure and removal of any postal packet, mail-bag or document to which section 104(2) applies; but any such warrant may authorise the appointed person to take copies of the cover of any such packet, bag or document that he finds.
- (4) The appointed person, in the exercise of his powers under a warrant issued under this section, may if necessary use reasonable force.

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- (5) The appointed person, in seeking to enter any premises in the exercise of his powers under the warrant, shall, if required by or on behalf of the owner or occupier or person in charge of the premises, produce evidence of his identity, and of the warrant, before entering.
- (6) Any articles or documents which have been seized and removed under a warrant issued under this section may be retained until the conclusion of proceedings against the suspect.
- (7) For the purposes of this section, proceedings in relation to a suspect are concluded if—
  - (a) he is found guilty and sentenced or otherwise dealt with for the offence,
  - (b) he is acquitted,
  - (c) proceedings for the offence are discontinued, or
  - (d) it is decided not to prosecute him.
- (8) In this section “premises” includes any vehicle, ship or aircraft.

## **50 Codes of practice.**

- (1) The Commission shall prepare, and may revise, a code of practice governing the discharge by it of its functions.
- (2) The Commission shall, in exercising its functions, have regard to the provisions of the code.
- (3) In preparing or revising the code, the Commission shall consult—
  - (a) the Secretary of State,
  - (b) the Council,
  - (c) any universal service provider,
  - (d) any licence holder under Part II who is not a universal service provider, and
  - (e) such other persons as the Commission considers appropriate.
- (4) The Commission shall publish in such manner as it considers appropriate the code as for the time being in force.

### *The Council*

## **51 Relevant postal issues.**

In this section and sections 52 to 57—

“relevant postal issues” means the interests of users of relevant postal services in the United Kingdom and matters affecting those interests,

“relevant postal services” means any postal services provided in connection with the provision of a universal postal service and any other postal services which are provided, or authorised or required to be provided, by a licence holder under Part II in accordance with a licence under that Part,

and, for this purpose, services are provided in accordance with a licence if the licence authorises or requires them to be provided by the licence holder.

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## **52 Provision of advice and information to public authorities and licence holders.**

- (1) The Council shall—
  - (a) provide advice and information,
  - (b) represent the views of users of relevant postal services, and
  - (c) make proposals,about relevant postal issues to any person mentioned in subsection (2).
- (2) Those persons are—
  - (a) the Secretary of State, the Commission, the Competition Commission and any other public authority,
  - (b) any universal service provider,
  - (c) any licence holder under Part II who is not a universal service provider, and
  - (d) any other person whose activities may affect the interests of users of relevant postal services.
- (3) So far as practicable the Council shall secure that no information relating to the affairs of a person is disclosed under this section to a person mentioned in subsection (2) (b) to (d) if the Council considers that its disclosure would or might seriously and prejudicially affect the interests of the person to whom it relates.
- (4) Subsection (3) does not apply to any disclosure of information to which the person to whom the information relates consents.

## **53 Publication of information to users.**

- (1) The Council shall make available to users of relevant postal services such information as it considers expedient to give to such users about—
  - (a) relevant postal services,
  - (b) relevant postal issues, and
  - (c) itself and its functions.
- (2) The Council may perform its function under subsection (1) by—
  - (a) publishing information in such form and manner as the Council considers appropriate, or
  - (b) furnishing any such information to any user of relevant postal services (whether in response to a request or otherwise).
- (3) So far as practicable the Council shall secure that no information relating to the affairs of a person is disclosed under this section if the Council considers that its disclosure would or might seriously and prejudicially affect the interests of the person to whom it relates.
- (4) Subsection (3) does not apply to any disclosure of information to which the person to whom the information relates consents.

## **54 Exercise of functions: general.**

- (1) The Council shall, in exercising its functions in relation to relevant postal services, have regard to the interests of different users of relevant postal services (including, in particular, the interests of users in different areas).
- (2) The Council shall, in exercising its functions, have regard to the interests of—

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- (a) individuals who are disabled or chronically sick,
  - (b) individuals of pensionable age,
  - (c) individuals with low incomes, and
  - (d) individuals residing in rural areas,
- but that is not to be taken as implying that regard may not be had to the interests of other descriptions of persons.
- (3) So far as the Council considers it practicable to do so with a view to facilitating the exercise of its functions, it shall collect and keep under review information about—
- (a) the provision (in the United Kingdom and elsewhere) of postal services, and
  - (b) the interests and views of users of postal services in the United Kingdom and matters affecting those interests and views.
- (4) As part of the arrangements it makes for exercising its functions, the Council—
- (a) shall establish—
    - (i) a committee for Scotland,
    - (ii) a committee for Wales, and
    - (iii) a committee for Northern Ireland,
  - (b) may establish other committees for any areas within Scotland, Wales or Northern Ireland, and
  - (c) shall establish at least one committee, and may establish other committees, in relation to England (whether a committee for England or a committee for an area within England).
- (5) The purposes of a committee established under subsection (4) (in this Act referred to as a “regional committee”) shall be—
- (a) the provision of advice and information to the Council about relevant postal issues affecting the area for which it is established, and
  - (b) such other purposes as the Council may determine.
- (6) The Council shall maintain in each of England, Scotland, Wales and Northern Ireland at least one office at which users of relevant postal services may apply for information.

## **55 Annual and other reports: the Council.**

- (1) The Council shall, as soon as practicable after the end of each financial year, make a report to the Secretary of State on its activities during that year (“the annual report”).
- (2) The Secretary of State shall—
- (a) lay a copy of each annual report before each House of Parliament, and
  - (b) publish the report in such manner as he considers appropriate.
- (3) The Council may prepare other reports in relation to any matter falling within the scope of its functions and may publish any such report in such manner as it considers appropriate.
- (4) A report under this section shall contain such information as may be specified in any direction given to the Council by the Secretary of State.
- (5) So far as practicable the Council shall secure the exclusion from any report under this section of any matter relating to the affairs of a person if the Council considers that its inclusion would or might seriously and prejudicially affect the person’s interests.

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- (6) Subsection (5) does not apply if the person concerned consents to inclusion of the matter in the report.

## **56 Complaints referred to the Council.**

- (1) Where a matter which relates to the provision of relevant postal services is referred to the Council by or on behalf of a user of such services and—
- (a) the matter has previously been the subject of a complaint to the person providing the service concerned,
  - (b) the complaint has not been satisfactorily resolved, and
  - (c) the matter does not appear to the Council to be of a frivolous or vexatious nature,
- the Council shall investigate the matter as it considers appropriate.
- (2) Where, as the result of any such investigation, the Council considers that—
- (a) a condition of a licence under Part II may have been contravened,
  - (b) the matter referred, or any other matter, is a referable matter, or
  - (c) it is appropriate to do so,
- it shall, as soon as practicable, refer the matter concerned to the Commission for its consideration.
- (3) The Council and the Commission shall from time to time agree the descriptions of matters which are to be referred to the Commission and, for the purposes of subsection (2)(b), a matter is a “referable matter” if it is of a description for the time being so agreed.

## **57 Power of the Council to investigate other matters.**

- (1) The Council may investigate—
- (a) any matter (not being a matter which it is under a duty to investigate under section 56) which it considers to be a matter relating to the interests of users of relevant postal services, and
  - (b) any matter relating to the number and location of public post offices.
- (2) The Council may send a report on any matter investigated under this section to—
- (a) the Commission,
  - (b) the Secretary of State,
  - <sup>F32</sup>(c) the Office of Fair Trading,]
  - (d) any other public authority whose functions appear to the Council to be exercisable in relation to that matter.
- (3) Subject to subsection (4), the Council may also—
- (a) send a report on any such matter to any person who appears to the Council to have an interest in the matter, and
  - (b) publish any such report in such manner as the Council considers appropriate.
- (4) So far as practicable the Council shall secure the exclusion from any report under subsection (3) of any matter relating to the affairs of a person if the Council considers that its inclusion would or might seriously and prejudicially affect the person’s interests.

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- (5) Subsection (4) does not apply if the person concerned consents to inclusion of the matter in the report.

#### Textual Amendments

**F32** S. 57(2)(c) substituted (1.4.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 25 para. 42\(6\)](#); [S.I. 2003/766](#), art. 2, [Sch.](#) (with art. 3) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))

## 58 Power of the Council to require information.

- (1) The Council may serve notice on any person mentioned in subsection (2) requiring him—
- (a) to supply to the Council such information specified or described in the notice as the Council may reasonably require in the exercise of its functions, and
  - (b) to supply it at a time and place and in a form and manner so specified and to a person so specified.
- (2) The persons on whom a notice under subsection (1) may be served are—
- (a) the Commission,
  - (b) a universal service provider,
  - (c) any licence holder under Part II who is not a universal service provider.
- (3) In deciding whether to serve a notice under this section and the contents of any such notice, the Council shall have regard to the desirability of minimising the costs of, and any other detriment to, the person on whom the notice may be, or is to be, served.
- (4) Subject to subsections (5) to (7), a person on whom a notice is served under this section shall comply with the notice.
- (5) The Commission may refuse to supply information required from it by a notice under this section if subsection (7) applies.
- (6) A person falling within subsection (2)(b) or (c) may refuse to supply information required from him by a notice under this section if the Commission determines that he need not comply with the notice; and the Commission may so determine if subsection (7) applies.
- (7) This subsection applies if the Commission considers that—
- (a) the information concerned is not reasonably required by the Council in the exercise of its functions,
  - (b) the information concerned is of a description specified in an order made by the Secretary of State, or
  - (c) any other circumstances so specified apply.
- (8) The Commission shall, if required by the Council to do so, give a statement to the Council of its reasons for—
- (a) a refusal to supply information under this section,
  - (b) a determination under subsection (6),
- and the Council may publish that statement in such manner as it considers appropriate.
- (9) No person shall be required under this section—

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- (a) to produce any documents which he could not be compelled to produce in civil proceedings before the court, or
  - (b) to supply any information which he could not be compelled to supply in evidence in such proceedings.
- (10) If a person makes default in complying with a notice under this section, the court may, on the application of the Council, make such order as the court considers appropriate for requiring the default to be made good.
- (11) Any such order may, in particular, provide that all the costs or expenses of and incidental to the application shall be borne—
- (a) by the person in default, or
  - (b) if officers of a company or other association are responsible for its default, by those officers.
- (12) In this section, “the court”—
- (a) in relation to England and Wales or Northern Ireland, means the High Court, and
  - (b) in relation to Scotland, means the Court of Session.

#### *The Commission and the Council*

### **59 Provision of information by the Council to the Commission.**

- (1) The Council shall, as soon as practicable after being required to do so by the Commission, provide to the Commission such information relating to the exercise of the Commission’s functions as the Commission may require.
- (2) The Secretary of State may by order specify—
- (a) descriptions of information which the Council may refuse to provide under this section, and
  - (b) circumstances in which the Council may refuse to provide information under this section.
- (3) Where the Council refuses to provide any information under this section, it shall give notice to the Commission of the reason for its refusal and the Commission may publish that notice in such manner as it considers appropriate.

#### **Commencement Information**

- I7** S. 59 wholly in force; s. 59 not in force at Royal Assent see s. 130; s. 59(2) in force at 6.11.2000 and s. 59 in force insofar as not already in force at 1.1.2001 by [S.I. 2000/2957](#), [art. 2\(1\)\(2\)](#), [Sch. 1](#), [Sch. 2](#) (with transitional provisions in [arts. 3-8](#))

### **60 Memorandum of understanding.**

- (1) The Commission and the Council shall make arrangements with a view to securing—
- (a) co-operation and the exchange of information between them, and
  - (b) consistent treatment of matters which affect both of them.

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- (2) As soon as practicable after agreement is reached on those arrangements, the Commission and the Council shall prepare a memorandum setting them out and send a copy of it to the Secretary of State.
- (3) Arrangements under this section shall be kept under review by the Commission and the Council.
- (4) As soon as practicable after agreement is reached on any changes to those arrangements, the Commission and the Council shall revise their memorandum and send a copy of the revised memorandum to the Secretary of State.
- (5) The Secretary of State shall lay before each House of Parliament a copy of any document received by him under this section.

## **61 Forward work programmes.**

- (1) The Commission and the Council shall, before each financial year, each publish a document (“the forward work programme”) containing a general description of the projects, other than those comprising routine activities in the exercise of its functions, which it plans to undertake during the year.
- (2) That description shall, in particular, include—
  - (a) the objectives of each project, and
  - (b) an estimate of the overall expenditure which the Commission or the Council expects to incur during the year in undertaking the projects.
- (3) Before publishing the forward work programme for any year, the Commission or the Council shall—
  - (a) give notice of the draft forward work programme, and
  - (b) consider any representations made in accordance with the notice and not withdrawn.
- (4) The notice shall—
  - (a) contain a draft of the forward work programme, and
  - (b) specify the period within which representations may be made about the proposals contained in it.
- (5) A notice under this section shall be given by—
  - (a) serving a copy of the notice on the Secretary of State, and the Council or (as the case may be) the Commission, and
  - (b) publishing the notice in such manner as the Commission or (as the case may be) the Council considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.



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## PART IV

### REORGANISATION OF THE POST OFFICE

#### *Transfer of property etc.*

#### **62 Transfer of property etc. to nominated company.**

- (1) On such day as the Secretary of State may by order appoint, all the property, rights and liabilities to which the Post Office was entitled or subject immediately before that day shall become by virtue of this section property, rights and liabilities of a company nominated for the purposes of this section by order of the Secretary of State.
- (2) The Secretary of State may nominate for the purposes of this section any company formed and registered under the <sup>M8</sup>Companies Act 1985, subject to subsections (3) and (4).
- (3) The Secretary of State shall consult the Post Office before nominating a company for the purposes of this section.
- (4) On the appointed day the company concerned must be a company limited by shares which is wholly owned by the Crown.
- (5) An order made under this section may be varied or revoked by a subsequent order at any time before any property, rights or liabilities of the Post Office vest in a company by virtue of this section.
- (6) Schedule 3 (which makes supplementary provision) shall have effect.
- (7) For the purposes of this Part a company shall be treated as wholly owned by the Crown at any time when each of the issued shares of the company is held by, or by a nominee of, the Treasury or the Secretary of State.
- (8) In this Part—
  - “the appointed day” means the day appointed under this section, and
  - “the Post Office company” means the company nominated for the purposes of this section.

#### **Subordinate Legislation Made**

**P1** S. 62 power exercised (5.1.2001) by [S.I. 2001/8](#), [art. 3](#)

#### **Modifications etc. (not altering text)**

**C2** S. 62(8) extended (26.3.2001) by [S.I. 2001/1149](#), [art. 5](#)

#### **Marginal Citations**

**M8** 1985 c. 6.

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*The Post Office company etc: government holdings*

**63 Government holding in the Post Office company and certain subsidiaries.**

- (1) The Post Office company or any of its wholly owned subsidiaries shall issue such securities of the company or subsidiary concerned as the Secretary of State may direct.
- (2) Subject to subsections (3) and (4), any such securities shall, as the Secretary of State may direct, be issued to the Treasury or the Secretary of State.
- (3) If the Secretary of State gives a direction under subsection (1) for the purpose of requiring an issue of shares or share rights for which prior approval has been given in accordance with section 67, the shares or share rights concerned shall be issued to the person approved for that purpose in accordance with that section.
- (4) If the Secretary of State gives a direction under subsection (1) for the purpose of requiring a relevant subsidiary to issue shares or share rights in it to the Post Office company or to another relevant subsidiary of which it is a subsidiary, the shares or share rights concerned shall be issued to the Post Office company or (as the case may be) to the other relevant subsidiary.
- (5) The Secretary of State shall not give a direction under this section without the consent of the Treasury or at a time when the Post Office company is not wholly owned by the Crown.
- (6) Securities to be issued in pursuance of this section shall be issued at such time or times, and (subject to subsection (7)) on such terms, as the Secretary of State may direct.
- (7) Any shares issued in pursuance of this section—
  - (a) shall be of such nominal value as the Secretary of State may direct, and
  - (b) shall be issued as fully paid and treated for the purposes of the <sup>M9</sup>Companies Act 1985 or the <sup>M10</sup>Companies (Northern Ireland) Order 1986 as if they had been paid up by virtue of payment of their nominal value in cash.
- (8) In this Part “relevant subsidiary” means any subsidiary of the Post Office company which—
  - (a) delivers relevant postal packets in the United Kingdom,
  - (b) collects relevant postal packets from access points in the United Kingdom,
  - (c) receives, sorts or conveys relevant postal packets in the United Kingdom, or
  - (d) provides a registered post service in the United Kingdom,
 and any other subsidiary of the Post Office company which holds shares or share rights in, or is connected to, any such subsidiary.
- (9) For the purposes of subsection (8), a subsidiary of the Post Office company is connected to another such subsidiary which falls within any of paragraphs (a) to (d) of that subsection (“the operating subsidiary”) if it forms part of a chain of subsidiaries of the Post Office company which leads to the operating subsidiary and which is identified by the fact that each member of the chain holds shares or share rights in the next subsidiary in the chain.
- (10) In subsection (8) “access point” and “relevant postal packets” have the same meaning as in section 4.

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#### **Marginal Citations**

**M9** 1985 c. 6.

**M10** S.I. 1986/1032 (N.I. 6).

### **64 Government investment in securities of the Post Office company and its subsidiaries.**

- (1) The Treasury or, with the consent of the Treasury, the Secretary of State may at any time acquire securities of the Post Office company or of any of its subsidiaries.
- (2) The Secretary of State shall not, without the consent of the Treasury, dispose of any securities acquired by him in pursuance of this section.
- (3) Subsection (2) does not apply to any disposal which is excepted from subsection (1) or (2) of section 66 by virtue of subsection (3) or (5) of that section.

*The Post Office company etc: restrictions on dealings*

### **65 Restriction on issue of shares to third parties.**

- (1) No shares or share rights in the Post Office company shall be issued on or after the appointed day unless—
  - (a) they are issued to the Treasury, the Secretary of State or any nominee of either of them, or
  - (b) the issue is one for which prior approval has been given in accordance with section 67.
- (2) No shares or share rights in any relevant subsidiary of the Post Office company shall be issued on or after the appointed day unless—
  - (a) they are issued to the Treasury, the Secretary of State or any nominee of either of them,
  - (b) they are issued to the Post Office company or any other relevant subsidiary of which the relevant subsidiary concerned is a subsidiary or any nominee of the Post Office company or of the other relevant subsidiary, or
  - (c) the issue is one for which prior approval has been given in accordance with section 67.

### **66 Restriction on disposals of shares to third parties.**

- (1) Neither the Treasury nor the Secretary of State nor any nominee of either of them shall, on or after the appointed day, dispose of any of the issued shares or any share rights in the Post Office company or any relevant subsidiary which are held by him.
- (2) Neither the Post Office company nor any subsidiary of that company nor any nominee of the company or subsidiary shall, on or after the appointed day, dispose of any of the issued shares or any share rights in a relevant subsidiary which are held by the company, subsidiary or nominee concerned.

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- (3) Subsection (1) does not apply in relation to any disposal by the Treasury, the Secretary of State or a nominee of either of them to any other person falling within this subsection.
- (4) Subsection (2) does not apply in relation to any disposal by the Post Office company, any subsidiary of that company or any nominee of the company or subsidiary to any other person falling within this subsection.
- (5) Subsections (1) and (2) do not apply in relation to any disposal for which prior approval has been given in accordance with section 67.

## **67 Approved disposals.**

- (1) Prior approval is given in accordance with this section if the proposed issue or disposal is approved by a resolution of each House of Parliament passed on a motion moved by or on behalf of the Secretary of State.
- (2) The motion shall, in particular, specify—
  - (a) the size and nature of the proposed issue or disposal,
  - (b) the person to whom the proposed issue or disposal is to be made, and
  - (c) the purpose of the proposed issue or disposal.
- (3) No such motion shall be moved by or on behalf of the Secretary of State in relation to a proposed issue or disposal of shares or share rights in the Post Office company unless—
  - (a) the Post Office company has agreed to be a party to a joint venture, or another arrangement for working together with another person, which the Post Office company considers to be in its commercial interests,
  - (b) the arrangement includes the proposed issue or disposal,
  - (c) the Post Office company has recommended to the Secretary of State that the proposed issue or disposal take place,
  - (d) the Secretary of State is satisfied that the proposed issue or disposal is for the purpose of securing the arrangement in question and that the arrangement is in the commercial interests of the Post Office company, and
  - (e) the Treasury have given their consent to the proposed issue or disposal.
- (4) No such motion shall be moved by or on behalf of the Secretary of State in relation to a proposed issue or disposal of shares or share rights in a relevant subsidiary unless—
  - (a) the Post Office company or the relevant subsidiary has agreed to be a party to a joint venture, or another arrangement for working together with another person, which the Post Office company considers to be in the commercial interests of the Post Office company,
  - (b) the arrangement includes the proposed issue or disposal,
  - (c) the Post Office company has recommended to the Secretary of State that the proposed issue or disposal take place,
  - (d) the Secretary of State is satisfied that the proposed issue or disposal is for the purposes of securing the arrangement in question and that the arrangement is in the commercial interests of the Post Office company, and
  - (e) the Treasury have given their consent to the proposed issue or disposal.

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### *Financial provisions*

#### **68 Loans by the Secretary of State to the Post Office company and its subsidiaries.**

- (1) The Secretary of State may, on or after the appointed day and with the approval of the Treasury, make loans to the Post Office company or any of its subsidiaries.
- (2) Interest shall be paid on loans made by the Secretary of State under this section at such rates as the Secretary of State may, with the approval of the Treasury, direct.
- (3) Subject to that, the loans shall be on such terms as may be—
  - (a) agreed between the Secretary of State and the company to which the loan is made, and
  - (b) approved by the Treasury.
- (4) The terms shall, in particular, include provision as to the times and methods of payment of the principal and interest.
- (5) The power of the Secretary of State to make loans under this section includes power to make loans in currencies other than sterling.
- (6) The Treasury may issue out of the National Loans Fund to the Secretary of State such sums as are necessary to enable him to make loans under this section.
- (7) Such sums may be issued in sterling or, where the loan is to be in a currency other than sterling, in that currency or in sterling.
- (8) Any sums received by the Secretary of State by way of repayment of, or interest on, a loan made by him under this section shall be paid into the National Loans Fund.

#### **69 Guarantees by the Secretary of State for the Post Office company and its subsidiaries.**

- (1) The Secretary of State may, on or after the appointed day and in such manner and on such conditions as he considers appropriate, guarantee the discharge of any financial obligation of the Post Office company or any of its subsidiaries.
- (2) As soon as practicable after giving a guarantee under subsection (1), the Secretary of State shall lay a statement of the guarantee before each House of Parliament.
- (3) If any sums are paid by the Secretary of State in fulfilment of a guarantee given under subsection (1), the Post Office company or the subsidiary concerned shall make to the Secretary of State, at such times and in such manner as the Secretary of State may direct—
  - (a) payments, of such amounts as the Secretary of State may direct, in or towards repayment of the sums paid by the Secretary of State, and
  - (b) payments of interest on what is outstanding in respect of the sums paid by the Secretary of State, at such rate as the Secretary of State may direct.
- (4) If any sums are paid by the Secretary of State in fulfilment of a guarantee given under subsection (1), the Secretary of State shall—
  - (a) lay a statement relating to the sums before each House of Parliament as soon as practicable after the end of the financial year in which the sums were paid, and

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- (b) lay a statement before each House of Parliament as soon as practicable after the end of any subsequent financial year in which there is an outstanding liability in relation to the obligation which is the subject of the guarantee.
- (5) Any statement under subsection (4) shall include a statement of—
- (a) any amounts received by the Secretary of State during the financial year concerned in or towards repayment of, or as interest in respect of, sums paid by him in fulfilment of any guarantee given under subsection (1), and
  - (b) any amounts outstanding at the end of that year in respect of sums so paid by the Secretary of State.

## 70 Extinguishment of certain liabilities.

- (1) The Secretary of State may, on or after the appointed day, by order extinguish all or any of the liabilities of the Post Office company or of any of its subsidiaries in respect of—
- (a) such sums paid by the Treasury, in fulfilment of guarantees given under section 38 of the <sup>M11</sup>Post Office Act 1969, as may be specified in the order, or
  - (b) such sums paid by the Secretary of State, in fulfilment of guarantees given under section 69 of this Act, as may be specified in the order.
- (2) The Secretary of State may, on or after the appointed day, by order extinguish such liabilities to him of the Post Office company or of any of its subsidiaries as may be specified in the order; but the order shall not specify liabilities which—
- (a) may be extinguished under subsection (1), or
  - (b) relate to taxes, duties or fines.
- (3) Before exercising any power under subsection (1) or (2) in relation to liabilities of the Post Office company, the Secretary of State shall consult that company.
- (4) Before exercising any power under subsection (1) or (2) in relation to liabilities of a subsidiary of the Post Office company, the Secretary of State shall consult the Post Office company and the subsidiary.
- (5) The Secretary of State may by order repeal this section.
- (6) The Secretary of State shall not exercise any power conferred on him by subsection (1), (2) or (5) without the consent of the Treasury.

### Marginal Citations

M11 1969 c. 48.

## 71 Limit on loans and other arrangements with government.

- (1) The Secretary of State and the Treasury shall exercise their powers under or by virtue of this Act so as to ensure that, on and after the appointed day, the Crown's financial arrangements with the Post Office company and any of its subsidiaries do not at any time exceed £5,000 million or such greater sum as the Secretary of State may by order specify.
- (2) For the purposes of subsection (1) the Crown's financial arrangements with the Post Office company and any of its subsidiaries are the aggregate of—

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- (a) amounts outstanding in respect of the principal of loans made under section 37 of the <sup>M12</sup>Post Office Act 1969,
  - (b) amounts outstanding (otherwise than by way of interest) in respect of sums paid by the Treasury in fulfilment of guarantees given under section 38 of that Act,
  - (c) amounts outstanding in respect of the principal of loans made under section 68 of this Act,
  - (d) amounts outstanding (otherwise than by way of interest) in respect of sums paid by the Secretary of State in fulfilment of guarantees given under section 69 of this Act,
  - (e) amounts outstanding in respect of the principal of debt securities issued in pursuance of section 63 of this Act, and
  - (f) liabilities extinguished under section 70 of this Act so far as they are not replaced with corresponding liabilities.
- (3) No order shall be made under subsection (1) unless a draft of it has been approved by a resolution of the House of Commons.
- (4) For the purposes of this section equivalents in sterling shall be calculated as the Secretary of State considers appropriate.

#### Marginal Citations

M12 1969 c. 48.

## 72 Reserves of the Post Office company and its subsidiaries.

- (1) The Secretary of State may, on or after the appointed day, give directions to the Post Office company—
- (a) requiring it to allocate to a reserve generally, or to a reserve for a particular purpose, or to cause any of its subsidiaries so to allocate to a reserve, either a specified amount or such amount as the Post Office company considers appropriate,
  - (b) requiring it to re-allocate for a specified purpose, or to cause any of its subsidiaries so to re-allocate, the whole or any part of any amount previously allocated by the Post Office company or (as the case may be) subsidiary to a reserve for some other purpose, or
  - (c) with respect to the application by the Post Office company or any of its subsidiaries of amounts allocated to a reserve in accordance with a direction under this section.
- (2) Directions requiring the allocation of any amount to a reserve may provide for it to be so allocated either at a specified time or during the course of a specified period.
- (3) Directions under subsection (1)(c) may, in particular, require amounts allocated to a reserve in accordance with a direction under this section to be applied as if they were profits available for distribution within the meaning of section 263(1) of the <sup>M13</sup>Companies Act 1985 or Article 271(1) of the <sup>M14</sup>Companies (Northern Ireland) Order 1986 (distributions to be made out of profits).
- (4) Despite subsection (3), no part of a reserve to which amounts have been allocated in accordance with this section shall count as an undistributable reserve of the company

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concerned for the purposes of section 264(3)(d) of the Act of 1985 or Article 272(3)(d) of the Order of 1986 (restriction on distribution of assets).

- (5) For the purpose of determining under section 264 of the Act of 1985 or Article 272 of the Order of 1986 whether the company concerned may make a distribution at any time, any amount for the time being standing to the credit of the reserve concerned (excluding any amount which by virtue of subsection (3) above is authorised to be, but has not yet been, applied as if it were profits available for distribution) shall be treated for the purposes of section 264(3)(c) of the Act of 1985 or Article 272(3)(c) of the Order of 1986 as if it were unrealised profits of the company.
- (6) The Secretary of State shall consult the Post Office company before giving a direction under this section.
- (7) No direction shall be given under this section without the consent of the Treasury.

**Marginal Citations**

**M13** 1985 c. 6.

**M14** S.I. 1986/1032 (N.I. 6).

**73 Statutory accounts of the Post Office company.**

- (1) For the purposes of any statutory accounts of the Post Office company—
  - (a) the transfer effected by virtue of section 62 shall be taken to have been a transfer of all the property, rights and liabilities to which the Post Office was entitled or subject immediately before the end of the last accounting year of the Post Office ending before the appointed day and to have been effected immediately after the end of that year, and
  - (b) the value or amount (as at the time of transfer) of any asset or liability of the Post Office taken to have been transferred to the Post Office company by virtue of paragraph (a) shall be taken to be the value or (as the case may be) the amount assigned to that asset or liability for the purposes of the corresponding statement of accounts prepared by the Post Office in relation to that year.
- (2) For the purposes of any statutory accounts of the Post Office company the amount to be included in respect of any item shall be determined as if anything done by the Post Office (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise) had been done by the Post Office company.
- (3) Accordingly (but without prejudice to the generality of subsection (2))—
  - (a) the amount to be included from time to time in any reserves of the Post Office company as representing its accumulated realised profits shall be determined as if any profits realised and retained by the Post Office had been realised and retained by the Post Office company, and
  - (b) the amount to be included from time to time in any statutory accounts of the Post Office company as representing its accumulated realised losses shall be determined as if any losses realised by the Post Office had been realised by the Post Office company.



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- (4) In this section “statutory accounts”, in relation to the Post Office company, means any accounts of that company prepared for the purposes of any provision of the <sup>M15</sup>Companies Act 1985 (including group accounts).

**Marginal Citations**

M15 1985 c. 6.

**74 Further provisions relating to the capital structure of the Post Office company.**

- (1) If the Secretary of State so directs, the Post Office company shall be taken to have assumed a debt to the Secretary of State of such amount as may be specified in the direction.
- (2) The terms of any such debt, including the terms as to the payment of interest and repayment, shall be such as the Secretary of State may from time to time determine.
- (3) The Post Office company shall issue such debt securities of the company as the Secretary of State may direct; and any such securities shall, as the Secretary of State may direct, be issued to the Treasury or the Secretary of State.
- (4) Debt securities to be issued in pursuance of subsection (3) shall be issued at such time or times, and on such terms, as the Secretary of State may direct.
- (5) Subsections (3) and (4) are without prejudice to any power conferred by section 63.
- (6) The Secretary of State may by order repeal this section.
- (7) The Secretary of State—
- (a) shall not exercise any power under this section without the consent of the Treasury or before the appointed day, and
  - (b) shall, before exercising any such power (other than the power under subsection (6)), consult the Post Office company.
- (8) In this Part “debt securities” means any instrument creating or acknowledging indebtedness which is issued by a company including, in particular, debentures, loan stock, bonds and certificates of deposit.

**Modifications etc. (not altering text)**

C3 S. 74(8) extended (24.6.2003) by [The Uncertificated Securities \(Amendment\) \(Eligible Debt Securities\) Regulations 2003 \(S.I. 2003/1633\)](#), reg. 1(1), [Sch. 2 para. 8\(2\)\(i\)](#)

*Dissolution of the Post Office*

**75 Dissolution of the Post Office.**

- (1) The Post Office shall continue in existence after the appointed day until it is dissolved in accordance with this section.
- (2) The Secretary of State may by order, after consulting the Post Office and the Post Office company, dissolve the Post Office on a day specified in the order.

*Status: Point in time view as at 21/12/2007.*

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- (3) No order shall be made under subsection (2) unless the Secretary of State is satisfied that nothing further remains to be done by the Post Office under paragraph 9 of Schedule 3 or an order made under this Act.

*Supplementary provisions*

**76 Accounts of the Secretary of State in relation to loans.**

- (1) The Secretary of State shall, in respect of each financial year, prepare in such form and manner as the Treasury may direct, an account of—
- (a) sums issued to him under section 68(6),
  - (b) sums received by him as mentioned in section 68(8), and
  - (c) the disposal by him of the sums mentioned in paragraphs (a) and (b).
- (2) The Secretary of State shall send the account to the Comptroller and Auditor General not later than the end of the month of November in the following financial year.
- (3) The Comptroller and Auditor General shall—
- (a) examine, certify and report on the account, and
  - (b) lay copies of it, together with his report, before each House of Parliament.

**Modifications etc. (not altering text)**

C4 S. 76 modified (22.3.2001) by S.I. 2001/1148, art. 25 (with art. 34)

**77 Publicity requirements for certain accounts and reports of the Post Office company.**

- (1) The Post Office company shall send to the Secretary of State—
- (a) a copy of all annual accounts of the company on which the company’s auditors have made a report under section 235 of the <sup>M16</sup>Companies Act 1985, and
  - (b) a copy of the auditor’s report,
- as soon as practicable after the report has been made.
- (2) The Post Office company shall send to the Secretary of State a copy of the report prepared by its directors under section 234 of the <sup>M17</sup>Companies Act 1985 in relation to any year which includes the appointed day or any subsequent year as soon as practicable after the report has been approved and signed under section 234A of that Act.
- (3) The Secretary of State shall lay a copy of the accounts and reports received by him under this section before each House of Parliament.
- (4) In this section “annual accounts” means annual accounts (within the meaning of Part VII of the <sup>M18</sup>Companies Act 1985) which relate to any year which includes the appointed day or to any subsequent year.

**Marginal Citations**

M16 1985 c. 6.

*Status: Point in time view as at 21/12/2007.*

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**M17** 1985 c. 6.

**M18** 1985 c. 6.

## **78 Information requirements on the Post Office company.**

- (1) The Treasury may, on or after the appointed day, serve notice on the Post Office company—
  - (a) requiring it to supply to the Treasury such information—
    - (i) as the Treasury may reasonably require for the performance of their functions in relation to public sector finance, and
    - (ii) as may be specified or described in the notice, and
  - (b) specifying the time, place, manner and form in which any such information is to be supplied and the person to whom it is to be supplied.
- (2) If a person makes default in complying with a notice under subsection (1), the court may, on the application of the Treasury, make such order as the court considers appropriate for requiring the default to be made good.
- (3) Any such order may, in particular, provide that all the costs or expenses of and incidental to the application shall be borne—
  - (a) by the person in default, or
  - (b) if officers of a company are responsible for its default, by those officers.
- (4) In this section “the court”—
  - (a) in relation to England and Wales or Northern Ireland, means the High Court, and
  - (b) in relation to Scotland, means the Court of Session.

## **79 Exercise of functions through nominees.**

- (1) The Treasury or, with the consent of the Treasury, the Secretary of State may for the purposes of sections 63, 64 or 74(3) and (4) appoint a person to act as the nominee, or one of the nominees, of the Treasury or the Secretary of State.
- (2) In accordance with directions given by the Treasury or, with the consent of the Treasury, the Secretary of State—
  - (a) securities may be issued in pursuance of section 63 or 74(3) and (4) to a nominee of the Treasury or the Secretary of State appointed for the purposes of that section, and
  - (b) a nominee of the Treasury or the Secretary of State appointed for the purposes of section 64 may acquire securities in pursuance of that section.
- (3) A person holding any securities or rights as a nominee of the Treasury or the Secretary of State by virtue of this section shall hold and deal with them (or any of them) on such terms and in such manner as the Treasury or, with the consent of the Treasury, the Secretary of State may direct.

## **80 Shadow directors.**

- (1) For the purposes of the provisions<sup>F33</sup> ... listed in subsection (2) neither the Treasury nor the Secretary of State shall be regarded as a shadow director of the Post Office company.

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[<sup>F34</sup>(2) The provisions are—

- (a) section 288 of the Companies Act 1985 (register of directors);
- (b) section 305 of that Act (directors' names on correspondence etc );
- (c) section 317 of that Act (disclosure of interests in contracts);
- (d) sections 190 to 196 of the Companies Act 2006 (transactions requiring members' approval: property transactions); and
- (e) sections 197 to 214 of that Act (transactions requiring members' approval: loans etc ). ]

#### Textual Amendments

- F33** Words in s. 80(1) repealed (1.10.2007) by [Companies Act 2006 \(Commencement No.3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), art. 1(3)(a), Sch. 4 para. 94(2), [Sch. 5](#) (with art. 12)
- F34** S. 80(2) substituted (1.10.2007) by [Companies Act 2006 \(Commencement No.3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), art. 1(3)(a), [Sch. 4 para. 94\(3\)](#) (with art. 12)

## 81 Tax.

Schedule 4 (taxation provisions in relation to the transfer to the Post Office company) shall have effect.

## 82 Interpretation: Part IV.

(1) In this Part—

- “the appointed day” has the meaning given by section 62(8),
- “debenture” includes debenture stock,
- “debt securities” has the meaning given by section 74(8),
- “the Post Office company” has the meaning given by section 62(8),
- “relevant subsidiary” has the meaning given by section 63(8),
- “securities”, in relation to a company, includes shares, debt securities and other securities of the company, whether or not constituting a charge on the assets of the company, and the right to subscribe for, or to acquire, such securities and any other rights in connection with such securities,
- “share rights” means, in relation to any shares, rights to subscribe for, or to acquire, the shares and any other rights in connection with the shares,
- “shares” includes stock, and
- “wholly owned by the Crown” has the meaning given by section 62(7).

(2) References in this Part to property, rights and liabilities of the Post Office are references to all such property, rights and liabilities, whether or not capable of being transferred or assigned by the Post Office.

(3) It is hereby declared for the avoidance of doubt that—

- (a) any reference in this Part to property of the Post Office is a reference to property of the Post Office whether situated in the United Kingdom or elsewhere, and

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- (b) any reference in this Part to rights or liabilities of the Post Office is a reference to rights to which the Post Office is entitled, or (as the case may be) liabilities to which it is subject, whether under the law of the United Kingdom or of any part of the United Kingdom or under the law of any country or territory outside the United Kingdom.

## PART V

### OFFENCES IN RELATION TO POSTAL SERVICES

#### *Offences of interfering with the mail*

#### **83 Interfering with the mail: postal operators.**

- (1) A person who is engaged in the business of a postal operator commits an offence if, contrary to his duty and without reasonable excuse, he—
- (a) intentionally delays or opens a postal packet in the course of its transmission by post, or
- (b) intentionally opens a mail-bag.
- (2) Subsection (1) does not apply to the delaying or opening of a postal packet or the opening of a mail-bag under the authority of—
- (a) this Act or any other enactment (including, in particular, in pursuance of a warrant issued under any other enactment), or
- (b) any directly applicable Community provision.
- (3) Subsection (1) does not apply to the delaying or opening of a postal packet in accordance with any terms and conditions applicable to its transmission by post.
- (4) Subsection (1) does not apply to the delaying of a postal packet as a result of industrial action in contemplation or furtherance of a trade dispute.
- (5) In subsection (4) “trade dispute” has the meaning given by section 244 of the <sup>M19</sup>Trade Union and Labour Relations (Consolidation) Act 1992 or Article 127 of the <sup>M20</sup>Trade Union and Labour Relations (Northern Ireland) Order 1995; and the reference to industrial action shall be construed in accordance with that Act or (as the case may be) that Order.
- (6) A person who commits an offence under subsection (1) shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or to both,
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

#### **Commencement Information**

**I8** S. 83 wholly in force at 26.3.2001, see s. 130 and S.I. 2001/878, art. 2, Sch. (subject to arts. 3-17)

#### **Marginal Citations**

**M19** 1992 c. 52.

**M20** S.I. 1995/1980 (N.I.12).

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#### **84 Interfering with the mail: general.**

- (1) A person commits an offence if, without reasonable excuse, he—
  - (a) intentionally delays or opens a postal packet in the course of its transmission by post, or
  - (b) intentionally opens a mail-bag.
- (2) Subsections (2) to (5) of section 83 apply to subsection (1) above as they apply to subsection (1) of that section.
- (3) A person commits an offence if, intending to act to a person's detriment and without reasonable excuse, he opens a postal packet which he knows or reasonably suspects has been incorrectly delivered to him.
- (4) Subsections (2) and (3) of section 83 (so far as they relate to the opening of postal packets) apply to subsection (3) above as they apply to subsection (1) of that section.
- (5) A person who commits an offence under subsection (1) or (3) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both.

#### **Commencement Information**

**I9** S. 84 wholly in force at 26.3.2001, see s. 130 and S.I. 2001/878, art. 2, Sch. (subject to arts. 3-17)

#### *Prohibition on sending certain articles by post*

#### **85 Prohibition on sending certain articles by post.**

- (1) A person commits an offence if he sends by post a postal packet which encloses any creature, article or thing of any kind which is likely to injure other postal packets in course of their transmission by post or any person engaged in the business of a postal operator.
- (2) Subsection (1) does not apply to postal packets which enclose anything permitted (whether generally or specifically) by the postal operator concerned.
- (3) A person commits an offence if he sends by post a postal packet which encloses—
  - (a) any indecent or obscene print, painting, photograph, lithograph, engraving, cinematograph film or other record of a picture or pictures, book, card or written communication, or
  - (b) any other indecent or obscene article (whether or not of a similar kind to those mentioned in paragraph (a)).
- (4) A person commits an offence if he sends by post a postal packet which has on the packet, or on the cover of the packet, any words, marks or designs which are of an indecent or obscene character.
- (5) A person who commits an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum,
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding twelve months or to both.

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**Modifications etc. (not altering text)**

**C5** S. 85 applied (7.3.2001) by S.I. 2001/878, art. 15 (with art. 17)

**Commencement Information**

**I10** S. 85 wholly in force at 26.3.2001, see s. 130 and S.I. 2001/878, art. 2, Sch. (subject to arts. 3-17)

*Additional protection for universal postal service*

**86 Prohibition on affixing advertisements on certain letter boxes etc.**

- (1) A person commits an offence if, without due authority, he affixes any advertisement, document, board or thing in or on any universal postal service post office, universal postal service letter box or other property belonging to, or used by, a universal service provider in connection with the provision of a universal postal service.
- (2) A person commits an offence if, without due authority, he paints or in any way disfigures any such office, box or property.
- (3) A person who commits an offence under subsection (1) or (2) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) In this Act—

“universal postal service letter box” means any box or receptacle provided by a universal service provider for the purpose of receiving postal packets, or any class of postal packets, for onwards transmission in connection with the provision of a universal postal service, and

“universal postal service post office” includes any house, building, room, vehicle or place used for the provision of any postal services in connection with the provision of a universal postal service or a part of such a service.

**Commencement Information**

**I11** S. 86 wholly in force at 26.3.2001, see s. 130 and S.I. 2001/878, art. 2, Sch. (subject to arts. 3-17)

**87 Prohibition on misleading descriptions.**

- (1) A person commits an offence if, without the authority of the universal service provider concerned, he places or maintains in or on any house, wall, door, window, box, post, pillar or other place belonging to him or under his control, any of the following words, letters or marks—
  - (a) the words “letter box” accompanied with words, letters or marks which signify or imply, or may reasonably lead the public to believe, that it is a universal postal service letter box, or
  - (b) any words, letters or marks which signify or imply or may reasonably lead the public to believe that any house, building, room, vehicle or place is a universal postal service post office, or that any box or receptacle is a universal postal service letter box.
- (2) A person commits an offence if, without the authority of the universal service provider concerned, he—



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- (a) places or maintains in or on any ship, vehicle, aircraft or premises belonging to him or under his control, or
  - (b) uses in any document in relation to himself or any other person or in relation to any ship, vehicle, aircraft or premises,  
 any words, letters or marks which signify or imply, or may reasonably lead the public to believe, any of the things mentioned in subsection (3).
- (3) The things are—
- (a) that he or that other person is authorised by the universal service provider concerned to collect, receive, sort, deliver or convey postal packets in connection with the provision of a universal postal service,
  - (b) that the ship, vehicle, aircraft or premises are used by the universal service provider concerned for the purpose of collecting, receiving, sorting, delivering or conveying postal packets in connection with the provision of a universal postal service.
- (4) A person commits an offence if, without reasonable excuse, he fails to comply with a notice given to him by the universal service provider concerned requiring him—
- (a) to remove or efface any words, letters or marks which fall within subsection (1) or (2), or
  - (b) to remove or close up any letter box belonging to him or under his control which has ceased to be a universal postal service letter box.
- (5) A person who commits an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **Commencement Information**

**I12** S. 87 wholly in force at 26.3.2001, see s. 130 and S.I. 2001/878, art. 2, Sch. (subject to arts. 3-17)

## **88 Obstruction of business of universal service providers.**

- (1) A person commits an offence if, without reasonable excuse, he—
- (a) obstructs a person engaged in the business of a universal service provider in the execution of his duty in connection with the provision of a universal postal service, or
  - (b) obstructs, while in any universal postal service post office or related premises, the course of business of a universal service provider.
- (2) A person who commits an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (3) A person commits an offence if, without reasonable excuse, he fails to leave a universal postal service post office or related premises when required to do so by a person who—
- (a) is engaged in the business of a universal service provider, and
  - (b) reasonably suspects him of committing an offence under subsection (1).
- (4) A person who commits an offence under subsection (3)—
- (a) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale, and
  - (b) may be removed by any person engaged in the business of a universal service provider.



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- (5) Any constable shall on demand remove, or assist in removing, any such person.
- (6) In this section “related premises” means any premises belonging to a universal postal service post office or used together with any such post office.

#### **Commencement Information**

**I13** S. 88 wholly in force at 26.3.2001, see s. 130 and S.I. 2001/878, art. 2, Sch. (subject to arts. 3-17)

## **PART VI**

### **UNIVERSAL POSTAL SERVICE: SUPPLEMENTARY**

#### *Schemes and limitation of liability*

#### **89 Schemes as to terms and conditions for provision of a universal postal service.**

- (1) A universal service provider may make a scheme under this section in relation to the services provided by him in connection with the provision of a universal postal service or any of those services.
- (2) A scheme under this section is a scheme for determining any or all of the following (so far as not otherwise agreed)—
  - (a) the charges which are to be imposed in respect of the services concerned,
  - (b) the other terms and conditions which are to be applicable to the services concerned, and
  - (c) procedures for dealing with the complaints of persons who use the services concerned.
- (3) A scheme under this section may, in particular—
  - (a) adopt such system for the determination of the charges and other terms and conditions as the universal service provider concerned considers appropriate (including determining them himself subject to any conditions and limitations provided for in the scheme),
  - (b) specify the manner in which, time and place at which and person by whom the charges are to be paid.
- (4) Subject to section 92(5) and (6), no provision may be made in any scheme under this section—
  - (a) for limiting the liability of the universal service provider concerned for loss or damage, or
  - (b) for amending the rules of law relating to evidence.
- (5) A scheme under this section shall come into force on such day as is specified in the scheme; but no day earlier than the day after that on which the scheme has been published in the London, Edinburgh and Belfast Gazettes shall be so specified.
- (6) A scheme under this section may—
  - (a) make different provision for different cases or classes of case determined by, or in accordance with, the provisions of the scheme,

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- (b) modify any previous scheme made under this section.
- (7) Any charge payable by virtue of this section may be recovered by the universal service provider concerned and in England and Wales and Northern Ireland may be so recovered as a civil debt due to him.
- (8) The production of a copy of any of the Gazettes mentioned in subsection (5) which purports to contain a scheme under this section shall be conclusive evidence in all legal proceedings of that scheme.

**Commencement Information**

**I14** S. 89 wholly in force at 26.3.2001; s. 89 not in force at Royal Assent see s. 130; s. 89(1)-(6)(8) in force at 26.2.2001 by [S.I. 2001/534, art. 2, Sch.](#); s. 89(7) in force at 26.3.2001 by 2001/1148, art. 2, Sch. (subject to arts. 3-42)

**90 Exclusion of liability.**

- (1) No proceedings in tort shall lie or, in Scotland, be competent against a universal service provider in respect of loss or damage suffered by any person in connection with the provision of a universal postal service because of—
  - (a) anything done or omitted to be done in relation to any postal packet in the course of transmission by post, or
  - (b) any omission to carry out arrangements for the collection of anything to be conveyed by post.
- (2) No officer, servant, employee, agent or sub-contractor of a universal service provider shall be subject, except at the suit or instance of the provider, to any civil liability for—
  - (a) any loss or damage in the case of which liability of the provider is excluded by subsection (1), or
  - (b) any loss of, or damage to, an inland packet to which section 91 applies.
- (3) No person engaged in or about the conveyance of postal packets and no officer, servant, employee, agent or sub-contractor of any such person shall be subject, except at the suit or instance of the universal service provider concerned, to any civil liability for—
  - (a) any loss or damage in the case of which liability of the provider is excluded by subsection (1), or
  - (b) any loss of, or damage to, an inland packet to which section 91 applies.
- (4) In the application of subsection (1) to Scotland, the reference to proceedings in tort shall be construed in the same way as in section 43(b) of the <sup>M21</sup>Crown Proceedings Act 1947.
- (5) This section is subject to section 91.

**Commencement Information**

**I15** S. 90 wholly in force at 26.3.2001, see s. 130 and [S.I. 2001/1148, art. 2, Sch.](#) (subject to arts. 3-42)

**Marginal Citations**

**M21** 1947 c. 44.

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## 91 Limited liability for registered inland packets.

- (1) Proceedings shall lie or, in Scotland, be competent against a universal service provider under this section, but not otherwise, in respect of relevant loss of, or relevant damage to, an inland packet in respect of which the universal service provider accepts liability under this section in pursuance of a scheme made under section 89.
- (2) The references in subsection (1) to relevant loss or damage are to loss or damage so far as it is due to any wrongful act of, or any neglect or default by, an officer, servant, employee, agent or sub-contractor of the universal service provider while performing or purporting to perform in that capacity his functions in relation to the receipt, conveyance, delivery or other dealing with the packet.
- (3) No proceedings shall lie or, in Scotland, be competent under this section in relation to a packet unless they are begun within the period of twelve months starting with the day on which the packet was posted.
- (4) A universal service provider shall not be liable under this section in respect of a packet of any description unless such conditions (if any) as are required by a scheme under section 89 to be complied with in relation to packets of that description at the time when they are posted have been complied with in the case of the packet.
- (5) For the purposes of this section and section 92 a scheme under section 89 may define a description of packet by reference to any circumstances whatever (including, in particular, the amount of any fee paid in respect of the packet in pursuance of the scheme).
- (6) In this section “inland packet” means any postal packet which is posted in the United Kingdom for delivery at a place in the United Kingdom to the person to whom it is addressed.

### Modifications etc. (not altering text)

C6 S. 91 applied (with modifications) (22.3.2001) by [S.I. 2001/1148](#), [art. 26](#) (with [art. 34](#))

### Commencement Information

I16 S. 91 wholly in force at 26.3.2001; s. 91 not in force at Royal Assent see s. 130; s. 91 in force for specified purposes at 26.2.2001 by [S.I. 2001/534](#), [art. 2](#), [Sch.](#); s. 91 in force in so far as not already in force at 26.3.2001 by [S.I. 2001/1148](#), [art. 2](#), [Sch.](#) (subject to [arts. 3-42](#))

## 92 Section 91: supplementary.

- (1) Subject to subsection (3), no relief or remedy shall be available under section 91 in relation to a packet except upon a claim by the sender or the addressee of the packet.
- (2) The sender or addressee concerned shall be entitled—
  - (a) to claim any relief or remedy available under this section whether or not he is the person who has suffered the loss or damage, and
  - (b) to give a good discharge in respect of all claims under this section in respect of the packet concerned.
- (3) Where the court is satisfied, on an application by a person who is not the sender or addressee of the packet, that the sender and the addressee are unable or unwilling to enforce their reliefs or remedies under this section, the court may, upon such terms as

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to security, caution, costs, expenses and otherwise as the court considers appropriate, allow that other person to bring proceedings under this section in the name of the sender or the addressee of the packet.

- (4) Where, by virtue of subsection (2) or (3), a person recovers any money or property which, apart from that subsection, would have been recoverable by another person, the money or property so recovered shall be held on trust for that other person.
- (5) The amount recoverable in any proceedings under section 91 in relation to a packet of any description shall not exceed—
  - (a) the market value of the packet at the time when the cause of action arises, or
  - (b) the maximum amount payable under a scheme made under section 89 for compensating the person aggrieved in respect of a packet of that description.
- (6) For the purposes of subsection (5)(a) the market value of a packet shall not include the market value of—
  - (a) any message or information which it bears, or
  - (b) any item which, in relation to packets of that description, is excluded from the operation of this section by a scheme under section 89.
- (7) For the purposes of any proceedings under section 91, it shall be presumed, unless the contrary is shown, that loss of, or damage to, the packet was due to such conduct as is mentioned in subsection (2) of that section.
- (8) In this section—
 

“sender”, in relation to a packet, has such meaning as may be given to it by any provision of a scheme made under section 89 and relating to an inland packet to which section 91 applies,

and any reference in this section to the sender or addressee of a packet includes a reference to his personal representatives.

#### **Modifications etc. (not altering text)**

**C7** S. 92 applied (with modifications) (22.3.2001) by [S.I. 2001/1148](#), [art. 26](#) (with [art. 34](#))

#### **Commencement Information**

**I17** S. 92 wholly in force at 26.3.2001; s. 92 not in force at Royal Assent see s. 130; s. 92 in force for specified purposes at 26.2.2001 by [S.I. 2001/534](#), [art. 2](#), [Sch.](#); s. 92 in force in so far as not already in force at 26.3.2001 by [S.I. 2001/1148](#), [art. 2](#), [Sch.](#) (subject to [arts. 3-42](#))

### **93 Power to modify sections 89 to 92.**

- (1) The Secretary of State may by order modify sections 89 to 92.
- (2) Before making an order under subsection (1), the Secretary of State shall consult the Commission, the Council and such other persons as he considers appropriate.

*Status: Point in time view as at 21/12/2007.*

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### *Supplementary powers for universal postal service*

#### **94 Power to require carriage of mail-bags by ship or aircraft.**

- (1) A universal service provider may, for any purpose in connection with the provision of a universal postal service, require by notice the owner or operator of a relevant ship or aircraft to carry mail-bags in the ship or aircraft.
- (2) In subsection (1) “relevant ship or aircraft” means any ship or aircraft which carries on regular communications between two places in the United Kingdom, one of which is not readily accessible by road.
- (3) The remuneration for any services provided in pursuance of this section shall be determined—
  - (a) by agreement between the universal service provider and the owner or operator concerned, or
  - (b) in the absence of agreement, by the Transport Tribunal or, where both places between which the ship or aircraft carries on regular communications are in Northern Ireland, by the Department for Regional Development in Northern Ireland.

#### **95 Power to acquire land etc.**

Schedule 5 (which provides for the compulsory acquisition of land by universal service providers) and Schedule 6 (which makes other provision in relation to land) shall have effect.

### *Articles in transit*

#### **96 Immunity from prosecution.**

- (1) A universal service provider and a person who is engaged in the business of such a provider shall be entitled to the same immunity from prosecution for conduct in the provision of a universal postal service and falling within subsection (2) as the provider and that person would be entitled to if the provider were a government department.
- (2) The following conduct falls within this subsection—
  - (a) possession of anything contained in a postal packet which is in the course of transmission by post where possession of it is prohibited by virtue of any enactment, and
  - (b) failure to comply, in relation to anything contained in a postal packet which is in the course of transmission by post, with any condition or restriction imposed by virtue of any enactment in relation to its possession, conveyance or delivery.

#### **Commencement Information**

**I18** S. 96 wholly in force at 26.3.2001, see s. 130 and [S.I. 2001/1148](#), art. 2, [Sch.](#) (subject to arts. 3-42)

*Status: Point in time view as at 21/12/2007.*

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## 97 Harbour charges on mail-bags.

- (1) No charge imposed by a harbour authority in respect of goods brought into, taken out of, or carried through a relevant harbour shall apply to goods contained in mail-bags—
  - (a) carried by a universal service provider in connection with the provision of a universal postal service,
  - (b) consigned by such a provider in connection with the provision of such a service to another for carriage (whether to a foreign postal administration or not), or
  - (c) consigned by a foreign postal administration to such a provider in connection with the provision of such a service for carriage.
- (2) No charge imposed by a harbour authority in respect of goods brought into, taken out of, or carried through a relevant harbour shall apply to goods contained in mail-bags which—
  - (a) are consigned by one foreign postal administration to another, and
  - (b) are mail-bags which, when in the United Kingdom, are in the charge of a universal service provider in connection with the provision of a universal postal service.
- (3) Charges which are exigible by a harbour authority at a relevant harbour in respect of mail-bags which are carried or consigned as mentioned in subsection (1) or (2) and their contents shall not be payable before the end of the period of eight weeks starting with the day on which the bags are brought within the limits of the harbour.
- (4) Subsection (3) applies despite anything in any statutory provision made with respect to the harbour authority concerned.
- (5) Such charges as are mentioned in subsection (3) may be recovered by means of proceedings instituted in that behalf in any court of competent jurisdiction; but not otherwise.
- (6) In this section and section 98—
 

“harbour authority”—

  - (a) except in relation to Northern Ireland, has the same meaning as in the <sup>M22</sup>Harbours Act 1964,
  - (b) in relation to Northern Ireland, means any person in whom are vested, by any statutory provision, the powers or duties of improving, maintaining or managing a harbour,

“relevant harbour”, in relation to a harbour authority, means a harbour which, in the exercise and performance of statutory powers and duties, the harbour authority are engaged in improving, maintaining or managing, and

“statutory provision”—

  - (a) except in relation to Northern Ireland, has the meaning given by section 57(1) of the <sup>M23</sup>Harbours Act 1964 (and, as regards Scotland, includes an Act of the Scottish Parliament and an instrument made under such an Act),
  - (b) in relation to Northern Ireland, has the same meaning as in section 1(f) of the <sup>M24</sup>Interpretation Act (Northern Ireland) 1954.
- (7) The reference in the definition of “relevant harbour” in subsection (6) to a harbour which, in the exercise and performance of statutory powers and duties, a harbour authority are engaged in improving, maintaining or managing shall be construed—

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- (a) except in relation to Northern Ireland, as if it were contained in the <sup>M25</sup>Harbours Act 1964, and
- (b) in relation to Northern Ireland, as a reference to a harbour which is being improved, maintained or managed by a harbour authority—
  - (i) in the exercise of powers conferred by a statutory provision,
  - (ii) in the performance of duties imposed by a statutory provision, or
  - (iii) in the exercise and performance of powers conferred, and duties imposed, by a statutory provision.

#### Marginal Citations

- M22** 1964 c. 40.
- M23** 1964 c. 40.
- M24** 1954 c. 33 (N.I.).
- M25** 1964 c. 40.

### **98 Mail-bags not to be subject to control by harbour authorities.**

Nothing in a statutory provision (whenever made) with respect to a harbour authority shall extend to regulate or subject to control mail-bags—

- (a) carried by a universal service provider in connection with the provision of a universal postal service,
- (b) consigned by such a provider in the provision of such a service to another for carriage (whether to a foreign postal administration or not),
- (c) consigned by a foreign postal administration to such a provider in connection with the provision of such a service for carriage, or
- (d) consigned by one foreign postal administration to another and which, when in the United Kingdom, are in the charge of a universal service provider in connection with the provision of a universal postal service.

*Common carriers*

### **99 Common carriers.**

A universal service provider shall not be regarded as a common carrier so far as he is providing a universal postal service.

*Certain exemptions from postage etc.*

### **100 Certain exemptions from postage etc.**

- (1) Petitions and addresses forwarded to Her Majesty or, in Northern Ireland, to the Secretary of State, by post shall be exempt from postage chargeable by a universal service provider in connection with the provision of a universal postal service.
- (2) Petitions and addresses to Her Majesty which are sent by post to a member of either House of Parliament, a member of the Scottish Parliament, a member of the National Assembly for Wales or a member of the Northern Ireland Assembly shall be



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- exempt from postage chargeable by a universal service provider in connection with the provision of a universal postal service if—
- (a) the petitions or addresses do not exceed 1 kilogram in weight, and
  - (b) are sent without covers or in covers open at the sides.
- (3) Petitions which are addressed to either House of Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly and are sent by post to a member of either House of Parliament, a member of the Scottish Parliament or the Clerk of the Scottish Parliament, a member of the National Assembly for Wales or (as the case may be) a member of the Northern Ireland Assembly shall be exempt from postage chargeable by a universal service provider in connection with the provision of a universal postal service if—
- (a) the petitions do not exceed 1 kilogram in weight, and
  - (b) are sent without covers or in covers open at the sides.
- (4) Subsection (5) applies where the postage chargeable by a universal service provider in connection with the provision of a universal postal service on a postal packet consisting of parliamentary proceedings has not been prepaid by the sender or has been insufficiently prepaid by him.
- (5) No sum exceeding the amount of the postage or (as the case may be) the deficiency may be recovered by the universal service provider (whether from the sender or the addressee).
- (6) In this section “parliamentary proceedings” means proceedings of either House of Parliament, the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly.

**Modifications etc. (not altering text)**

C8 S. 100 applied (22.3.2001) by S.I. 2001/1148, art. 27 (with art. 34)

**PART VII**

MISCELLANEOUS AND SUPPLEMENTARY

*Supplementary powers of the Secretary of State*

**101 Directions in interests of national security etc.**

- (1) The Secretary of State may give such directions as he considers appropriate to the Commission in relation to the exercise of its functions if he considers it necessary or expedient to do so—
- (a) in the interests of national security or in the interests of encouraging or maintaining the United Kingdom’s relations with another country or territory,
  - (b) in order—
    - (i) to discharge, or facilitate the discharge of, an international obligation,
    - (ii) to attain, or facilitate the attainment of, any other object which the Secretary of State considers it necessary or expedient to attain in view of Her Majesty’s Government in the United Kingdom being a



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- member of an international organisation or a party to an international agreement, or
- (iii) to enable Her Majesty's Government in the United Kingdom to become a member of such an organisation or a party to such an agreement.
- (2) Directions under subsection (1) may, in particular, require the Commission—
- (a) to do or not to do a particular thing, or
  - (b) to secure that a particular thing is done or not done.
- (3) The Secretary of State may, if he considers it necessary or expedient to do so for any of the purposes mentioned in subsection (1)(a) or (b), give such directions as he considers appropriate to licence holders under Part II, or to any particular licence holder under that Part, in connection with anything authorised or required by the licence or licences concerned.
- (4) Directions under subsection (3) may, in particular, require a licence holder—
- (a) to do or not to do a particular thing, or
  - (b) to secure that a particular thing is done or not done.
- (5) Before giving a direction under subsection (1), the Secretary of State shall consult the Commission.
- (6) Before giving a direction under subsection (3) to a particular licence holder (as opposed to licence holders generally or any description of licence holders), the Secretary of State shall consult the licence holder concerned.
- (7) The Secretary of State—
- (a) shall send to the Commission a copy of any direction given under subsection (3), and
  - (b) shall lay before each House of Parliament a copy of any direction given under this section.
- (8) Subsection (7)(b) does not apply if the Secretary of State considers that the disclosure of the direction would be against the interests of national security or the interests of the United Kingdom's relations with another country or territory or against the commercial interests of any person who has not consented to the disclosure.
- (9) A person shall not disclose, and is not required by any enactment or otherwise to disclose, a direction given or other thing done or omitted to be done by virtue of this section if the Secretary of State notifies him that he considers that—
- (a) disclosure would be against the interests of national security or the interests of the United Kingdom's relations with another country or territory, or
  - (b) disclosure would be against the commercial interests of any person (other than the person notified) who has not consented to the disclosure.
- (10) A person commits an offence if—
- (a) without reasonable excuse he contravenes a direction under this section, or
  - (b) he makes a disclosure in contravention of subsection (9).
- (11) A person who commits an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum,
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

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## **102 Power to ensure compliance with the Postal Services Directive.**

- (1) This section applies if the Secretary of State—
  - (a) considers—
    - (i) that a Community obligation under the Postal Services Directive is not being complied with, or
    - (ii) that it is likely that any such obligation will not be complied with, and
  - (b) has been unable to obtain any undertakings from any person or persons which are sufficient to satisfy him that the situation will be remedied.
- (2) The Secretary of State may by order make such provision as he considers appropriate to ensure that the obligation is or will be complied with.
- (3) An order under this section may, in particular—
  - (a) confer functions on the Commission or the Council or modify their functions,
  - (b) require any postal operator or any postal operators of a particular description to provide such postal services as are specified in or determined by or under the order,
  - (c) specify terms and conditions on which such services are to be provided or provide for such terms and conditions to be determined by or under the order,
  - (d) provide for the payment of sums out of money provided by Parliament for any purpose of the order,
  - (e) provide for the enforcement of any provision of the order (including the creation of criminal offences punishable with a fine but not imprisonment).
- (4) Before making an order under this section, the Secretary of State shall consult any postal operator on whom a requirement is to be imposed by virtue of the order.
- (5) In deciding whether to make an order under this section the Secretary of State shall, in particular, have regard to the likely impact of the order on any business of a postal operator on whom a requirement is to be imposed by virtue of the order.

## **103 Subsidy for public post offices.**

- (1) The Secretary of State may by order make a scheme for the making of payments for the purpose of—
  - (a) assisting in the provision of public post offices or public post offices of a particular description, or
  - (b) assisting in the provision of services to be provided from public post offices or public post offices of a particular description.
- (2) A scheme under this section which provides for the making of payments for a purpose falling within subsection (1)(b) shall ensure that no such payments may be made unless the person deciding whether to make the payments considers that the provision of the services concerned from public post offices or public post offices of a particular description would assist in the provision of public post offices or (as the case may be) public post offices of that description.
- (3) Payments under a scheme under this section shall be made by the Secretary of State or by another person out of money provided by the Secretary of State.
- (4) A scheme under this section shall specify—
  - (a) the descriptions of payments which may be made under the scheme,

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- (b) the descriptions of persons to whom such payments may be made,
  - (c) the person by whom such payments may be made,
  - (d) criteria to which that person is to have regard in deciding whether to make such payments, and
  - (e) the amounts of such payments or the basis on which such amounts are to be calculated.
- (5) A scheme under this section may, in particular, provide for—
- (a) payments under the scheme to be made subject to conditions specified in or determined under the scheme (including conditions as to repayment),
  - (b) the delegation of functions exercisable by virtue of the scheme (including the delegation of any discretion conferred by virtue of the scheme),
  - (c) the modification of the functions of a body established by an enactment, or the functions of the holder of an office created by an enactment, for the purpose of enabling the person concerned to exercise any functions conferred on that person by virtue of the scheme,
  - (d) the payment by the Secretary of State of fees to any person in respect of functions exercised by that person by virtue of the scheme.
- (6) The power to make a scheme under this section shall not be exercised without the consent of the Treasury.

*Inviolability of mails etc.*

**104 Inviolability of mails.**

- (1) Subsection (2) applies to—
- (a) a postal packet,
  - (b) anything contained in a postal packet, and
  - (c) a mail-bag containing a postal packet,
- which is not the property of the Crown but which is in the course of transmission by post.
- (2) Anything to which this subsection applies shall have the same immunity from—
- (a) examination, or seizure or detention, under a relevant power conferred by virtue of this Act or any other enactment,
  - (b) seizure under distress or in execution,
  - (c) in Scotland, any diligence, and
  - (d) retention by virtue of a lien,
- as it would have if it were the property of the Crown.
- (3) In subsection (2) “relevant power” means any power other than—
- (a) a power conferred by section 47 so far as it is exercised for any purpose connected with the investigation of an offence under section 6 or any proceedings for such an offence,
  - (b) a power conferred under section 49,
  - (c) a power conferred by an enactment relating to customs or excise in its application, by virtue of section 105 or any regulations made under that section, to goods contained in postal packets, or
  - (d) a power conferred by section 106 or 107.

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(4) The Secretary of State may by order modify subsection (3).

**Modifications etc. (not altering text)**

**C9** S. 104(1)-(3) applied (22.3.2001) by [S.I. 2001/1148](#), [art. 28](#) (with [art. 34](#))

**Commencement Information**

**I19** S. 104 wholly in force at 26.3.2001, see s. 130 and [S.I. 2001/1148](#), [art. 2](#), [Sch.](#) (subject to [arts. 3-42](#))

**105 Application of customs and excise enactments to certain postal packets.**

- (1) Subject as follows, the enactments for the time being in force in relation to customs or excise shall apply in relation to goods contained in postal packets to which this section applies which are brought into or sent out of the United Kingdom by post from or to any place outside the United Kingdom as they apply in relation to goods otherwise imported, exported or removed into or out of the United Kingdom from or to any such place.
- (2) The Treasury, on the recommendation of the Commissioners of Customs and Excise and the Secretary of State, may make regulations for—
  - (a) specifying the postal packets to which this section applies,
  - (b) making modifications or exceptions in the application of the enactments mentioned in subsection (1) to such packets,
  - (c) enabling persons engaged in the business of a postal operator to perform for the purposes of those enactments and otherwise all or any of the duties of the importer, exporter or person removing the goods,
  - (d) carrying into effect any arrangement with the government or postal administration of any country or territory outside the United Kingdom with respect to foreign postal packets,
  - (e) securing the observance of the enactments mentioned in subsection (1),
  - (f) without prejudice to any liability of any person under those enactments, punishing any contravention of the regulations.
- (3) Duties (whether of customs or excise) charged on imported goods or other charges payable in respect of postal packets to which this section applies (whether payable to a postal operator or to a foreign administration) may be recovered by the postal operator concerned and in England and Wales and Northern Ireland may be so recovered as a civil debt due to him.
- (4) In any proceedings for the recovery of any charges payable as mentioned in subsection (3), a certificate of the postal operator concerned of the amount of the charges shall be evidence (and, in Scotland, sufficient evidence) of that fact.
- (5) In this section “foreign postal packet” means any postal packet either posted in the United Kingdom and sent to a place outside the United Kingdom, or posted in a place outside the United Kingdom and sent to a place within the United Kingdom, or in transit through the United Kingdom to a place outside the United Kingdom.

*Status: Point in time view as at 21/12/2007.*

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#### Commencement Information

**I20** S. 105 wholly in force at 26.3.2001; s. 105 not in force at Royal Assent see s. 130; s. 105(2) in force at 26.2.2001 by S.I. 2001/534, art. 2, Sch.; s. 105(1)(3)-(5) in force at 26.3.2001 by S.I. 2001/1148, art. 2, Sch. (subject to arts. 3-42)

### 106 Power to detain postal packets containing contraband.

- (1) A postal operator may—
  - (a) detain any postal packet if he suspects that it may contain relevant goods,
  - (b) forward any packet so detained to the Commissioners of Customs and Excise.
- (2) In this section “relevant goods” means—
  - (a) any goods chargeable with any duty charged on imported goods (whether a customs or an excise duty) which has not been paid or secured, or
  - (b) any goods in the course of importation, exportation or removal into or out of the United Kingdom contrary to any prohibition or restriction for the time being in force by virtue of any enactment.
- (3) Subsection (1) is without prejudice to section 105.
- (4) The Commissioners may open and examine any postal packet forwarded to them under this section—
  - (a) in the presence of the person to whom the packet is addressed, or
  - (b) where the address on the packet is outside the United Kingdom or where subsection (5) applies, in the absence of that person.
- (5) This subsection applies where—
  - (a) the Commissioners have—
    - (i) left at the address on the packet notice requiring the attendance of the person concerned, or
    - (ii) forwarded such notice by post to that address, and
  - (b) the addressee fails to attend.
- (6) If the Commissioners find any relevant goods on opening and examining a postal packet under this section, they may detain the packet and its contents for the purpose of taking proceedings in relation to them.
- (7) If the Commissioners do not find any relevant goods on opening and examining a postal packet under this section, they shall—
  - (a) deliver the packet to the addressee upon his paying any postage and other sums chargeable on it, or
  - (b) if he is absent, forward the packet to him by post.

#### Commencement Information

**I21** S. 106 wholly in force at 26.3.2001, see s. 130 and S.I. 2001/1148, art. 2, Sch. (subject to arts. 3-42)

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## 107 Conditions of transit of postal packets.

- (1) If a postal operator knows or reasonably suspects that a postal packet is being sent by post in contravention of section 85, he may—
  - (a) refuse the transmission of the packet,
  - (b) detain the packet and open it,
  - (c) subject to any requirements as to additional postage or charges, return the packet to its sender or forward it to its destination,
  - (d) destroy or otherwise dispose of the packet.
- (2) Subsection (1) is without prejudice to any other powers which the postal operator may have in relation to the packet (whether under the terms and conditions applicable to its transmission by post or otherwise).
- (3) The detention or disposal by a postal operator of any postal packet on the grounds of a contravention of section 85 or of any terms and conditions applicable to its transmission by post shall not exempt the sender from any proceedings which might have been taken if the packet had been delivered in due course of post.

### Modifications etc. (not altering text)

**C10** S. 107(1) applied (22.3.2001) by S.I. 2001/1148, art. 29 (with s. 34)

### Commencement Information

**I22** S. 107 wholly in force at 26.3.2001, see s. 130 and S.I. 2001/1148, art. 2, Sch. (subject to arts. 3-42)

## *Evidential provisions*

## 108 Evidence of amount of postage etc.

- (1) The mark of—
  - (a) a universal service provider in connection with the provision of a universal postal service, or
  - (b) a foreign postal administration,
 of any sum on any postal packet as due in respect of that packet shall, unless the contrary is shown, be sufficient proof in any legal proceedings of the liability of the packet to the sum so marked.
- (2) Subsections (3) to (5) apply in relation to any legal proceedings for the recovery of postage or other sums due in respect of postal packets.
- (3) In any such proceedings, the production of the packet concerned with a stamp or other endorsement on it of a universal service provider (and made in connection with the provision of a universal postal service) or of a foreign postal administration indicating that the packet—
  - (a) has been refused or rejected,
  - (b) is unclaimed, or
  - (c) cannot for any other reason be delivered,
 shall, unless the contrary is shown, be sufficient proof of the fact indicated.

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- (4) In any such proceedings, a certificate of a universal service provider that any mark, stamp or endorsement is such a mark, stamp or endorsement as is mentioned in subsection (1) or (3) shall, unless the contrary is shown, be sufficient proof of that fact.
- (5) In any such proceedings, the person from whom the packet concerned purports to have come shall, unless the contrary is shown, be taken to be the sender of the packet.

**Modifications etc. (not altering text)**

**C11** S. 108 applied (22.3.2001) by S.I. 2001/1148, art. 30 (with art. 34)

**Commencement Information**

**I23** S. 108 wholly in force at 26.3.2001, see s. 130 and S.I. 2001/1148, art. 2, Sch. (subject to arts. 3-42)

**109 Evidence of thing being a postal packet.**

- (1) On the prosecution of an offence under this Act (whether summarily or on indictment), evidence that any article is in the course of transmission by post, or has been accepted by a postal operator for transmission by post, shall be sufficient evidence that the article is a postal packet.
- (2) In any proceedings in England and Wales for an offence under section 83 or 84 of this Act, section 27(4) of the <sup>M26</sup>Theft Act 1968 shall apply as it applies to proceedings for the theft of anything in the course of transmission by post.
- (3) In any proceedings in Northern Ireland for an offence under section 83 or 84 of this Act, section 26(5) of the <sup>M27</sup>Theft Act (Northern Ireland) 1969 shall apply as it applies to proceedings for the theft of anything in the course of transmission by post.

**Modifications etc. (not altering text)**

**C12** S. 109 applied (7.3.2001) by S.I. 2001/878, art. 16 (with art. 17)

**Commencement Information**

**I24** S. 109 wholly in force at 26.3.2001, see s. 130 and S.I. 2001/878, art. 2, Sch. (subject to arts. 3-17)

**Marginal Citations**

**M26** 1968 c. 60.

**M27** 1969 c. 16 (N.I.).

**110 Certificates in relation to universal postal service letter boxes.**

A certificate given by or on behalf of a universal service provider to the effect that any box or receptacle is or was provided by the provider concerned for the purpose of receiving postal packets, or any class of postal packets, for onwards transmission in connection with the provision of a universal postal service, shall, unless the contrary is shown, be sufficient proof in any legal proceedings of the facts stated.

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### **Commencement Information**

**I25** S. 110 wholly in force at 26.3.2001, see s. 130 and S.I. 2001/1148, art. 2, Sch. (subject to arts. 3-42)

## *Postal and money orders*

### **111 Exclusion of liability in relation to postal and money orders.**

- (1) No proceedings shall lie or, in Scotland, be competent against the Post Office company for any loss or damage as a result of—
  - (a) a reasonable refusal by the Post Office company to pay a postal or money order which has been issued by it or a foreign postal administration, or
  - (b) a reasonable delay by the Post Office company in paying any such order.
- (2) Where a postal or money order issued by the Post Office company is presented for payment in the United Kingdom by a banker to whom it has been delivered for collection, payment of the order to the banker discharges it.
- (3) Where a relevant uncrossed order issued by the Post Office company is presented for payment in the United Kingdom otherwise than by a banker to whom it has been delivered for collection, payment of the order to the person by whom it is presented discharges it.
- (4) A postal or money order issued by the Post Office company is discharged by the payment of the order outside the United Kingdom in accordance with arrangements made by the Post Office company in that regard.
- (5) Where a postal or money order issued by a foreign postal administration is paid by the Post Office company to a banker to whom it has been delivered for collection on behalf of a person other than the true owner of the order, the Post Office company shall not be liable to the true owner of the order by reason of having paid it to the banker.
- (6) Where a relevant uncrossed order issued by a foreign postal administration is presented to the Post Office company for payment otherwise than by a banker to whom it has been delivered for collection or the true owner of the order, payment of the order by the Post Office company to the person presenting it shall not make the Post Office company liable to the true owner of the order.
- (7) Any person acting as a banker in the United Kingdom who, in collecting in that capacity for any principal, has received payment from the Post Office company in respect of any postal order, or any document purporting to be a postal order, shall not incur liability to anyone except the principal by reason of having received the payment or having held or presented the order or document for payment.
- (8) Subsection (7) does not relieve any principal for whom any such order or document has been so held or presented of any liability in respect of his possession of the order or document or of the proceeds of the order or document.
- (9) In this section “relevant uncrossed order” means—
  - (a) an uncrossed postal or money order which—
    - (i) is expressed to be payable to a person specified or described in the order, and
    - (ii) is signed by or on behalf of that person or purports to be so signed, or



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- (b) an uncrossed postal order which is not expressed to be payable to a person specified or described in the order.
- (10) In this section and section 113 “banker” includes a body which carries on the business of banking.

**Modifications etc. (not altering text)**

**C13** S. 111(1)-(4) modified (22.3.2001) by **S.I. 2001/1148, art. 31** (with **art. 34**)

**Commencement Information**

**I26** S. 111 wholly in force at 26.3.2001, see s. 130 and **S.I. 2001/1148, art. 2, Sch.** (subject to **arts. 3-42**)

**112 Schemes in relation to postal and money orders.**

- (1) The Post Office company shall not issue postal or money orders otherwise than in accordance with a scheme under this section.
- (2) The Post Office company may make a scheme under this section in relation to—
  - (a) the issue by it of postal or money orders,
  - (b) other services provided by it in connection with postal or money orders (whether orders issued by it or otherwise).
- (3) A scheme under this section is a scheme for determining any or all of the following (so far as not otherwise agreed)—
  - (a) the charges which are to be imposed in respect of the services concerned,
  - (b) the other terms and conditions which are to be applicable to the services concerned, and
  - (c) procedures for dealing with the complaints of persons who use the services concerned.
- (4) A scheme under this section may, in particular—
  - (a) adopt such system for the determination of the charges and other terms and conditions as the Post Office company considers appropriate (including determining them itself subject to any conditions and limitations provided for in the scheme),
  - (b) provide for the non-payment by the Post Office company after the end of a specified period, except on satisfaction of specified conditions, of a postal or money order issued by that company or a foreign postal administration,
  - (c) specify the manner in which, time and place at which and person by whom the charges are to be paid.
- (5) No provision may be made in any scheme under this section—
  - (a) for limiting the liability of the Post Office company for loss or damage, or
  - (b) for amending the rules of law relating to evidence.
- (6) A scheme under this section shall come into force on such day as is specified in the scheme; but no day earlier than the day after that on which the scheme has been published in the London, Edinburgh and Belfast Gazettes shall be so specified.
- (7) A scheme under this section may—

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- (a) make different provision for different cases or classes of case determined by, or in accordance with, the provisions of the scheme,
  - (b) modify any previous scheme made under this section.
- (8) Any charge payable by virtue of this section may be recovered by the Post Office company and in England and Wales and Northern Ireland may be so recovered as a civil debt due to it.
- (9) The production of a copy of any of the Gazettes mentioned in subsection (6) which purports to contain a scheme under this section shall be conclusive evidence in all legal proceedings of that scheme.
- (10) The Secretary of State may by order modify this section.

#### Commencement Information

**I27** S. 112 wholly in force; s. 112 not in force at Royal Assent see s. 130; s. 112(2)-(7)(9)(10) in force at 26.2.2001 by [S.I. 2001/534, art. 2, Sch.](#); s. 112(1),(8) in force at 26.3.2001 by [S.I. 2001/1148, art. 2, Sch.](#) (subject to [arts. 3-42](#))

### 113 Recoupment of losses on wrongly paid money orders.

- (1) Subsection (2) applies where—
- (a) a money order issued by the Post Office company or a foreign postal administration has been delivered for collection to a banker, and
  - (b) the Post Office company has paid the order to the banker when it should not have done so.
- (2) The sum paid may be deducted from sums subsequently falling to be paid by the Post Office company to the banker by way of payment of money orders so issued which have been delivered to the banker for collection.

#### Modifications etc. (not altering text)

**C14** S. 113(1)(a) modified (22.3.2001) by [S.I. 2001/1148, art. 31](#) (with [art. 34](#))

#### Commencement Information

**I28** S. 113 wholly in force at 26.3.2001, see s. 130 and [S.I. 2001/1148, art. 2, Sch.](#) (subject to [arts. 3-42](#))

### 114 Special arrangements with other countries or territories.

- (1) References in sections 111 (other than subsection (4)), 112 and 113 to money orders issued by the Post Office company shall be construed as including references to special money orders issued by that company.
- (2) For the purposes of subsection (1) special money orders are orders for the payment of money in the United Kingdom which are issued by the Post Office company in pursuance of an arrangement made with a government or postal administration of any other country or territory for the transmission, by means of orders for the payment of money, of sums of money through post offices under the charge of the Post Office company and the postal administration of the other country or territory.

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- (3) The reference in section 112(2)(b) to money orders shall be construed as including a reference to orders for the payment of money issued in pursuance of an arrangement of the kind mentioned in subsection (2) above by the postal administration of the other country or territory.

#### Commencement Information

**I29** S. 114 wholly in force; s. 114 not in force at Royal Assent see s. 130; s. 114(1)(2) in force for specified purposes at 26.2.2001 by [S.I. 2001/534](#), [art. 2](#), [Sch.](#); s. 114 in force in so far as not already in force at 26.3.2001 by [S.I. 2001/1148](#), [art. 2](#), [Sch.](#) (subject to [arts. 3-42](#))

#### Other

### 115 Extension of existing powers relating to the Post Office.

- (1) In section 7(2) of the <sup>M28</sup>Post Office Act 1969 (powers of the Post Office) after paragraph (r) there shall be inserted—
- “(s) to enter into any form of financial transaction which it considers to be expedient and which does not fall within any of the preceding paragraphs;”.
- (2) After section 37(1) of that Act (loans by the Secretary of State to the Post Office) there shall be inserted—
- “(1A) The Secretary of State may, with the approval of the Treasury, make loans to any subsidiary of the Post Office.”
- (3) After section 37(2) of that Act there shall be inserted—
- “(2A) The power of the Secretary of State to make loans under this section includes power to make loans in currencies other than sterling.”
- (4) After section 37(3) of that Act (power to issue sums out of the National Loans Fund) there shall be inserted—
- “(3A) Such sums may be issued in sterling or, where the loan is to be in a currency other than sterling, in that currency or in sterling.”
- (5) In section 73 of the <sup>M29</sup>British Telecommunications Act 1981 (borrowing powers of the Post Office etc), in subsection (1)(a) and (2)(a), after “sterling” there shall, in each case, be inserted “ or a currency other than sterling ”.
- (6) In section 74(2) of that Act (limit of indebtedness of the Post Office and its subsidiaries)—
- (a) after sub-paragraph (i) there shall be inserted—
- “(ia) money borrowed by any other subsidiary of the Post Office under section 37(1A) of the 1969 Act;”,
- (b) for “£1,200 million” there shall be substituted “ £5,000 million ”, and
- (c) the words “, not exceeding £1,700 million,” shall be repealed.
- (7) After section 74(4) of that Act there shall be inserted—

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“(4A) For the purposes of this section equivalents in sterling shall be calculated as the Secretary of State considers appropriate.”

**Marginal Citations**

**M28** 1969 c. 48.

**M29** 1981 c. 38.

**116 The Postcode Address File.**

- (1) The owner for the time being of the Postcode Address File shall—
  - (a) maintain the File, and
  - (b) make the File available to any person who wishes to use it on such terms as are reasonable.
- (2) Compliance with subsection (1) shall be enforceable by civil proceedings brought by the Commission for an injunction or for interdict or for any other appropriate relief or remedy.
- (3) In this section—
 

“the Postcode Address File” means—

  - (a) the collection of relevant information which, immediately before the coming into force of this section, was owned by the Post Office, or
  - (b) that collection as it is from time to time revised, and

“relevant information” means postcodes in the United Kingdom which may be used to facilitate the identification of delivery points for the purpose of providing postal services.
- (4) The terms which may be imposed under subsection (1)(b) include terms as to the payment of such fee (if any) as the owner considers appropriate.

**117 Records of the former Postmaster General’s department.**

- (1) The Secretary of State may by order vest in the Post Office company such records of the department of the Postmaster General as—
  - (a) belong to Her Majesty in right of Her Majesty’s Government in the United Kingdom, and
  - (b) are specified in or described by the order.
- (2) The Secretary of State may give such directions to the Post Office company as he considers appropriate for ensuring that any records so transferred to the Post Office company are available to the Crown for inspection and copying.

**118 Supplementary provisions relating to the Council.**

- (1) On such day as the Secretary of State may by order appoint (“the relevant day”), all the property, rights and liabilities to which the Post Office Users’ National Council was entitled or subject immediately before that day shall become by virtue of this section property, rights and liabilities of the Council.

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- (2) An order made under subsection (1) may be varied or revoked by a subsequent order at any time before any property, rights or liabilities of the Post Office Users' National Council vest in the Council by virtue of this section.
- (3) Paragraphs 1 and 7 of Schedule 3 apply for the purposes of this section as they apply for the purposes of section 62 with such modifications as are necessary (including the substitution for references to the Post Office and the Post Office company of references to the Post Office Users' National Council and the Council respectively).
- (4) Where a person employed in the civil service of the state and seconded to the Post Office Users' National Council or a Country Council immediately before the relevant day becomes an employee of the Council on that day, his period of employment in the civil service of the state (including any part of that period spent otherwise than on secondment) counts as a period of employment with the Council for the purposes of the <sup>M30</sup>Employment Rights Act 1996 (and the change of employer does not affect the continuity of the period of employment for those purposes).
- (5) Where a person who—
  - (a) is employed in the civil service of the state and is seconded to the Council, and
  - (b) immediately before his secondment to the Council was seconded to the Post Office Users' National Council or a Country Council,becomes an employee of the Council, his period of employment in the civil service of the state (including any part of that period spent otherwise than on secondment) counts as a period of employment with the Council for the purposes of the <sup>M31</sup>Employment Rights Act 1996 (and the change of employer does not affect the continuity of the period of employment for those purposes).
- (6) In this section “Country Council” means the Post Office Users' Council for Scotland, the Post Office Users' Council for Wales or the Post Office Users' Council for Northern Ireland.

#### Marginal Citations

**M30** 1996 c. 18.

**M31** 1996 c.18.

## 119 General restrictions on disclosure of information.

Schedule 7 (which makes provision about disclosure of information) shall have effect.

#### Commencement Information

**I30** S. 119 wholly in force; s. 119 not in force at Royal Assent see s. 130; s. 119 in force for specified purposes at 6.11.2000, for further specified purposes at 1.1.2001 and in force insofar as not already in force at 26.3.2001 by [S.I. 2000/2957](#), art. 2(1)-(3), [Schs. 1, 2, 3](#) (with transitional provisions in [arts. 3-8](#))

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## *General*

### **120 Offences by bodies corporate.**

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
  - (a) a director, manager, secretary or other similar officer of the body corporate, or
  - (b) a person purporting to act in such a capacity,
 he as well as the body corporate commits the offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (3) Where an offence under this Act is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of a partner, he as well as the partnership commits the offence and shall be liable to be proceeded against and punished accordingly.

### **121 Service of documents.**

- (1) Any document required or authorised by virtue of this Act to be served on any person may be served—
  - (a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address,
  - (b) if the person is a body corporate, by serving it in accordance with paragraph (a) on the secretary of the body, or
  - (c) if the person is a partnership, by serving it in accordance with paragraph (a) on a partner or a person having the control or management of the partnership business.
- (2) For the purposes of this section and section 7 of the <sup>M32</sup>Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of any person on whom a document is to be served shall be his last known address, except that—
  - (a) in the case of service on a body corporate or its secretary, it shall be the address of the registered or principal office of the body,
  - (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the address of the principal office of the partnership.
- (3) For the purposes of subsection (2) the principal office of a company constituted under the law of a country or territory outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.
- (4) Subsection (5) applies if a person to be served under this Act with any document by another has specified to that other an address within the United Kingdom other than his proper address (as determined under subsection (2)) as the one at which he or someone on his behalf will accept documents of the same description as that document.

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- (5) In relation to that document, that address shall be treated as his proper address for the purposes of this section and section 7 of the <sup>M33</sup>Interpretation Act 1978 in its application to this section, instead of that determined under subsection (2).
- (6) This section does not apply to any document if rules of court make provision about its service.
- (7) In this section references to serving include references to similar expressions (such as giving or sending).

#### Marginal Citations

**M32** 1978 c. 30.

**M33** 1978 c. 30.

## 122 Orders and regulations.

- (1) Any power of the Secretary of State to make an order, or of the Treasury to make regulations, under this Act shall be exercisable by statutory instrument.
- (2) Any power of the Secretary of State to make an order, or of the Treasury to make regulations, under this Act—
  - (a) may be exercised so as to make different provision for different cases or descriptions of case or for different purposes,
  - (b) includes power to make such incidental, supplementary, consequential, transitory, transitional or saving provision as the Secretary of State or (as the case may be) the Treasury considers appropriate.
- (3) The power of the Secretary of State under section 9, 10, 102 or 129 (including that power as extended by this section) may be exercised by modifying any enactment comprised in or made under this Act, or any other enactment.
- (4) The power of the Secretary of State under paragraph 6(1) of Schedule 8 (including that power as extended by this section) may be exercised by modifying any enactment.
- (5) The power of the Secretary of State under section 8, 93, 104(4) or 112(10) as extended by this section may be exercised by modifying any enactment comprised in or made under this Act, or any other enactment.
- (6) The power of the Secretary of State under section 103 as extended by this section may be exercised by modifying any enactment.
- (7) The power of the Secretary of State under section 102, 103, 127(1) or 128 (including that power as extended by this section) may be exercised so as to make provision for the delegation of functions.
- (8) The fact that a power is conferred by this Act does not prejudice the extent of any other power so conferred.
- (9) Regulations under section 105 shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (10) An order under any of the following provisions shall, if made without a draft of it having been approved by a resolution of each House of Parliament, be subject to



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annulment in pursuance of a resolution of either House of Parliament: sections 10, 38(8), 58(7), 59(2), 70, 74, 102, 104(4) and 128 and paragraph 1(5) of Schedule 3 (including that paragraph as applied by section 118(3)), paragraph 4 of Schedule 7 and paragraph 6(1) of Schedule 8.

- (11) An instrument containing an order under any of the provisions mentioned in subsection (10) which revokes, amends or re-enacts an order under any of the provisions mentioned in that subsection may (in spite of section 14 of the <sup>M34</sup> Interpretation Act 1978) be subject to a different procedure under that subsection from the procedure to which the instrument containing the original order was subject.
- (12) No order shall be made under section 8, 9, 30(2), 93, 103, 112(10) or 127(1) unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
- (13) In this section references to enactment include references to any instrument or other document.

#### Subordinate Legislation Made

- P2** [S. 122\(3\)](#) Power partly exercised: different dates appointed for specified provisions by [S.I. 2001/1148](#) art. 2 (with saving and transitional provisions in arts. 3-42)

#### Marginal Citations

- M34** [1978 c. 30.](#)

### 123 Directions.

- (1) A person to whom a direction is given under this Act shall give effect to it.
- (2) Any power conferred by this Act to give a direction shall include power to vary or revoke the direction.
- (3) Any direction given under this Act shall be in writing.

### 124 General financial provision.

- (1) There shall be paid out of money provided by Parliament—
- any expenditure incurred by the Commission in consequence of this Act,
  - any expenditure incurred by the Treasury or the Secretary of State in consequence of this Act (apart from any expenditure to be met from the National Loans Fund), and
  - any increase attributable to this Act in the sums payable out of money so provided under any other enactment.
- (2) There shall be paid out of, or into, the National Loans Fund any increase attributable to this Act in the sums so payable under any other enactment.
- (3) There shall be paid into the Consolidated Fund any sums received by the Treasury, the Secretary of State or the Commission in consequence of this Act (apart from any sums required to be paid into the National Loans Fund).



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## 125 Interpretation.

(1) In this Act, unless the context otherwise requires—

“body” includes an unincorporated association,

“contravention”, in relation to any requirement, condition, direction, order or regulations, includes any failure to comply with it and cognate expressions shall be construed accordingly,

“correspondent”, in relation to a postal packet, means the sender or the person to whom it is addressed,

[<sup>F35</sup>“the Council” means the National Consumer Council, ]

“employee”, in relation to a body corporate, includes any officer or director of the body corporate and any other person taking part in its management, and “employer” and other related expressions shall be construed accordingly,

“enactment” includes an Act of the Scottish Parliament, Northern Ireland legislation (within the meaning of the <sup>M35</sup>Northern Ireland Act 1998) and an enactment comprised in subordinate legislation, and includes an enactment whenever passed or made,

“financial year” means a year ending with 31st March,

“foreign postal administration” means a postal administration outside the United Kingdom,

“hovercraft” has the same meaning as in the <sup>M36</sup>Hovercraft Act 1968,

“letter” means any communication in written form on any kind of physical medium to be conveyed and delivered otherwise than electronically to the person or address indicated by the sender on the item itself or on its wrapping (excluding any book, catalogue, newspaper or periodical); and includes a postal packet containing any such communication,

“mail-bag” includes any form of container or covering in which postal packets in the course of transmission by post are enclosed by a postal operator in the United Kingdom or a foreign postal administration for the purpose of conveyance by post, whether or not it contains any such packets,

“modify” includes amend or repeal,

“Northern Ireland junior Minister” means a member of the Northern Ireland Assembly appointed as a junior Minister under section 19 of the <sup>M37</sup>Northern Ireland Act 1998,

“Northern Ireland Minister” includes the First Minister and the deputy First Minister in Northern Ireland,

“notice” means notice in writing,

“post office” includes any house, building, room, vehicle or place used for the provision of any postal services,

“post office letter box” includes any pillar box, wall box, or other box or receptacle provided by a postal operator for the purpose of receiving postal packets, or any class of postal packets, for onwards transmission by post,

“postal operator” means a person who provides the service of conveying postal packets from one place to another by post or any of the incidental services of receiving, collecting, sorting and delivering such packets,

“postal packet” means a letter, parcel, packet or other article transmissible by post,

“postal services” means the service of conveying postal packets from one place to another by post, the incidental services of receiving, collecting,

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sorting and delivering such packets and any other service which relates to any of those services and is provided in conjunction with any of them,

“the Postal Services Directive” means the Directive of the European Parliament and the Council of the European Union of 15th December 1997 (No. [97/67/EC](#)) on common rules for the development of the internal market of Community postal services and the implementation of quality of service, [<sup>F36</sup>as amended by the Directive of the European Parliament and the Council of the European Union of 10th June 2002 (No. [2002/39/EC](#)) with regard to the further opening to competition of Community postal services]

“public holiday” means Christmas Day, Good Friday or a day which is a bank holiday under the <sup>M38</sup>Banking and Financial Dealings Act 1971 in any part of the United Kingdom,

“registered post service” means a postal service which provides for the registration of postal packets in connection with their transmission by post and for the payment of compensation for any loss or damage,

“sender”, in relation to any letter or other communication, means the person whose communication it is,

“ship” includes any boat, vessel or hovercraft,

“subordinate legislation” has the same meaning as in the <sup>M39</sup>Interpretation Act 1978 and also includes an instrument made under an Act of the Scottish Parliament and an instrument made under Northern Ireland legislation (within the meaning of section 98(1) of the <sup>M40</sup>Northern Ireland Act 1998),

“users”, in relation to postal services, includes users as addressees and potential users,

“vehicle” includes a railway vehicle, and

“working day” means—

- (a) in relation to the collection and delivery of letters, any day which is not a Sunday or a public holiday,
- (b) in relation to the collection and delivery of postal packets other than letters, any day which is not a Saturday, a Sunday or a public holiday.

(2) For the purposes of the definition of “letter” in subsection (1) the reference to a communication to be conveyed and delivered otherwise than electronically shall be construed as a reference to a communication to be conveyed and delivered otherwise than—

- (a) by means of [<sup>F37</sup>an electronic communications network], or
- (b) by other means but while in electronic form.

(3) For the purposes of this Act—

- (a) a postal packet shall be taken to be in course of transmission by post from the time of its being delivered to any post office or post office letter box to the time of its being delivered to the addressee,
- (b) the delivery of a postal packet of any description to a letter carrier or other person authorised to receive postal packets of that description for the post or to a person engaged in the business of a postal operator to be dealt with in the course of that business shall be a delivery to a post office, and
- (c) the delivery of a postal packet—
  - (i) at the premises to which it is addressed or redirected, unless they are a post office from which it is to be collected,

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- (ii) to any box or receptacle to which the occupier of those premises has agreed that postal packets addressed to persons at those premises may be delivered, or
- (iii) to the addressee's agent or to any other person considered to be authorised to receive the packet,
- shall be a delivery to the addressee.
- (4) Any reference in this Act to a subsidiary or wholly owned subsidiary shall be construed in accordance with section 736 of the <sup>M41</sup>Companies Act 1985 or Article 4 of the <sup>M42</sup>Companies (Northern Ireland) Order 1986.

#### Textual Amendments

- F35** Words in s. 125(1) inserted (21.12.2007 for specified purposes, 1.10.2008 in so far as not already in force) by [Consumers, Estate Agents and Redress Act 2007 \(c. 17\)](#), **ss. 30(4)(c)**, 66(2) (with s. 6(9), [Sch. 3](#)); [S.I. 2007/3546](#), art. 3, Sch.; [S.I. 2008/2550](#), art. 2, Sch.
- F36** Words in s. 125 added (1.1.2003) by [S.I. 2002/3050](#), **reg. 7**
- F37** Words in s. 125(2)(a) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 17 para. 162(2)** (with [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by [S.I. 2003/3142](#), art. 1(3)); [S.I. 2003/3142](#), art. 3(2) (with art. 11)

#### Marginal Citations

- M35** 1998 c. 47.
- M36** 1968 c. 59.
- M37** 1998 c. 47.
- M38** 1971 c. 80.
- M39** 1978 c. 30.
- M40** 1998 c. 47.
- M41** 1985 c. 6.
- M42** [S.I. 1986/1032 \(N.I. 6\)](#).

## 126 Index of defined expressions.

In this Act, the expressions listed in the left-hand column have the meaning given by, or are to be interpreted in accordance with, the provisions listed in the right-hand column.

<i>Expression</i>	<i>Provision of this Act</i>
Body	Section 125(1)
The Commission	Section 1(1)
Condition of a licence	Section 13(5)
Contravention	Section 125(1)
Correspondent	Section 125(1)
Course of transmission by post	Section 125(3)
The Council	Section 2(1)
Delivery to addressee	Section 125(3)

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*Status: Point in time view as at 21/12/2007.*

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Delivery (in certain other circumstances)	Section 125(3)
Employee	Section 125(1)
Enactment	Section 125(1)
Final order	Section 22(5)
Financial year	Section 125(1)
Foreign postal administration	Section 125(1)
Hovercraft	Section 125(1)
Letter	Section 125(1) and (2)
Mail-bag	Section 125(1)
Modify	Section 125(1)
Northern Ireland junior Minister	Section 125(1)
Northern Ireland Minister	Section 125(1)
Notice	Section 125(1)
Post office	Section 125(1)
Post office letter box	Section 125(1)
Postal operator	Section 125(1)
Postal packet	Section 125(1)
Postal services	Section 125(1)
The Postal Services Directive	Section 125(1)
Provision of a universal postal service	Section 4(1), (2) and (6)
Provisional order	Section 23(8)
Public holiday	Section 125(1)
Public post office	Section 42(3)
Regional committee	Section 54(5)
Registered post service	Section 125(1)
Sender	Section 125(1)
Ship	Section 125(1)
Subordinate legislation	Section 125(1)
Subsidiary	Section 125(4)
Universal postal service letter box	Section 86(4)
Universal postal service post office	Section 86(4)
Universal service provider	Section 4(3) and (4)
Users	Section 125(1)
Vehicle	Section 125(1)
Wholly owned subsidiary	Section 125(4)

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Working day

Section 125(1)

## 127 General amendments and repeals.

- (1) The Secretary of State may by order make such supplementary, incidental or consequential provision as he considers necessary or expedient for the general purposes, or any particular purpose, of this Act or in consequence of any provision made by or under this Act or for giving full effect to this Act or any such provision.
- (2) The power conferred by subsection (1) (including that power as extended by section 122) may, in particular, be exercised by modifying any enactment, instrument or other document.
- (3) No other provision of this Act restricts the power conferred by subsection (1).
- (4) Schedule 8 (which contains amendments of enactments) shall have effect.
- (5) Any amendment by that Schedule of an enactment comprised in subordinate legislation is without prejudice to any power to make further subordinate legislation modifying the amended enactment.
- (6) Schedule 9 (which contains repeals and revocations of enactments including enactments which are already obsolete or unnecessary) shall have effect.

### Commencement Information

- I31** S. 127 partly in force; s. 127(1)-(3)(5) in force at Royal Assent see s. 130; s. 127(4)(6) in force for specified purposes at 6.11.2000, in force for further specified purposes at 1.1.2001 by S.I. 2000/2957, arts. 2(1)(2), Schs. 1, 2 (with transitional provisions in arts. 3-8); s. 127(4) in force in so far as not already in force 26.3.2001 by S.I. 2001/1148, art. 2, Sch. (subject to arts. 3-42); s. 127(6) in force for further specified purposes 26.3.2001 by S.I. 2000/2957, art. 2(3), Sch. 3 (with transitional provisions in arts. 3-8), S.I. 2001/878, art. 2, Sch., S.I. 2001/1148, art. 2, Sch. (subject to transitional provisions in arts. 3-42)
- I32** S. 127(6) in force at 1.5.2007 for specified purposes by S.I. 2007/1181, art. 2, Sch.

## 128 Modifications of local enactments etc.

- (1) The Secretary of State may by order make such supplementary, incidental or consequential provision in relation to local enactments as he considers necessary or expedient for the general purposes, or any particular purpose, of this Act or in consequence of any provision made by or under this Act or for giving full effect to this Act or any such provision.
- (2) The power conferred by subsection (1) (including that power as extended by section 122) may, in particular, be exercised by modifying any local enactment or any instrument or other document which is not an Act.
- (3) No other provision of this Act restricts the power conferred by subsection (1).
- (4) In this section “local enactment” means—
  - (a) a local or private Act,
  - (b) a public general Act relating to London,

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- (c) an order confirmed by Parliament or brought into operation in accordance with special parliamentary procedure, or
- (d) an enactment in a public general Act amending anything falling within paragraphs (a) to (c).

## 129 Transitional provisions etc.

The Secretary of State may by order make such provision as he considers necessary or expedient for transitory, transitional or saving purposes in connection with the coming into force of any provision of this Act.

### Subordinate Legislation Made

- P3** [S. 129](#) power exercised: 26.3.2001 appointed for specified provisions by [S.I. 2001/878](#) art. 2, Sch. (with saving and transitional provisions in arts. 3-17)
- [S. 129](#) Power partly exercised: different dates appointed for specified provisions by [S.I. 2001/1148](#) art. 2 (with saving and transitional provisions in arts. 3-42)

*Final*

## 130 Commencement.

- (1) Parts I to VI, sections 101 to 114, sections 116 to 119 (including Schedule 7) and section 127(4) and (6) (including Schedules 8 and 9) shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes or different areas.
- (2) Section 115 shall come into force at the end of the period of two months beginning with the day on which this Act is passed.

### Subordinate Legislation Made

- P4** [S. 130\(1\)](#) power partly exercised: different dates appointed for specified provisions by [S.I. 2000/2957](#), art. 2(1)-(3), Schs. 1, 2, 3 (as amended by [S.I. 2001/1148](#) art. 43(1))
- [S. 130\(1\)](#) power partly exercised: 26.2.2001 appointed for specified provisions by [S.I. 2001/534](#), art. 2, Sch.
- [S. 130\(1\)](#) power partly exercised: 26.3.2001 appointed for specified provisions by [S.I. 2001/878](#) art. 2, Sch. (with saving and transitional provisions in arts. 3-17)
- [S. 130\(1\)](#) Power partly exercised: different dates appointed for specified provisions by [S.I. 2001/1148](#) art. 2 (with saving and transitional provisions in arts. 3-42)

## 131 Short title and extent.

- (1) This Act may be cited as the Postal Services Act 2000.
- (2) Any modification by this Act of an enactment has the same extent as the enactment modified.
- (3) Subject to that, this Act extends to Northern Ireland.

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- (4) Sections 127(1) to (3) and 129 and this section, together with sections 122 and 125 so far as they relate to those provisions, extend to the Isle of Man and the Channel Islands (in addition to any provisions of this Act which so extend by virtue of subsection (2) above).

**Status:**

Point in time view as at 21/12/2007.

**Changes to legislation:**

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