



Postal Services Act 2000

2000 CHAPTER 26

PART VI

[^{F1}POSTAL SERVICES: SUPPLEMENTARY]

Schemes and limitation of liability

89 Schemes as to terms and conditions for provision of [^{F1}postal services].

- [^{F2}(1) A postal operator may make a scheme under this section in relation to any or all of the postal services provided by the operator.]
- (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, [^{F3}and]
 - (b) the other terms and conditions which are to be applicable to the services concerned, ^{F4}...
 - ^{F4}(c)
- (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 [^{F5}the postal operator] 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 [^{F6}the postal operator] for loss or damage, or
 - (b) for amending the rules of law relating to evidence.

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- (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,
 - (b) modify any previous scheme made under this section.
- (7) Any charge payable by virtue of this section may be recovered by [^{F7}the postal operator] 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.

Textual Amendments

- F1** Words in s. 89 heading substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 23\(2\)](#); [S.I. 2011/2329, art. 3](#)
- F2** S. 89(1) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 23\(3\)](#); [S.I. 2011/2329, art. 3](#)
- F3** Word in s. 89(2)(a) inserted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 23\(4\)\(a\)](#); [S.I. 2011/2329, art. 3](#)
- F4** S. 89(2)(c) omitted (1.10.2011) by virtue of [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 23\(4\)\(b\)](#); [S.I. 2011/2329, art. 3](#)
- F5** Words in s. 89(3)(a) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 23\(5\)](#); [S.I. 2011/2329, art. 3](#)
- F6** Words in s. 89(4)(a) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 23\(5\)](#); [S.I. 2011/2329, art. 3](#)
- F7** Words in s. 89(7) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 23\(5\)](#); [S.I. 2011/2329, art. 3](#)

Commencement Information

- II** 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)

[^{F8}89A Powers of OFCOM in relation to schemes

- (1) A postal operator may not make a scheme under section 89 unless—
- (a) the operator has notified OFCOM of the scheme that the operator is proposing to make, and
 - (b) the operator has carried out a consultation exercise in relation to the proposed scheme in accordance with requirements contained in a notification published by OFCOM.
- (2) OFCOM may give a direction to a postal operator who has notified a scheme to them under subsection (1)(a) requiring the operator to make such modifications of the scheme as are specified in the direction.

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- (3) Before giving a direction under subsection (2), OFCOM must publish a notification—
 - (a) setting out the terms of the scheme that the operator proposes to make,
 - (b) stating that OFCOM are proposing to give a direction under subsection (2) modifying the scheme,
 - (c) setting out the effect of the proposed modification,
 - (d) giving reasons for making the proposed modification, and
 - (e) specifying the period within which representations may be made to them about the proposed modification.
- (4) The specified period must be at least one month beginning with the day after the day the notification under subsection (3) is published.
- (5) OFCOM may not give a direction under subsection (2) unless they have considered every representation and proposal made to them during the period specified in that notification.
- (6) If the scheme is not in force at the time at which that notification is published, the operator may not bring the scheme into force until such time as OFCOM may direct.
- (7) OFCOM must publish a notification of any direction that they make under subsection (2).
- (8) The publication of a notification under this section must be in such manner as OFCOM consider appropriate for bringing its contents to the attention of such persons as they consider appropriate.
- (9) An obligation imposed on a postal operator by a direction under subsection (2) is enforceable by OFCOM under Schedule 7 to the Postal Services Act 2011 (enforcement of regulatory requirements).]

Textual Amendments

F8 S. 89A inserted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 24; S.I. 2011/2329, art. 3](#)

90 Exclusion of liability.

[^{F9}(A1) This section applies in relation to—

- (a) the provision by a universal service provider of a universal postal service, and
- (b) the provision by a postal operator of a service in relation to which a scheme under section 89 (made by the operator) applies.

(A2) In this section—

- (a) “the operator” means the universal service provider or the postal operator concerned, and
- (b) “the service” means the service mentioned in subsection (A1)(a) or (b) (as the case may be).]

- (1) No proceedings in tort shall lie or, in Scotland, be competent against [^{F10}the operator] in respect of loss or damage suffered by any person in connection with the provision of [^{F11}the service] because of—

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- (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 [^{F12}the operator] shall be subject, except at the suit or instance of [^{F13}the operator], to any civil liability for—
- (a) any loss or damage in the case of which liability of [^{F13}the operator] is excluded by subsection (1), or
 - (b) any loss of, or damage to, [^{F14}a postal 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 [^{F15}the operator], to any civil liability for—
- (a) any loss or damage in the case of which liability of [^{F16}the operator] is excluded by subsection (1), or
 - (b) any loss of, or damage to, [^{F17}a postal 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 ^{M1}Crown Proceedings Act 1947.
- (5) This section is subject to section 91.

Textual Amendments

- F9** S. 90(A1)(A2) inserted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 25\(2\)](#); [S.I. 2011/2329, art. 3](#)
- F10** Words in s. 90(1) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 25\(3\)\(a\)](#); [S.I. 2011/2329, art. 3](#)
- F11** Words in s. 90(1) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 25\(3\)\(b\)](#); [S.I. 2011/2329, art. 3](#)
- F12** Words in s. 90(2) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 25\(4\)\(a\)](#); [S.I. 2011/2329, art. 3](#)
- F13** Words in s. 90(2) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 25\(4\)\(b\)](#); [S.I. 2011/2329, art. 3](#)
- F14** Words in s. 90(2)(b) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 25\(4\)\(c\)](#); [S.I. 2011/2329, art. 3](#)
- F15** Words in s. 90(3) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 25\(5\)\(a\)](#); [S.I. 2011/2329, art. 3](#)
- F16** Words in s. 90(3) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 25\(5\)\(b\)](#); [S.I. 2011/2329, art. 3](#)
- F17** Words in s. 90(3)(b) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 25\(5\)\(c\)](#); [S.I. 2011/2329, art. 3](#)

Commencement Information

- I2** 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

- M1** 1947 c. 44.

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91 Limited liability for ^{F18}postal packets].

- (1) Proceedings shall lie or, in Scotland, be competent against ^{F19}a postal operator] under this section, but not otherwise, in respect of relevant loss of, or relevant damage to, ^{F20}a postal packet] in respect of which ^{F21}the operator] 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 ^{F22}the postal operator] 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 ^{F23}postal operator] 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).

^{F24}(6)

Textual Amendments

- F18** Words in s. 91 heading substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 26\(2\)](#); S.I. 2011/2329, art. 3
- F19** Words in s. 91(1) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 26\(3\)\(a\)](#); S.I. 2011/2329, art. 3
- F20** Words in s. 91(1) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 26\(3\)\(b\)](#); S.I. 2011/2329, art. 3
- F21** Words in s. 91(1) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 26\(3\)\(c\)](#); S.I. 2011/2329, art. 3
- F22** Words in s. 91(2) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 26\(4\)](#); S.I. 2011/2329, art. 3
- F23** Words in s. 91(4) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 26\(5\)](#); S.I. 2011/2329, art. 3
- F24** S. 91(6) omitted (1.10.2011) by virtue of [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 26\(6\)](#); S.I. 2011/2329, art. 3

Modifications etc. (not altering text)

- C1** S. 91 applied (with modifications) (22.3.2001) by [S.I. 2001/1148, art. 26](#) (with art. 34)

Commencement Information

- I3** 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)

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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 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)

C2 S. 92 applied (with modifications) (22.3.2001) by [S.I. 2001/1148](#), [art. 26](#) (with [art. 34](#))

Commencement Information

I4 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](#))

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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 [^{F25}OFCOM], the Council and such other persons as he considers appropriate.

Textual Amendments

F25 Word in s. 93(2) substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 27](#); [S.I. 2011/2329, art. 3](#)

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