



# Postal Services Act 2000

## 2000 CHAPTER 26

### PART VII

#### MISCELLANEOUS AND SUPPLEMENTARY

##### *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,
  - [<sup>F1</sup>(ba) in England and Wales, being taken control of under Schedule 12 to the Tribunals, Courts and Enforcement Act 2007,]
  - (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—
- <sup>F2</sup>(a) .....
  - <sup>F2</sup>(b) .....
  - [<sup>F3</sup>(ba) a power conferred by section 104A,]

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- (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, <sup>F4</sup>...
- (d) a power conferred by section 106 or 107<sup>F5</sup>, or
- (e) a power conferred by paragraph 9 of Schedule 7 to the Terrorism Act 2000 (port and border controls).]

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

#### Textual Amendments

- F1** S. 104(2)(ba) inserted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 138](#) (with s. 89); [S.I. 2014/768](#), art. 2(1)(b)
- F2** S. 104(3)(a)(b) omitted (1.10.2011) by virtue of [Postal Services Act 2011 \(c. 5\)](#), s. 93(2)(3), [Sch. 12 para. 34\(a\)](#); [S.I. 2011/2329](#), art. 3; [S.I. 2011/2329](#), art. 3
- F3** S. 104(3)(ba) inserted (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), s. 93(2)(3), [Sch. 12 para. 34\(b\)](#); [S.I. 2011/2329](#), art. 3
- F4** Word in s. 104(3)(c) omitted (12.2.2015) by virtue of [Counter-Terrorism and Security Act 2015 \(c. 6\)](#), s. 52(5), [Sch. 8 para. 3\(2\)](#)
- F5** S. 104(3)(e) and word inserted (12.2.2015) by [Counter-Terrorism and Security Act 2015 \(c. 6\)](#), s. 52(5), [Sch. 8 para. 3\(3\)](#)

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

- C1** S. 104(1)-(3) applied (22.3.2001) by [S.I. 2001/1148](#), [art. 28](#) (with [art. 34](#))

#### Commencement Information

- I1** 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](#))

### <sup>F6</sup>104A Power to detain packets in respect of unpaid or underpaid postage

- (1) A postal operator—
  - (a) may detain any postal packet in respect of which there has been no payment, or an underpayment, for postage, and
  - (b) may impose a surcharge in respect of that non-payment or underpayment.
- (2) A postal operator may detain the packet until the correct postage and any surcharge have been paid.
- (3) OFCOM may give a direction to a postal operator—
  - (a) limiting the amount of any surcharge, and
  - (b) limiting the length of time for which a postal packet may be detained under subsection (2) (and, if a direction is given under this paragraph, that subsection has effect subject to the direction).
- (4) Where a direction is given to an operator limiting the amount of a surcharge, subsection (2) has effect in relation to the operator (in any case where the surcharge would otherwise exceed the amount specified in the direction) as if the surcharge were equal to the amount specified in the direction.
- (5) Before giving a direction to a postal operator under this section, OFCOM must—
  - (a) inform the operator that they propose to give it a direction, and
  - (b) allow the operator an opportunity to make representations about the proposal.]

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### Textual Amendments

**F6** S. 104A inserted (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), s. 93(2)(3), [Sch. 12 para. 35](#); [S.I. 2011/2329](#), art. 3

## 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.
- [<sup>F7</sup>(4A) A postal operator may detain a postal packet to which this section applies until any duties and charges in respect of the packet that are recoverable by virtue of subsection (3) have been paid.]
- (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.
- [<sup>F8</sup>(6) And in this section “goods” includes cash (within the meaning of section 289(6) and (7) of the Proceeds of Crime Act 2002). ]

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#### Textual Amendments

- F7** S. 105(4A) inserted (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), s. 93(2)(3), [Sch. 12 para. 36](#); [S.I. 2011/2329](#), art. 3
- F8** S. 105(6) inserted (25.1.2010) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 99\(4\)](#), 116(3)(b); [S.I. 2010/52](#), art. 2

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

- C2** S. 105 applied (10.1.2012) by [The Postal Packets \(Revenue and Customs\) Regulations 2011 \(S.I. 2011/3036\)](#), regs. 1, 5 (with reg. 25)

#### Commencement Information

- I2** 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)

### [<sup>F9</sup>105A Section 105: limit on handling charges etc

- (1) OFCOM may give a direction to a postal operator—
  - (a) limiting the amount of any handling charge, and
  - (b) limiting the length of time for which a postal packet may be detained under section 105(4A) (and, if a direction is given under this paragraph, that subsection has effect subject to the direction).
- (2) Where a direction is given to an operator limiting the amount of a handling charge, section 105(3) to (4A) have effect in relation to the operator (in any case where the charge would otherwise exceed the amount specified in the direction) as if the charge were equal to the amount specified in the direction.
- (3) Before giving a direction to a postal operator under this section, OFCOM must—
  - (a) inform the operator that they propose to give it a direction, and
  - (b) allow the operator an opportunity to make representations about the proposal.
- (4) In this section “handling charge” means a charge payable to a postal operator, in respect of a postal packet, for the performance by the operator of all or any of the duties mentioned in section 105(2)(c).]

#### Textual Amendments

- F9** S. 105A inserted (1.10.2011) by [Postal Services Act 2011 \(c. 5\)](#), s. 93(2)(3), [Sch. 12 para. 37](#); [S.I. 2011/2329](#), art. 3

### 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—

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- (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 [<sup>F10</sup>in the presence of a representative of the postal operator].
- <sup>F11</sup>(5) .....
- (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) <sup>F12</sup>..., forward the packet to him by post.

#### Textual Amendments

- F10** Words substituted for s. 106(4)(a)(b) (8.4.2010) by [Finance Act 2010 \(c. 13\), s. 57\(2\)](#)
- F11** S. 106(5) omitted (8.4.2010) by virtue of [Finance Act 2010 \(c. 13\), s. 57\(3\)](#)
- F12** Words in s. 106(7)(b) omitted (8.4.2010) by virtue of [Finance Act 2010 \(c. 13\), s. 57\(4\)](#)

#### Commencement Information

- I3** 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](#))

### 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.

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

**C3** S. 107(1) applied (22.3.2001) by [S.I. 2001/1148](#), [art. 29](#) (with s. 34)

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**Commencement Information**

**I4** 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](#))

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