

POSTAL SERVICES ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Regulation of postal services

Supplementary and consequential provisions

Section 61: Duties in relation to social and environmental matters

278. This section enables the Secretary of State to give guidance to OFCOM, in respect of carrying out their functions relating to postal services, on its contribution to social or environmental policies set out in the guidance, in which case OFCOM must have regard to that guidance. The Secretary of State must consult OFCOM, the National Consumer Council and other persons as considered appropriate on any proposed guidance and a draft must be laid before Parliament. Parliament may resolve that the guidance should not be given. The Secretary of State must publish any guidance given under subsection (1).

Section 62: UK postage stamps bearing image of Her Majesty

279. This section provides that the Secretary of State may give a direction to a universal service provider requiring the provider to issue postage stamps bearing the image of Her Majesty. A direction may also relate to the subject matter and frequency of stamp issues and the process for design approval. If given, a direction must require stamps bearing the image of Her Majesty not to be issued without Her Majesty's approval. The person to whom the direction is given has a duty to comply with the detail of direction. The duty can be enforced in civil proceedings by the Secretary of State.

Section 63: Orders, schemes and regulations made by OFCOM

280. This section provides for section 403 of the Communications Act 2003 to apply to any power of OFCOM under Part 3 to make an order, a scheme or regulations. This means that orders, scheme and regulations are made by statutory instrument. OFCOM are required to give notice to those likely to be affected by an order scheme or regulations and invite their representations before making the instrument.

Section 64: Abolition of Postal Services Commission etc

281. This section abolishes the Postal Services Commission, and applies the provisions of the Communications Act 2003 applicable to pre-commencement regulators under that Act in respect of transfers of property, rights and liabilities to the transfer from Postcomm to OFCOM. It makes provision for the Transfer of Undertakings (Protection of Employment) Regulations 2006 to apply to the transfer of staff from Postcomm to OFCOM. It also provides that the transfer of functions, assets or liabilities from Postcomm to OFCOM under or by virtue of this Act is not to be treated as a merger for accounting purposes.

Section 65: Interpretation of Part 3

- 282. Subsection (1) defines various terms used in Part 3 of the Act.
- 283. Subsection (2) defines references to a universal postal service.
- 284. Subsection (3) applies references to a universal service provider to a person who provides part of a universal service or universal service provision in a specified area of the country.
- 285. Subsection (4) defines contravention and other references relating to contraventions (for example, remedying the consequences of a contravention).
- 286. Subsection (5) provides that any directions made under this Part of the Act must be in writing and may be varied or revoked by a further direction.

Section 66: Transitional provisions for Part 3

- 287. This section introduces Schedule 9, which contains transitional provisions in relation to the coming into force of Part 3 of the Act.

Section 67: Review of Part 3

- 288. This section provides for there to be a review of the provisions of Part 3 within 5 years after the provisions of the Part generally come into force. The Secretary of State must set out the conclusions of the review in a report and lay the report before Parliament. The report must, in particular, set out the objectives intended to be achieved by the regulatory system established by the provisions; assess the extent to which the objectives have been achieved; and assess whether those objectives remain appropriate and, if so, whether they could be achieved by a system that imposed less regulation.