



Postal Services Act 2011

2011 CHAPTER 5

PART 1

RESTRUCTURING OF ROYAL MAIL GROUP

Transfer of property etc

8 Transfer schemes

- (1) The Secretary of State, or the original holding company (if it is wholly owned by the Crown), may make one or more transfer schemes.
- (2) A “transfer scheme” is a scheme for the transfer of property, rights or liabilities (or the creation of interests, rights or liabilities)—
 - (a) between companies within subsection (3), or
 - (b) between—
 - (i) a company within subsection (3), and
 - (ii) the Secretary of State or the Treasury (or a nominee of either of them) or a company wholly owned by the Crown.
- (3) A company is within this subsection if—
 - (a) it is the original holding company or a subsidiary of that company, and
 - (b) it is wholly owned by the Crown.
- (4) A transfer scheme made by the original holding company has effect—
 - (a) only if approved by the Secretary of State, and
 - (b) subject to any modifications made by the Secretary of State.
- (5) The Secretary of State must consult the original holding company—
 - (a) before making a transfer scheme, and
 - (b) before making any modifications of a transfer scheme made by the company.
- (6) The Secretary of State may direct the original holding company (if it is wholly owned by the Crown) to make a transfer scheme in accordance with the direction.

Status: This is the original version (as it was originally enacted).

- (7) Schedule 1 contains further provision about transfer schemes.
- (8) Nothing in that Schedule is to be read as restricting the provision that may be contained in transfer schemes.
- (9) A company within subsection (3) must provide the Secretary of State with any information or other assistance that the Secretary of State may reasonably require for the purposes of, or in connection with, the exercise of any power under this section or that Schedule.
- (10) That duty overrides any contractual or other requirement to keep information in confidence.
- (11) That duty is enforceable in civil proceedings by the Secretary of State—
 - (a) for an injunction,
 - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or
 - (c) for any other appropriate remedy or relief.

9 Transfer of employees otherwise than under transfer scheme

- (1) This section applies if an agreement between companies within subsection (3) provides for the transfer from one to the other of rights and liabilities under contracts of employment.
- (2) This section also applies if—
 - (a) employees of a company within subsection (3) (“company A”) are provided to another company within that subsection (“company B”),
 - (b) an agreement between the companies provides for the employees to cease to be provided to company B, and
 - (c) company B intends to employ the employees.
- (3) A company is within this subsection if—
 - (a) it is the original holding company or a subsidiary of that company, and
 - (b) it is wholly owned by the Crown.
- (4) At any time before the agreement comes into force, the Secretary of State may—
 - (a) in a case within subsection (1), designate any contract of employment the rights and liabilities under which are to be transferred under the agreement, and
 - (b) in a case within subsection (2), designate any employee of company A who is provided as mentioned in subsection (2)(a).
- (5) The designation may specify or describe the contracts of employment or employees.
- (6) On the coming into force of the agreement, the Transfer of Undertakings (Protection of Employment) Regulations 2006 apply in relation to—
 - (a) the transfer of designated contracts of employment, and
 - (b) the cessation of the provision of designated employees to company B,whether or not the agreement would otherwise be regarded for the purposes of those regulations as giving rise to a relevant transfer.

- (7) Where by virtue of the agreement a designated employee of a company within subsection (3) (“the transferor”) becomes an employee of another company within that subsection (“the transferee”)—
- (a) a period of employment with the transferor is to be treated as a period of employment with the transferee, and
 - (b) the transfer to the transferee is not to be treated as a break in service.

10 Taxation provisions relating to re-structuring

Schedule 2 contains taxation provisions.