
Changes to legislation: There are currently no known outstanding effects for the Postal Services Act 2011, Part 1. (See end of Document for details)

SCHEDULES

SCHEDULE 3

FURTHER PROVISION ABOUT ACCESS CONDITIONS

PART 1

PROVISION THAT MAY BE MADE BY ACCESS CONDITIONS

Introduction

- 1 Access conditions imposed on a person may include provision of the kind mentioned in the following provisions of this Part of this Schedule.

Commencement Information

- I1** Sch. 3 para. 1 in force at 1.10.2011 by S.I. 2011/2329, art. 3

Terms of access

- 2 An access condition imposed on a person may include provision—
- (a) requiring the terms and conditions on which the person is willing to offer access to include such terms and conditions as may be specified or described in the condition, or
 - (b) requiring the person to make such modifications as OFCOM may direct of any offer which sets out the terms and conditions on which the person is willing to offer access.

Commencement Information

- I2** Sch. 3 para. 2 in force at 1.10.2011 by S.I. 2011/2329, art. 3

Price controls etc.

- 3 (1) An access condition imposed on a person may include provision imposing on the person—
- (a) such price controls as OFCOM may direct in relation to matters connected with the giving of access (“access matters”),
 - (b) rules made by OFCOM in relation to access matters about the identification of costs and cost orientation,
 - (c) rules made by OFCOM for those purposes about the use of cost accounting systems,

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- (d) obligations to have compliance with those systems audited annually by a qualified independent auditor, and
 - (e) obligations to adjust prices in accordance with directions given by OFCOM.
- (2) An obligation within sub-paragraph (1)(d) may require the person to meet the costs of the audit.
- (3) In sub-paragraph (1)(d) “qualified independent auditor” means a person who—
- (a) is eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006, and
 - (b) if the appointment were an appointment as a statutory auditor, would not be prohibited from acting by section 1214 of that Act (independence requirement).

Commencement Information

I3 Sch. 3 para. 3 in force at 1.10.2011 by S.I. 2011/2329, art. 3

- 4 An access condition may include provision requiring the application of presumptions in the fixing and determination of costs and charges for the purposes of the price controls, rules and obligations referred to in paragraph 3.

Commencement Information

I4 Sch. 3 para. 4 in force at 1.10.2011 by S.I. 2011/2329, art. 3

- 5 (1) If an access condition imposes rules on any person about the use of cost accounting systems, OFCOM may secure that the condition also imposes an obligation on the person to make arrangements for a description to be made available to the public of the cost accounting system used.
- (2) If OFCOM impose an obligation on a person under sub-paragraph (1), the description of information to be made available must include details of—
- (a) the main categories under which costs are brought into account for the purposes of that system, and
 - (b) the rules applied for the purposes of that system with respect to the allocation of costs.

Commencement Information

I5 Sch. 3 para. 5 in force at 1.10.2011 by S.I. 2011/2329, art. 3

Arrangements for provision of services by others

- 6 (1) This paragraph applies if—
- (a) services are provided to a postal operator pursuant to arrangements made between the operator and another person (“B”),
 - (b) an access condition requires the operator to secure that those services are also provided to a third person (“C”), and
 - (c) the provisions of the arrangements are such that the operator cannot secure that the services are provided to C without B's agreement.

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- (2) The access condition may include—
- (a) provision in relation to the giving of agreement by B (including provision for agreement to be deemed to be given in circumstances specified in the condition), and
 - (b) provision for determining the terms and conditions on which B is to secure the provision of the services to C.
- (3) Provision may not be included in an access condition as a result of this paragraph if it would have the effect of requiring a person who provides services pursuant to the arrangements to do more than the person could be required to do pursuant to the arrangements as they have effect before the condition is imposed.

Commencement Information

I6 Sch. 3 para. 6 in force at 1.10.2011 by S.I. 2011/2329, art. 3

Separation for accounting purposes

- 7 An access condition requiring a separation for accounting purposes between different matters may include provision—
- (a) requiring the separation to be maintained in relation to different services, facilities or products or in relation to services, facilities or products provided in different areas, and
 - (b) requiring particular accounting methods to be used in maintaining the separation.

Commencement Information

I7 Sch. 3 para. 7 in force at 1.10.2011 by S.I. 2011/2329, art. 3

Restriction on use of information obtained in connection with giving access

- 8 An access condition imposed on a person may include provision requiring the person not to use information which—
- (a) is obtained in connection with the giving of access, and
 - (b) relates to the provision of postal services by any person to whom access is given,
- for any purpose other than the purpose of the access given by the condition.

Commencement Information

I8 Sch. 3 para. 8 in force at 1.10.2011 by S.I. 2011/2329, art. 3

Periods for compliance

- 9 An access condition imposed on a person may include provision for securing that obligations contained in the condition are complied with within the periods or at the times required by or under the condition.

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Commencement Information

I9 Sch. 3 para. 9 in force at 1.10.2011 by S.I. 2011/2329, art. 3

Dealing with requests for access

- 10 An access condition imposed on a person may include provision for securing fairness and reasonableness in the way in which requests for access are made and responded to.

Commencement Information

I10 Sch. 3 para. 10 in force at 1.10.2011 by S.I. 2011/2329, art. 3

Non-discrimination

- 11 An access condition imposed on a person may include provision requiring the person not to discriminate unduly against particular persons, or against a description of persons, in relation to access matters.

Commencement Information

I11 Sch. 3 para. 11 in force at 1.10.2011 by S.I. 2011/2329, art. 3

Transparency

- 12 An access condition imposed on a person may include provision requiring the person—
- (a) to publish all such information as OFCOM may direct (in such manner as they may direct) for the purpose of securing transparency in relation to access matters, or
 - (b) to publish (in such manner as OFCOM may direct) the terms and conditions on which the person is willing to offer access.

Commencement Information

I12 Sch. 3 para. 12 in force at 1.10.2011 by S.I. 2011/2329, art. 3

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