



# Postal Services Act 2000

## 2000 CHAPTER 26

### PART II

#### LICENCES FOR POSTAL SERVICES

##### *Miscellaneous*

### **38 Register.**

- (1) The Commission shall compile and maintain a register for the purposes of this Part.
- (2) The register shall be kept at such premises and in such form as the Commission considers appropriate.
- (3) The Commission shall cause the following matters to be entered in the register—
  - (a) the provisions of every licence,
  - (b) every modification, revocation or surrender of a licence,
  - (c) the provisions of every direction or determination made or consent or approval given under a licence,
  - (d) the terms of every final or provisional order made or confirmed and every revocation of such an order,
  - (e) every penalty imposed under section 30 and every notice under section 32(3).
- (4) The duty in subsection (3) does not extend to anything of which the Commission is unaware.
- (5) So far as practicable the Commission shall secure the exclusion from the register of any matter relating to the affairs of a person if the Commission considers that its inclusion would or might seriously and prejudicially affect the person's interests.
- (6) Subsection (5) does not apply if—
  - (a) the person concerned consents to the matter being entered in the register, or
  - (b) the Commission considers that entering the matter in the register would be in the public interest.

*Status: Point in time view as at 01/10/2009.*

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- (7) If the Secretary of State considers that entry of anything in the register would be against the public interest or any person's commercial interests, he may direct the Commission not to enter it.
- (8) The Commission shall secure that the contents of the register are available for inspection by the public—
- (a) during such hours as may be specified in an order made by the Secretary of State, and
  - (b) subject to such reasonable fees (if any) as the Commission may determine.
- (9) If requested by any person to do so and subject to such reasonable fees (if any) as the Commission may determine, the Commission shall supply the person concerned with a copy (certified to be true) of the register or of an extract from it.

### 39 Recovery of costs of the Council etc.

The Secretary of State may give directions to the Commission as to—

- (a) the inclusion in any licence of conditions requiring the payment of sums relating to the expenses of [<sup>F1</sup>the Consumer Council for Postal Services], <sup>F2</sup>...
- (b) the exercise of any power of the Commission to determine anything falling to be determined under such conditions.

#### Textual Amendments

- F1** Words in s. 39 substituted (21.12.2007) by [Consumers, Estate Agents and Redress Act 2007 \(c. 17\)](#), s. 66(2), [Sch. 1 para. 30\(a\)](#) (with s. 6(9)); S.I. 2007/3546, art. 3, Sch.
- F2** Words in s. 39 repealed (21.12.2007) by [Consumers, Estate Agents and Redress Act 2007 \(c. 17\)](#), s. 66(2), [Sch. 1 para. 30\(b\)](#), [Sch. 8](#) (with s. 6(9)); S.I. 2007/3546, art. 3, Sch.

### [<sup>F3</sup>39A Licences and the new arrangements

- (1) The conditions of a licence may require the payment by the licence holder of sums relating to any of the expenses mentioned in subsection (2).
- (2) The expenses within this subsection are—
  - (a) the appropriate proportion of the expenses of the Council (including expenses which relate to its establishment but not expenses within paragraph (c));
  - (b) the appropriate proportion of the expenses of the Secretary of State which relate to the establishment of the Council;
  - (c) any expenses of the Council, the Secretary of State or the Consumer Council for Postal Services which relate to a transfer scheme made in respect of the Consumer Council for Postal Services under section 35(2)(a) or (7) of the [Consumers, Estate Agents and Redress Act 2007](#);
  - (d) the expenses of the Secretary of State which relate to the abolition of the Consumer Council for Postal Services;
  - (e) the expenses of the Office of Fair Trading which relate to the expansion of an OFT scheme to enable it to cater for postal services consumers;
  - (f) the appropriate proportion of the expenses of the Office of Fair Trading on, or in connection with, the support of any OFT scheme.

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- (3) The “appropriate proportion” of any expenses means such proportion of the expenses as the Secretary of State considers is reasonable having regard to—
  - (a) in the case of expenses within subsection (2)(a) or (b), the functions exercisable by the Council in relation to postal services consumers, and
  - (b) in the case of expenses within subsection (2)(f), the functions under the OFT scheme which are exercisable in relation to those consumers.
- (4) The Commission may, in accordance with this section, modify any condition included in a licence by virtue of section 39 where the Commission considers it necessary or expedient to do so in consequence of, or of preparations for—
  - (a) the establishment of the Council, or
  - (b) the abolition of the Consumer Council for Postal Services.
- (5) The Commission may, in accordance with this section, make such incidental or consequential modifications of the other conditions of a licence, as it considers necessary or expedient in consequence of, or of preparations for, an event mentioned in subsection (4)(a) or (b).
- (6) Before modifying the conditions of a licence under subsection (4) or (5) the Commission must consult the licence holder.
- (7) The powers of the Commission under subsection (4) or (5) may not be exercised after the end of the period of 2 years beginning with the commencement of those subsections.
- (8) The Secretary of State may give directions to the Commission for the purpose of securing that sums relating to any of the expenses mentioned in subsection (2) are included in the sums payable by virtue of conditions in licences and the Commission must comply with any such direction.
- (9) In this section—
  - “consumer” has the same meaning as in Part 1 of the Consumers, Estate Agents and Redress Act 2007 (see section 3 of that Act);
  - “postal services consumers” means consumers in relation to relevant postal services (within the meaning of section 41);
  - “OFT scheme” means any public consumer advice scheme supported by the Office of Fair Trading.]

#### Textual Amendments

- F3** S. 39A inserted (21.12.2007) by [Consumers, Estate Agents and Redress Act 2007 \(c. 17\)](#), s. 66(2), [Sch. 1 para. 31](#) (with s. 6(9)); S.I. 2007/3546, art. 3, Sch.

## 40 Directors’ remuneration.

- (1) This section applies to any licence holder which is a company.
- (2) As soon as practicable after the end of each financial year of the company it shall make a statement to the Commission—
  - (a) disclosing whether or not remuneration has been paid or become due during that financial year to the directors of the company as a result of arrangements falling within subsection (3), and

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- (b) where such remuneration has been paid or become due, describing the arrangements and the remuneration.
- (3) Arrangements fall within this subsection if they are arrangements for linking the remuneration of the directors to standards of performance—
- (a) specified for the company in its licence, or determined for the company by or under the licence, or
  - (b) set or agreed to by the company,
- in relation to the provision of services authorised or required by the licence.
- (4) A description under subsection (2)(b) shall include—
- (a) a statement of when the arrangements were made,
  - (b) a description of the standards of performance in question,
  - (c) an explanation of the means by which the standards of performance are assessed, and
  - (d) an explanation of how the remuneration was calculated.
- (5) The statement required by subsection (2) shall also state—
- (a) whether or not there are in force in respect of the financial year during which the statement is made arrangements falling within subsection (3),
  - (b) if not, whether the company intends that such arrangements will be in force at some time during that financial year,
- and if there are, or it is intended that there will be, such arrangements in force the statement shall describe those arrangements.
- (6) A description under subsection (5) shall—
- (a) include the matters mentioned in subsection (4)(a) to (c), and
  - (b) where the arrangements described are different from any arrangements described under subsection (2)(b), state the likely effect of those differences on the remuneration of each director of the company.
- (7) The statement required by subsection (2) shall be made to the Commission in such manner as may be required by the Commission.
- (8) The statement required by subsection (2)—
- (a) shall be published by the company making the statement in such manner as it considers will secure adequate publicity for the statement, and
  - (b) may be published by the Commission in such manner as it may consider appropriate.
- (9) The duty of a company under this section applies in relation to any person who has at any time been a director of the company.
- (10) In this section—
- “company” means [<sup>F4</sup>a company as defined in section 1(1) of the Companies Act 2006] which is limited by shares,
- “remuneration” in relation to a director of a company—
- (a) means any form of payment, consideration or other benefit (including pension benefit) paid or due to or in respect of the director, and
  - (b) includes remuneration in respect of any of his services while a director of the company.

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#### **Textual Amendments**

- F4** Words in s. 40(10) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 183(2)** (with art. 10)

#### **41 Free services for the blind and partially sighted.**

- (1) The Secretary of State may direct the Commission to impose, as a condition of a relevant licence, a requirement that the licence holder provide such free postal services as may be specified in the direction to such descriptions of blind or partially sighted persons as may be so specified.
- (2) The requirement shall not come into force unless—
  - (a) the Secretary of State directs the Commission to bring it into force, and
  - (b) the Commission gives notice of the direction to the licence holder.
- (3) The Secretary of State shall consult the Commission and the Council before giving any direction under this section.
- (4) In this section “relevant licence” means a licence to be granted which is to require the person holding it to provide a universal postal service or part of such a service.

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