



Postal Services Act 2011

2011 CHAPTER 5

PART 3

REGULATION OF POSTAL SERVICES

Appeals

59 Price control decisions

- (1) A person affected by a price control decision may appeal against it by sending a notice of appeal to OFCOM within the period of two months beginning with the day on which the decision is published.
- (2) The notice of appeal must set out the grounds of appeal in sufficient detail to indicate the error (or errors) which the appellants contend OFCOM made.
- (3) OFCOM must refer any appeal made in accordance with this section (and with rules made under section 60) to the [^{F1}Competition and Markets Authority (“the CMA”)] as soon as reasonably practicable after it is made.
- (4) The making of an appeal against a decision does not suspend the effect of the decision.
- (5) The [^{F2}CMA] must determine an appeal before the end of—
 - (a) the period of 4 months beginning with the day on which OFCOM refer the appeal to it, or
 - (b) if the decision appealed against is not an initial price control decision and the [^{F2}CMA] considers that the circumstances of the case are exceptional, the period of 6 months beginning with that day.

If paragraph (b) applies, the [^{F2}CMA] must, before the end of the period mentioned in paragraph (a), publish its reasons for considering that the circumstances of the case are exceptional.

- (6) On determining the appeal, the [^{F2}CMA] must—
 - (a) dismiss the appeal,

Changes to legislation: There are currently no known outstanding effects for the Postal Services Act 2011, Section 59. (See end of Document for details)

- (b) allow the appeal and make its own decision on the subject matter of the appeal, or
 - (c) quash the whole or part of the price control decision to which the appeal relates.
- (7) The [F²CMA] may allow the appeal, or quash the whole or part of the price control decision to which the appeal relates, only if it considers that OFCOM made a material error.
- (8) If the [F²CMA] quashes the whole or part of a price control decision, it may refer the matter back to OFCOM with a direction to reconsider and make a new decision in accordance with its ruling.
- (9) The [F²CMA] may not direct OFCOM to take any action that they would not otherwise have the power to take in relation to the decision.
- (10) OFCOM must give effect to any decision of the [F²CMA] under subsection (6)(b) as soon as is reasonably practicable after it is made.
- (11) The [F²CMA] may investigate any matter or do any other thing for the purpose of making a decision under subsection (6)(b) or (c).
- (12) Any decision made by the [F²CMA] under subsection (6) other than one relating to an initial price control decision is a qualifying decision for the purposes of section 57.
- [F³(12A) The CMA's functions with respect to an appeal under this section are to be carried out on its behalf by a group constituted for the purpose by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013]
- (13) In this section—
- a “price control decision” means—
 - (a) a decision of OFCOM as to the tariffs that are to be used as mentioned in section 36(4) (designated USP condition: tariffs), or
 - (b) a decision of OFCOM (other than under Part 2 of Schedule 3) as to prices that may be charged for the giving of access under an access condition, and
 - an “initial price control decision” means—
 - (a) the first decision of OFCOM within paragraph (a) of the definition of “price control decision”, or
 - (b) the first decision of OFCOM within paragraph (b) of that definition.

Textual Amendments

- F1** Words in s. 59(3) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 125\(2\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F2** Words in s. 59(5)-(12) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 125\(3\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F3** S. 59(12A) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 125\(4\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Commencement Information

- I1** S. 59 in force at 1.10.2011 by [S.I. 2011/2329](#), [art. 3](#)

Changes to legislation:

There are currently no known outstanding effects for the Postal Services Act 2011, Section 59.