

**EXPLANATORY MEMORANDUM TO  
THE POSTAL SERVICES ACT 2011 (CONSEQUENTIAL MODIFICATIONS AND  
AMENDMENTS) ORDER 2011**

**2011 No. 2085**

**1.** This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This Order makes minor and technical consequential modifications and amendments, including revocations, to UK legislation to take account of provisions contained in the Postal Services Act 2011 (“the Act”) that will come into force on 1 October.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

**4. Legislative Context**

4.1 The Act received Royal Assent on 13 June 2011 and is being commenced in stages.

4.2 Some of the enabling provisions of the Act came into force on Royal Assent. The Order commencing the other provisions of the Act will be made so as to come into force on 1 October. This Order is aligned with commencement of those provisions and will make minor and technical amendments to local and public Acts and secondary legislation to take account of those provisions.

4.3 The Order is the first use of the consequential modifications order making power contained in section 91(3) of the Act. The Department does not expect to need to make any further Orders under this power at present. Other consequential amendments are contained in Schedule 12 of the Act.

**5. Territorial Extent and Application**

5.1 This Order applies to all of the United Kingdom.

5.2 The Order includes amendments to legislation of Scotland, Wales and Northern Ireland.

## 6. European Convention on Human Rights

6.1 [John Hayes], Minister [of State for Further Education, Skills and Lifelong Learning], has made the following statement regarding Human Rights:

6.2 “In my view the provisions of the Postal Services Act 2011 (Consequential Modifications and Amendments) Order 2011 are compatible with the Convention rights.”

## 7. Policy background

- What is being done and why

7.1 The Act seeks to implement the recommendations of Richard Hooper’s independent 2008 report and his 2010 update into the future of Royal Mail and the universal postal service. More detail can be found on the BIS website - <http://www.bis.gov.uk/policies/business-sectors/postal-services/independent-reviews>.

7.2 Richard Hooper made three recommendations that Royal Mail should have access to private sector capital; that the historic pension deficit in the Royal Mail Pension Plan should be resolved and that the regulatory regime needed reform. The Government agreed and in October 2010 introduced legislation to enable implementation of the recommendations.

7.3 The Act’s primary purpose is to safeguard the future of Royal Mail and the universal postal service. It does the following:

- Repeals the statutory requirement for Royal Mail to be owned by the Government, allowing for a sale of shares in the future;
- In preparation for a sale, allows the Government to transfer the accrued pension rights of the members of the Royal Mail Pension Plan to a new Government scheme;
- As part of a sale, provides for 10% of the shares to go to an employee share scheme - the largest of any major privatisation;
- Keeps Post Office Ltd in public ownership, and allows for the possible move to a mutual ownership model in the future;
- Transfers regulatory responsibility for postal services from Postcomm to Ofcom and enables a new regulatory framework to be established;
- Establishes a special administration regime to ensure the post is still delivered if the universal service provider were ever at risk of entering insolvency proceedings in the future.

7.4 A number of provisions in existing legislation need to be amended or removed to ensure the Act can have effect and can function as intended.

7.5 Schedule 12 of the Act makes a number of consequential amendments to primary legislation and this Order makes further required supplemental, incidental and consequential amendments and modifications to local enactments, general enactments and subordinate legislation, arising out of commencement of the Act.

7.6 Article 2 of the Order provides that references to the statutory duty of the Post Office for the purpose of collecting or delivering mail is to be construed as if it were the duty of a universal service provider as defined in the Act. The statutory duty in question is the provision of the universal postal service.

7.7 Article 3 provides that references to the Post Office in the Post Office Extension Act 1965, the Post Office (London) Railway Act 1913 and the Post Office (Site and Railway) Act 1954 – Acts in relation to certain works undertaken at the time - are to have effect as if they were references to a Royal Mail company within the meaning of Part 1 of the Act, only in so far as these relate to the provision of postal services.

7.8 Article 4 provides that references to the Post Office company in the Post Office Works Act 1959 and the Post Office Subway Act 1966 – Acts in relation to certain works undertaken at the time - are to have effect as if they were references to a Royal Mail company within the meaning of Part 1 of the Act, only in so far as these relate to the provision of postal services.

7.9 Article 5 gives effect to Schedule 1 (amendments) and Schedule 2 (revocations) of the Order.

7.10 Schedule 1 makes consequential amendments mainly in relation to the definitions of “Post Office”, “postal operator”, “postal services”, “Postcomm”, “Post Office company”, “Royal Mail Group”, “universal postal service” and “universal service provider”; to replace the references to the definitions previously contained in the Postal Services Act 2000, which are largely being repealed by the 2011 Act.

7.11 Schedule 2 contains repeals and revocations which are made by the consequential amendments in Schedule 1.

- Consolidation

7.12 The Order makes consequential amendments to different legislation and therefore cannot consolidate these items of legislation. Informal consolidated versions of amended legislation may be available at <http://www.legislation.gov.uk>.

## **8. Consultation outcome**

8.1 The Department has not conducted a formal public consultation on the Order as it merely makes modifications and amendments to legislation that are minor and consequential on the provisions in the Act, which were scrutinised by Parliament. We

have however consulted with the other departments and devolved administrations that have responsibility for the legislation being amended by this Order.

## **9. Guidance**

9.1 Information on the Government's policy for postal services is available on the BIS website, which includes some information on the Act - <http://www.bis.gov.uk/Policies/business-sectors/postal-services>.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment has not been prepared for this instrument because it is only making minor and technical amendments to ensure that other legislation retains its current meaning and relevance once the Act comes into force. An Impact Assessment was undertaken for the Act and can be found on the BIS website: <http://www.bis.gov.uk/assets/biscore/business-sectors/docs/p/10-1204-postal-services-bill-impact-assessment.pdf>. The details in the IA are still up to date.

## **11. Regulating small business**

11.1 This Order does not apply to small business.

## **12. Monitoring & review**

12.1 This Order will not be subject to further monitoring or review. The changes it makes to other legislation will have immediate effect on its coming into force and it will have achieved its sole objective. However, the Department is required to conduct a post-legislative review of the impact of the Postal Services Act 2011 as a whole. This is expected to take place 3-5 years after Royal Assent.

## **13. Contact**

13.1 James Baugh at the Department for Business, Innovation and Skills (Tel: 020 7215 6823 or email: [james.baugh@bis.gsi.gov.uk](mailto:james.baugh@bis.gsi.gov.uk)) can answer queries regarding the instrument.