

Changes to legislation: There are currently no known outstanding effects for the Postal Services Act 2011, SCHEDULE 6. (See end of Document for details)

SCHEDULES

SCHEDULE 6

Section 53

IMPOSITION, MODIFICATION OR REVOCATION OF REGULATORY CONDITIONS

General test for imposing or modifying regulatory conditions

- 1 OFCOM may impose or modify a regulatory condition only if satisfied that the condition or modification—
- (a) is objectively justifiable,
 - (b) does not discriminate unduly against particular persons or a particular description of persons,
 - (c) is proportionate to what it is intended to achieve, and
 - (d) is transparent in relation to what it is intended to achieve.

Commencement Information

I1 Sch. 6 para. 1 in force at 1.10.2011 by S.I. 2011/2329, art. 3

Provision which may be contained in regulatory conditions

- 2 (1) The power of OFCOM to impose a regulatory condition includes each of the following powers.

Directions The power to impose a requirement to comply with directions given by OFCOM, or by another person specified in the condition, with respect to the matters to which the condition relates.

Consents, approvals and recommendations The power to impose an obligation with respect to those matters framed by reference to, or conditional on, the consent, approval or recommendation of OFCOM or of another person specified in the condition.

Discretion The power to confer a discretion exercisable by OFCOM or by another person specified in, or determined in accordance with, the condition.

Different provision for different cases The power to impose different conditions for different cases (including different conditions in relation to different parts of the United Kingdom).

Revocation and modification The power to revoke or modify the condition.

- (2) The directions that are authorised as a result of this paragraph do not include directions withdrawing, suspending or restricting a person's entitlement to provide (in whole or in part) postal services.

Commencement Information

I2 Sch. 6 para. 2 in force at 1.10.2011 by S.I. 2011/2329, art. 3

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Procedure for imposing, modifying or revoking conditions

- 3
- (1) The way in which a regulatory condition is to be imposed or modified is by the publication of a notification setting out the condition or modification.
 - (2) The way in which a regulatory condition is to be revoked is by the publication of a notification stating that the condition is revoked.
 - (3) Before imposing, modifying or revoking a regulatory condition, OFCOM must publish a notification—
 - (a) stating that they are proposing to impose, modify or revoke the condition specified in the notification,
 - (b) setting out the effect of the condition, modification or revocation,
 - (c) giving their reasons for making the proposal, and
 - (d) specifying the period within which representations may be made to OFCOM about their proposal.
 - (4) The specified period must be at least one month beginning with the day after the day the notification is published.
 - (5) OFCOM may give effect, with or without modifications, to a proposal with respect to which they have published a notification only if they—
 - (a) have considered every representation about the proposal that is made to them within the specified period, and
 - (b) have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for the purposes of this paragraph by the Secretary of State.
 - (6) The publication of a notification under this paragraph must be in such manner as appears to OFCOM to be appropriate for bringing its contents—
 - (a) in the case of a designated USP condition, a USP access condition or a USP accounting condition, to the attention of the persons who, in OFCOM's opinion, are likely to be affected by its contents, and
 - (b) in any other case, to the attention of such persons as OFCOM consider appropriate.
 - (7) The requirements of this paragraph apply even if OFCOM is under a duty under any other provision of Part 3 of this Act to impose or modify a condition.

Commencement Information

I3 [Sch. 6 para. 3](#) in force at 1.10.2011 by [S.I. 2011/2329](#), [art. 3](#)

Directions and approvals for purposes of conditions

- 4
- (1) This paragraph applies if—
 - (a) a regulatory condition has effect by reference to directions, approvals or consents given by a person (whether OFCOM or another), and
 - (b) the person proposes to give a direction, approval or consent affecting the operation of the condition or to modify or withdraw a direction, approval or consent so as to affect its operation.

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- (2) A person may give, modify or withdraw the direction, approval or consent only if satisfied that to do so—
 - (a) is objectively justifiable,
 - (b) does not discriminate unduly against particular persons or a particular description of persons,
 - (c) is proportionate to what it is intended to achieve, and
 - (d) is transparent in relation to what it is intended to achieve.
- (3) Before the direction, approval or consent is given, modified or withdrawn, a notification must be published—
 - (a) stating that there is a proposal to give, modify or withdraw it,
 - (b) identifying the person whose proposal it is,
 - (c) setting out the direction, approval or consent to which the proposal relates,
 - (d) setting out the effect of the direction, approval or consent or of its proposed modification or withdrawal,
 - (e) giving reasons for the making of the proposal, and
 - (f) specifying the period within which representations may be made about the proposal to the person whose proposal it is.
- (4) That period must be at least one month beginning with the day after the day the notification is published.
- (5) But if the person giving the notification is satisfied that there are exceptional circumstances justifying a shorter period, the period for making representations may be whatever shorter period that person considers reasonable in the circumstances.
- (6) If—
 - (a) a person other than OFCOM proposes to give, modify or withdraw a direction, approval or consent, and
 - (b) the condition for the purposes of which it has (or will have) effect provides for notifications of proposals for the purposes of the condition to be given by that person,the obligation of publishing the notification of that proposal for the purposes of this paragraph falls on that person.
- (7) Otherwise, the obligation of publishing a notification for the purposes of this paragraph falls on OFCOM.
- (8) The person who is authorised to give the direction, approval or consent may give effect, with or without modifications, to a proposal with respect to which a notification has been given only if the person—
 - (a) has considered every representation about the proposal that is made to the person within the period specified in the notification, and
 - (b) has had regard to every international obligation of the United Kingdom (if any) which has been notified to OFCOM for the purposes of this paragraph by the Secretary of State.
- (9) The publication of a notification under this paragraph must be in such manner as appears to the person publishing it to be appropriate for bringing its contents to the attention of such persons as that person considers appropriate.

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I4 Sch. 6 para. 4 in force at 1.10.2011 by S.I. 2011/2329, art. 3

Delivery of copies of notifications etc.

- 5 (1) The relevant person must send to the Secretary of State—
 - (a) a copy of every notification published under paragraph 3 or 4,
 - (b) a copy of every direction, approval or consent given for the purpose of giving effect to a proposal required to be published under paragraph 4, and
 - (c) a copy of every instrument modifying or withdrawing a direction, approval or consent for the purpose of giving effect to a proposal required to be published under that paragraph.

^{F1}(2)

- (3) In this paragraph “the relevant person”, in relation to a notification, direction, approval or consent—
 - (a) except in a case falling within paragraph (b), means the person by whom it is published or by whom it has been or is to be given, modified or withdrawn, and
 - (b) in the case of a direction, approval or consent given, modified or withdrawn by a person other than OFCOM for the purpose of giving effect to a proposal published by OFCOM under paragraph 4, means OFCOM.

Textual Amendments

F1 Sch. 6 para. 5(2) omitted (31.1.2020) by virtue of The Postal and Parcel Services (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1417), regs. 1, 3(4)(e); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I5 Sch. 6 para. 5 in force at 1.10.2011 by S.I. 2011/2329, art. 3

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