
Changes to legislation: There are currently no known outstanding effects for the Postal Services Act 2011, Cross
Heading: Suspending service provision for contravention of information requirements. (See end of Document for details)

SCHEDULES

SCHEDULE 8

INFORMATION PROVISIONS

PART 2

ENFORCEMENT

Suspending service provision for contravention of information requirements

- 8 (1) OFCOM may give a direction under this paragraph to any person who is providing one or more postal services (“the contravening person”).
- (2) A direction under this paragraph is a direction that the entitlement of the contravening person to provide postal services—
- (a) is suspended (either generally or in relation to particular services), or
 - (b) is restricted in the respects set out in the direction.
- (3) OFCOM may give a direction under this paragraph only if they are satisfied that conditions A to C are met.
- (4) Condition A is that the contravening person is or has been in serious and repeated contravention of requirements imposed under paragraph 1 or 3 ^{F1}....
- (5) Condition B is that an attempt, by the imposition of penalties under paragraph 7 or the bringing of proceedings under paragraph 13, to secure compliance with the contravened requirements has failed.
- (6) Condition C is that the giving of the direction is—
- (a) appropriate, and
 - (b) proportionate to the seriousness (when repeated as they have been) of the contraventions.

Textual Amendments

- F1** Words in [Sch. 8 para. 8\(4\)](#) omitted (31.12.2020) by virtue of [The Cross-border Parcel Delivery Services \(Amendment\) \(No.2\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1036\)](#), regs. 1(2), **4(5)**

Commencement Information

- II** Sch. 8 para. 8 in force at 1.10.2011 by [S.I. 2011/2329](#), **art. 3**

- 9 (1) Unless it provides otherwise, a direction under paragraph 8 takes effect for an indefinite period beginning with the time at which it is notified to the person to whom it is given.
- (2) A direction under paragraph 8—

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- (a) in providing for the effect of a suspension or restriction to be postponed, may provide for it to take effect only at a time determined by or in accordance with the terms of the direction, and
 - (b) in connection with the suspension or restriction contained in the direction or with the postponement of its effect, may impose such conditions on the contravening person as appear to OFCOM to be appropriate for the purpose of protecting the users of that operator's services.
- (3) Those conditions may include a condition requiring the making of payments—
- (a) by way of compensation for loss or damage suffered by those users as a result of the direction, or
 - (b) in respect of annoyance, inconvenience or anxiety to which those users have been put in consequence of the direction.
- (4) OFCOM may revoke a direction under paragraph 8 or modify its conditions—
- (a) with effect from such time as they may direct,
 - (b) subject to compliance with such requirements as they may specify, and
 - (c) to such extent and in relation to such services, or parts of a service, as they may determine.
- (5) For the purposes of paragraph 8 there are repeated contraventions by a person of requirements imposed under paragraph 1 or 3 to the extent that—
- (a) in the case of a previous notification given to that person under paragraph 5, OFCOM have determined for the purposes of paragraph 7(2) that a contravention did occur, and
 - (b) in the period of 12 months following the day of the making of that determination, one or more further notifications have been given to that person in respect of contraventions of a requirement imposed under paragraph 1 or 3.
- (6) For the purposes of sub-paragraph (5) it does not matter whether the notifications relate to the same contravention or to different contraventions of the same or different requirements or of requirements under different paragraphs.

Commencement Information

I2 [Sch. 8 para. 9](#) in force at 1.10.2011 by [S.I. 2011/2329](#), [art. 3](#)

- 10 (1) OFCOM are not to give a direction under paragraph 8 unless they have—
- (a) notified the contravening person of the proposed direction and of the conditions (if any) which they are proposing to impose by that direction,
 - (b) provided the contravening person with an opportunity of making representations about the proposals and of proposing steps for remedying the situation, and
 - (c) considered every representation and proposal made to them during the period allowed by them for the contravening person to take advantage of that opportunity.
- (2) That period must be at least one month beginning with the day after the day the notification is given.
- (3) This paragraph does not apply in an urgent case (as to which, see paragraph 11).

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I3 Sch. 8 para. 10 in force at 1.10.2011 by S.I. 2011/2329, art. 3

- 11 (1) In an urgent case, OFCOM must, as soon as reasonably practicable after giving a direction under paragraph 8, give the contravening person—
- (a) an opportunity of making representations to them about the effect of the direction and of any of its conditions, and
 - (b) an opportunity of proposing steps to remedy the situation.
- (2) A case is urgent for the purposes of this paragraph if OFCOM—
- (a) consider that it would be inappropriate, because the contraventions in question fall within sub-paragraph (3), to allow time, before giving the direction, for the making and consideration of representations, and
 - (b) decide for that reason to act in accordance with this paragraph instead of paragraph 10.
- (3) The contraventions fall within this sub-paragraph if they have resulted in or create an immediate risk of—
- (a) a serious threat to the safety of the public, to public health or to national security,
 - (b) serious economic or operational problems for persons providing postal services (other than the contravening person), or
 - (c) serious economic or operational problems for users of postal services.

Commencement Information

I4 Sch. 8 para. 11 in force at 1.10.2011 by S.I. 2011/2329, art. 3

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