

# **EXPLANATORY MEMORANDUM TO THE POSTAL ADMINISTRATION RULES 2013**

## **2013 No. 3208**

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.

1. This memorandum contains information for the Joint Committee on Statutory
2. Instruments.

### **2. Purpose of the instrument**

- 2.1 The purpose of these Rules is to provide the procedure to underpin the special administration regime applicable to companies which are subject to a postal administration order.
- 2.2 The special administration regime exists to help ensure that a universal postal service is provided in accordance with standards set out in the universal postal service order should a company designated as a universal postal service provider be at risk of entering insolvency proceedings. This follows precedents in the energy and water industries.

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

- 3.1 None.

### **4. Legislative Context**

- 4.1 The Rules are made under s411 of the Insolvency Act 1986 as applied by section 73(3) of the Postal Services Act 2011 (“the Act”).
- 4.2 Part 3 of the Act provides the regulatory framework that applies to all postal operators. It permits OFCOM to make a universal postal service order and designate postal operators as universal service providers. A universal postal service order sets out a description of the services that OFCOM consider should be provided in the United Kingdom as a universal postal service and the standards with which those services are to comply. At present Royal Mail is the only designated universal service provider.
- 4.3 Part 4 of the Act contains provision for a special administration regime (a postal administration), the purpose of which is to ensure that the objective of the administrator is to secure the continued provision of the universal postal service should a universal service provider be at risk of entering insolvency proceedings.
- 4.4 The Rules are based on the Insolvency Rules 1986 which contain the detailed provisions for the formal insolvency procedures of the Insolvency Act 1986 which are well known and understood by insolvency practitioners. The provisions of the Rules only differ from the corresponding provisions of the Insolvency Rules 1986 where the circumstances of a postal administration dictate a different approach to proceedings.

### **5. Territorial Extent and Application**

- 5.1 This instrument applies to England and Wales.

5.2 Separate Rules will be made for Scotland and Northern Ireland.

## **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary  
3. legislation, no statement is required.

## **7. Policy background**

4. • What is being done and why

7.1 The Act introduced a range of measures to secure the provision of the universal postal service in the UK. These measures included lifting the restrictions on the ownership of Royal Mail shares to permit a sale of shares to third parties; Government taking on Royal Mail's historic pension deficit (including setting up a new Government pension scheme); and the establishment of a new regulatory regime which imposes a duty on OFCOM to carry out their functions in relation to postal services in a way that they consider will secure the provision of a universal postal service.

7.2 The postal administration regime put in place by Part 4 of the Act is designed to ensure the continuance of the universal postal service (the one price goes anywhere in the UK; 6 days a week service) in the event that a company providing that service (a designated universal service provider) is at risk of entering insolvency proceedings. Under the standard administration process the primary focus would be on obtaining the best possible recovery for creditors. Under a postal administration, however, the objective is to secure the continued provision of the universal postal service (which will enable the Government to take steps to meet its obligations, as required under the European Union Postal Services Directive, to ensure the provision of the universal service).

7.3 Given that the Act enabled the sale of Royal Mail shares, it is considered necessary to put a postal administration regime in place.

5. • Consolidation

7.4 This is the first time that the power to introduce the Rules has been exercised.

## **8. Consultation outcome**

8.1 There was no specific consultation on the Rules. They are integral to the postal administration regime contained in the Act.

## **9. Guidance**

9.1 There has been no guidance prepared for the Rules. The Rules in themselves clarify how the postal administration procedure is to be applied in relation to a company which is a universal service provider.

## **10. Impact**

10.1 There is no impact on businesses, charities or voluntary bodies.

10.2 The impact on the public sector is minimal and would only become an issue in the unlikely event of a company which is a universal service provider getting into financial difficulty.

10.3 An Impact Assessment has not been prepared for this instrument. The Impact Assessment for the Postal Services Bill (URN 10/1204) can be found at:  
<http://www.parliament.uk/documents/impact-assessments/IA10-129.pdf>

## **11. Regulating small business**

11.1 The legislation does not apply to small business. It relates to the procedures of the court and the exercise of a postal administrator's powers.

## **12. Monitoring & review**

12.1 Section 88 of the Act requires that the regulatory aspects of the Act, including the postal administration regime, must be reviewed after 5 years (i.e. in 2016).

## **13. Contact**

13.1 Robert Faull at the Department for Business, Innovation and Skills (tel: 020 7215 6625 or email: [robert.faul@bis.gsi.gov.uk](mailto:robert.faul@bis.gsi.gov.uk)) can answer any queries regarding the instrument.