



Postal Services Act 2011

2011 CHAPTER 5

PART 4

SPECIAL ADMINISTRATION REGIME

Postal administration orders

68 Postal administration orders

- (1) In this Part “postal administration order” means an order which—
- (a) is made by the court in relation to a company which is a universal service provider, and
 - (b) directs that, while the order is in force, the company's affairs, business and property are to be managed by a person appointed by the court.
- (2) The person appointed in relation to a company for the purposes of a postal administration order is referred to in this Part as the postal administrator of the company.
- (3) The postal administrator of a company must—
- (a) manage the company's affairs, business and property, and
 - (b) exercise and perform all the powers and duties conferred or imposed on the postal administrator of the company,
- so as to achieve the objective set out in section 69.
- (4) In relation to a postal administration order applying to a foreign company, references in this section to the company's affairs, business and property are references to its UK affairs, business and property.

Commencement Information

II S. 68 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, Cross Heading: Postal administration orders. (See end of Document for details)

69 Objective of a postal administration

- (1) The objective of a postal administration is to secure—
- (a) that a universal postal service is provided in accordance with the standards set out in the universal postal service order, and
 - (b) that it becomes unnecessary, by one or both of the following means, for the postal administration order to remain in force for that purpose.
- (2) Those means are—
- (a) the rescue as a going concern of the company subject to the order, and
 - (b) relevant transfers.
- (3) A transfer is a “relevant” transfer if it is a transfer as a going concern—
- (a) to another company, or
 - (b) as respects different parts of the undertaking of the company subject to the order, to two or more different companies,
- of so much of that undertaking as it is appropriate to transfer for the purpose of achieving the objective of the postal administration.
- (4) The means by which relevant transfers may be effected include, in particular—
- (a) a transfer of the undertaking of the company subject to the order, or of a part of its undertaking, to a wholly-owned subsidiary of that company, and
 - (b) a transfer to a company of securities of a wholly-owned subsidiary to which there has been a transfer within paragraph (a).
- In this subsection “wholly-owned subsidiary” has the meaning given by section 1159 of the Companies Act 2006.
- (5) The objective of a postal administration may be achieved by relevant transfers to the extent only that—
- (a) the rescue as a going concern of the company is not reasonably practicable or is not reasonably practicable without the transfers,
 - (b) the rescue of the company as a going concern will not achieve the objective of the postal administration or will not do so without the transfers,
 - (c) the transfers would produce a result for the company's creditors as a whole that is better than the result that would be produced without them, or
 - (d) the transfers would, without prejudicing the interests of the company's creditors as a whole, produce a result for the company's members as a whole that is better than the result that would be produced without them.

Commencement Information

12 [S. 69](#) in force at 1.10.2011 by [S.I. 2011/2329](#), [art. 3](#)

70 Applications for postal administration orders

- (1) An application for a postal administration order in relation to a company may be made only—
- (a) by the Secretary of State, or
 - (b) with the consent of the Secretary of State, by OFCOM.

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- (2) The applicant for a postal administration order in relation to a company must give notice of the application to—
 - (a) every person who has appointed an administrative receiver of the company,
 - (b) every person who is or may be entitled to appoint an administrative receiver of the company,
 - (c) every person who is or may be entitled to make an appointment in relation to the company under paragraph 14 of Schedule B1 to the 1986 Act (appointment of administrators by holders of floating charges), and
 - (d) such other persons as may be prescribed by postal administration rules.
- (3) The notice must be given as soon as reasonably practicable after the making of the application.
- (4) In this section “administrative receiver” means—
 - (a) an administrative receiver within the meaning given by section 251 of the 1986 Act for the purposes of Parts 1 to 7 of that Act, or
 - (b) a person whose functions in relation to a foreign company are equivalent to those of an administrative receiver and relate only to its UK affairs, business and property.

Modifications etc. (not altering text)

- C1** S. 70(2) modified (with application in accordance with rule 3 of the amending S.I.) by [The Postal Administration \(Scotland\) Rules 2016 \(S.I. 2016/900\)](#), rules 1, **7(1)**
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Commencement Information

- I3** S. 70 in force at 1.10.2011 by [S.I. 2011/2329](#), **art. 3**

71 Powers of court

- (1) On hearing an application for a postal administration order, the court has the following powers—
 - (a) it may make the order,
 - (b) it may dismiss the application,
 - (c) it may adjourn the hearing conditionally or unconditionally,
 - (d) it may make an interim order,
 - (e) it may treat the application as a winding-up petition and make any order the court could make under section 125 of the 1986 Act (power of court on hearing winding-up petition), and
 - (f) it may make any other order which it thinks appropriate.
- (2) The court may make a postal administration order in relation to a company only if it is satisfied—
 - (a) that the company is unable, or is likely to be unable, to pay its debts, or
 - (b) that, on a petition by the Secretary of State under section 124A of the 1986 Act, it would be just and equitable (disregarding the objective of the postal administration) to wind up the company in the public interest.
- (3) The court may not make a postal administration order on the ground set out in subsection (2)(b) unless the Secretary of State has certified to the court that the case is

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one in which the Secretary of State considers (disregarding the objective of the postal administration) that it would be appropriate to petition under section 124A of the 1986 Act.

- (4) The court has no power to make a postal administration order in relation to a company which—
- (a) is in administration under Schedule B1 to the 1986 Act, or
 - (b) has gone into liquidation (within the meaning of section 247(2) of the 1986 Act).
- (5) A postal administration order comes into force—
- (a) at the time appointed by the court, or
 - (b) if no time is appointed by the court, when the order is made.
- (6) An interim order under subsection (1)(d) may, in particular—
- (a) restrict the exercise of a power of the company or of its directors, or
 - (b) make provision conferring a discretion on a person qualified to act as an insolvency practitioner in relation to the company.
- (7) In the case of a foreign company, subsection (6)(a) is to be read as a reference to restricting the exercise of a power of the company or of its directors—
- (a) within the United Kingdom, or
 - (b) in relation to the company's UK affairs, business or property.
- (8) For the purposes of this section a company is unable to pay its debts if—
- (a) it is a company which is deemed to be unable to pay its debts under section 123 of the 1986 Act, or
 - (b) it is an unregistered company which is deemed, as a result of any of sections 222 to 224 of the 1986 Act, to be so unable for the purposes of section 221 of the 1986 Act, or which would be so deemed if it were an unregistered company for the purposes of those sections.

Commencement Information

I4 [S. 71](#) in force at 1.10.2011 by [S.I. 2011/2329](#), [art. 3](#)

72 Postal administrators

- (1) The postal administrator of a company—
- (a) is an officer of the court, and
 - (b) in exercising and performing powers and duties in relation to the company, is the company's agent.
- (2) The management by the postal administrator of a company of any of its affairs, business or property must be carried out for the purpose of achieving the objective of the postal administration as quickly and as efficiently as is reasonably practicable.
- (3) The postal administrator of a company must exercise and perform powers and duties in the way which, so far as it is consistent with the objective of the postal administration to do so, best protects—
- (a) the interests of the company's creditors as a whole, and
 - (b) subject to those interests, the interests of the company's members as a whole.

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- (4) A person is not to be the postal administrator of a company unless qualified to act as an insolvency practitioner in relation to the company.
- (5) If the court appoints two or more persons as the postal administrator of a company, the appointment must set out—
 - (a) which (if any) of the powers and duties of a postal administrator are to be exercisable or performed only by the appointees acting jointly,
 - (b) the circumstances (if any) in which powers and duties of a postal administrator are to be exercisable, or may be performed, by one of the appointees, or by particular appointees, acting alone, and
 - (c) the circumstances (if any) in which things done in relation to one of the appointees, or in relation to particular appointees, are to be treated as done in relation to all of them.

Commencement Information

I5 [S. 72](#) in force at 1.10.2011 by [S.I. 2011/2329](#), [art. 3](#)

73 Conduct of administration, transfer schemes etc

- (1) Schedule 10 contains provision applying the provisions of Schedule B1 to the 1986 Act, and certain other enactments, to postal administration orders.
- (2) Schedule 11 contains provision for transfer schemes to achieve the objective of a postal administration.
- (3) The power to make rules under section 411 of the 1986 Act is to apply for the purpose of giving effect to this Part as it applies for the purpose of giving effect to Parts 1 to 7 of that Act (and, accordingly, as if references in that section to those Parts included references to this Part).
- (4) Section 413(2) of the 1986 Act (duty to consult Insolvency Rules Committee about rules) is not to apply to rules made under section 411 of the 1986 Act as a result of this section.

Commencement Information

I6 [S. 73](#) in force at 1.10.2011 by [S.I. 2011/2329](#), [art. 3](#)

Changes to legislation:

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