



# Postal Services Act 2000

## 2000 CHAPTER 26

### PART III

#### OTHER FUNCTIONS OF THE COMMISSION AND THE COUNCIL

##### *The Commission*

#### **42 Duties in relation to public post offices.**

- (1) The Commission shall provide advice and information to the Secretary of State about—
  - (a) the number and location of public post offices of such descriptions as the Secretary of State may specify, and
  - (b) their accessibility<sup>12</sup> to users of postal and other services.
- (2) The Commission shall consult the Council before providing any advice or information under this section.
- (3) In this Act “public post office” means any post office from which any postal services are provided directly to the public (whether or not together with other services).

#### **Commencement Information**

- II** S. 42 wholly in force; s. 42 not in force at Royal Assent see s. 130; s. 42(3) in force at 6.11.2000 and s. 42 in force insofar as not already in force at 1.1.2001 by [S.I. 2000/2957](#), [art. 2\(1\)\(2\)](#), [Sch. 1](#), [Sch. 2](#)

#### **43 Duties in relation to social and environmental matters.**

- (1) The Commission shall, in exercising its functions, have regard to any guidance given by the Secretary of State under this section.

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- (2) The Secretary of State shall from time to time give guidance about the making by the Commission of a contribution towards the attainment of any social or environmental policies set out or referred to in the guidance.
- (3) Before giving any such guidance, the Secretary of State shall consult—
  - (a) the Commission,
  - (b) the Council,
  - (c) any universal service provider,
  - (d) any licence holder under Part II who is not a universal service provider, and
  - (e) such other persons as the Secretary of State considers appropriate.
- (4) A draft of any guidance proposed to be given under this section shall be laid before each House of Parliament.
- (5) Guidance shall not be given under this section until after the period of 40 days starting with—
  - (a) the day on which the draft is laid before each House of Parliament, or
  - (b) if the draft is laid before the House of Lords on one day and the House of Commons on another day, the later of those two days.
- (6) If, before the end of that period, either House resolves that the guidance should not be given, the Secretary of State shall not give it.
- (7) In reckoning any period of 40 days for the purposes of subsection (5) or (6), no account shall be taken of any time during which—
  - (a) Parliament is dissolved or prorogued, or
  - (b) both Houses are adjourned for more than four days.
- (8) The Secretary of State shall publish any guidance given by him under this section in such manner as he considers appropriate.

#### **Commencement Information**

- I2** S. 43 wholly in force; s. 43 not in force at Royal Assent see s. 130; s. 43(1)(2)(3)(a)(c)-(e)(4)-(8) in force at 6.11.2000 and s. 43 in force insofar as not already in force at 1.1.2001 by [S.I. 2000/2957](#), [art. 2\(1\)\(2\)](#), [Sch. 1](#), [Sch. 2](#) (with transitional provisions in [arts.3-8](#))

#### **44 Review and information.**

- (1) So far as the Commission considers it practicable to do so with a view to facilitating the exercise of its functions, it shall—
  - (a) keep under review the provision (in the United Kingdom, other member States and elsewhere) of postal services,
  - (b) collect information about the provision (in the United Kingdom, other member States and elsewhere) of those services.
- (2) The Secretary of State may give directions indicating considerations to which the Commission is to have particular regard in deciding the order of priority in which matters are to be reviewed in performing its duty under subsection (1)(a).
- (3) So far as the Commission considers it practicable to do so with a view to facilitating the exercise of its functions, it shall, in particular, collect information which enables

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- comparisons to be made between the efficiency and economy of different postal operators (whether in the United Kingdom, other member States or elsewhere).
- (4) The Commission shall from time to time collect information in relation to the standards of performance achieved by—
    - (a) any universal service provider in the provision of a universal postal service, and
    - (b) so far as not falling within paragraph (a), licence holders under Part II in the provision of services authorised or required by their licences.
  - (5) The Commission may collect such information as is necessary for it to comply with a notice of the Council under section 58(1).
  - (6) If the Commission considers it expedient or is asked by the Secretary of State to do so, it shall provide information, advice and help to the Secretary of State regarding any matter in relation to which the Commission has a function.

#### **Commencement Information**

- I3** S. 44 wholly in force; s. 44 not in force at Royal Assent see s. 130; s. 44(1)-(4)(6) in force at 6.11.2000 and s. 44 in force insofar as not already in force at 1.1.2001 by [S.I. 2000/2957](#), [art. 2\(1\)\(2\)](#), [Sch. 1](#), [Sch. 2](#) (with transitional provisions in [arts. 3-8](#))

#### **45 Annual and other reports: the Commission.**

- (1) The Commission shall, as soon as practicable after the end of each financial year, make a report to the Secretary of State on its activities during that year (“the annual report”).
- (2) The annual report for each year shall, in particular, include—
  - (a) a general survey of developments in relation to matters falling within the scope of the Commission’s functions,
  - (b) a report as to the manner in which the Commission has complied with its obligations under the Postal Services Directive,
  - (c) a report as to whether each licence holder under Part II has achieved any standards of performance specified for him in his licence, or determined for him by or under it, in relation to the provision of services authorised or required by his licence,
  - (d) a summary of final and provisional orders made under Part II during that year, of provisional orders confirmed under that Part during that year, and penalties imposed under that Part during that year,
  - (e) a report on the progress of the projects described in the forward work programme for that year (within the meaning of section 61),
  - (f) a report on such other matters as the Secretary of State may from time to time require.
- (3) The Secretary of State shall consult the Commission before exercising his power under subsection (2)(f) in relation to any matter.
- (4) The Secretary of State shall—
  - (a) lay a copy of each annual report before each House of Parliament, and
  - (b) publish the report in such manner as he considers appropriate.

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- (5) The Commission may prepare other reports in relation to any matter falling within the scope of its functions and may publish any such report in such manner as it considers appropriate.
- (6) The Commission shall send a copy of each annual or other report published under this section to the Council.
- (7) So far as practicable the Commission shall secure the exclusion from any report under this section of any matter relating to the affairs of a person if the Commission considers that its inclusion would or might seriously and prejudicially affect the person's interests.
- (8) Subsection (7) does not apply if—
  - (a) the person concerned consents to inclusion of the matter in the report, or
  - (b) the Commission considers that inclusion of the matter in the report would be in the public interest.

#### **46 Publication of information and advice: the Commission.**

- (1) The Commission may publish such information and advice as it considers expedient to give to—
  - (a) a universal service provider,
  - (b) any licence holder under Part II who is not a universal service provider, or
  - (c) users of postal services.
- (2) Publication under this section shall be in such form and manner as the Commission considers appropriate.
- (3) So far as practicable the Commission shall secure the exclusion of any matter relating to the affairs of a person if the Commission considers that its publication would or might seriously and prejudicially affect the person's interests.
- (4) Subsection (3) does not apply if—
  - (a) the person concerned consents to publication of the matter, or
  - (b) the Commission considers that publication of the matter would be in the public interest.

#### **47 Power of the Commission to require information.**

- (1) The Commission may, for any relevant purpose, serve notice on any person requiring him—
  - (a) to produce any documents which are specified or described in the notice and are in that person's custody or under his control, and
  - (b) to produce them at a time and place so specified and to a person so specified.
- (2) The Commission may, for any relevant purpose, serve notice on any person who carries on any business requiring him—
  - (a) to supply to the Commission such information as may be specified or described in the notice, and
  - (b) to supply it at a time and place and in a form and manner so specified and to a person so specified.

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- (3) The person to whom any document is produced in accordance with a notice under this section may, for any relevant purpose, copy the document so produced.
- (4) No person shall be required under this section—
  - (a) to produce any documents which he could not be compelled to produce in civil proceedings before the court, or
  - (b) to supply any information which he could not be compelled to supply in evidence in such proceedings.
- (5) Any reference in this section to the production of a document includes a reference to the production of a legible and intelligible copy of information recorded otherwise than in legible form.
- (6) In this section—
  - “the court”—
    - (a) in relation to England and Wales or Northern Ireland, means the High Court, and
    - (b) in relation to Scotland, means the Court of Session,
  - “relevant purpose” means any purpose connected with—
    - (a) the investigation of an offence under section 6 or any proceedings for such an offence, or
    - (b) the exercise of the Commission’s functions under section 22, 23, 24, 30, 42 or 44(4) or (5).

#### **Commencement Information**

- 14** S. 47 wholly in force; s. 47 not in force at Royal Assent see s. 130; s. 47 in force for specified purposes at 6.11.2000, for further specified purposes at 1.1.2001 and in force insofar as not already in force at 26.3.2001 by [S.I. 2000/2957](#), [art. 2\(1\)-\(3\)](#), [Schs. 1, 2, 3](#) (with transitional provisions in [arts. 3-8](#))

#### **48 Information powers: enforcement.**

- (1) A person commits an offence if, without reasonable excuse, he fails to do anything required of him by a notice under section 47.
- (2) A person commits an offence if he intentionally obstructs or delays any person in the exercise of his powers under section 47(3).
- (3) A person who commits an offence under subsection (1) or (2) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) A person commits an offence if he—
  - (a) intentionally alters, suppresses or destroys any document which he has been required to produce by a notice under section 47, or
  - (b) in supplying any information required of him by a notice under section 47, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular.
- (5) A person who commits an offence under subsection (4) shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum,
  - (b) on conviction on indictment, to a fine.

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- (6) If a person makes default in complying with a notice under section 47, the court may, on the application of the Commission, make such order as the court considers appropriate for requiring the default to be made good.
- (7) Any such order may, in particular, provide that all the costs or expenses of and incidental to the application shall be borne—
  - (a) by the person in default, or
  - (b) if officers of a company or other association are responsible for its default, by those officers.
- (8) The reference in this section to the production of a document includes a reference to the production of a legible and intelligible copy of information recorded otherwise than in legible form; and the reference to suppressing a document includes a reference to destroying the means of reproducing information recorded otherwise than in legible form.
- (9) In this section “the court”—
  - (a) in relation to England and Wales or Northern Ireland, means the High Court, and
  - (b) in relation to Scotland, means the Court of Session.

#### **49 Powers of entry and seizure.**

- (1) Subsection (2) applies where, on an application made by a constable or the Commission, a justice of the peace or, in Scotland, a sheriff is satisfied that there are reasonable grounds for suspecting—
  - (a) that a person has committed an offence under section 6 (“the suspect”), and
  - (b) that articles or documents of a particular description which are required for the purposes of an investigation of the offence are on particular premises.
- (2) The justice or sheriff may issue a warrant authorising a person appointed by him (“the appointed person”) to enter the premises concerned, search for the articles or documents and, subject to subsection (3), seize and remove any that he may find.
- (3) A warrant issued under subsection (2) shall not authorise the seizure and removal of any postal packet, mail-bag or document to which section 104(2) applies; but any such warrant may authorise the appointed person to take copies of the cover of any such packet, bag or document that he finds.
- (4) The appointed person, in the exercise of his powers under a warrant issued under this section, may if necessary use reasonable force.
- (5) The appointed person, in seeking to enter any premises in the exercise of his powers under the warrant, shall, if required by or on behalf of the owner or occupier or person in charge of the premises, produce evidence of his identity, and of the warrant, before entering.
- (6) Any articles or documents which have been seized and removed under a warrant issued under this section may be retained until the conclusion of proceedings against the suspect.
- (7) For the purposes of this section, proceedings in relation to a suspect are concluded if—
  - (a) he is found guilty and sentenced or otherwise dealt with for the offence,
  - (b) he is acquitted,

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- (c) proceedings for the offence are discontinued, or
- (d) it is decided not to prosecute him.

(8) In this section “premises” includes any vehicle, ship or aircraft.

## **50 Codes of practice.**

- (1) The Commission shall prepare, and may revise, a code of practice governing the discharge by it of its functions.
- (2) The Commission shall, in exercising its functions, have regard to the provisions of the code.
- (3) In preparing or revising the code, the Commission shall consult—
  - (a) the Secretary of State,
  - (b) the Council,
  - (c) any universal service provider,
  - (d) any licence holder under Part II who is not a universal service provider, and
  - (e) such other persons as the Commission considers appropriate.
- (4) The Commission shall publish in such manner as it considers appropriate the code as for the time being in force.

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