



# Postal Services Act 2011

## 2011 CHAPTER 5

### PART 4 **U.K.**

#### SPECIAL ADMINISTRATION REGIME

##### *Postal administration orders*

### 68 **Postal administration orders** **U.K.**

- (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.

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#### **Commencement Information**

**II** S. 68 in force at 1.10.2011 by S.I. 2011/2329, art. 3

*Status: Point in time view as at 01/10/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Postal Services Act 2011, Part 4. (See end of Document for details)*

## 69 Objective of a postal administration **U.K.**

- (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 **U.K.**

- (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.

*Status: Point in time view as at 01/10/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Postal Services Act 2011, Part 4. (See end of Document for details)*

- (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.

#### Commencement Information

**I3** S. 70 in force at 1.10.2011 by S.I. 2011/2329, art. 3

## 71 Powers of court **U.K.**

- (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 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.

*Status: Point in time view as at 01/10/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Postal Services Act 2011, Part 4. (See end of Document for details)*

- (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 **U.K.**

- (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.
- (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.

*Status: Point in time view as at 01/10/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Postal Services Act 2011, Part 4. (See end of Document for details)*

- (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** **U.K.**

- (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

*Restrictions on other insolvency procedures*

**74 Winding-up orders** **U.K.**

- (1) This section applies if a person other than the Secretary of State petitions for the winding-up of a company which is a universal service provider.
- (2) The court is not to exercise its powers on a winding-up petition unless—
  - (a) notice of the petition has been served on the Secretary of State and OFCOM, and
  - (b) a period of at least 14 days has elapsed since the service of the last of those notices to be served.

*Status: Point in time view as at 01/10/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Postal Services Act 2011, Part 4. (See end of Document for details)*

- (3) If an application for a postal administration order in relation to the company is made to the court in accordance with section 70(1) before a winding-up order is made on the petition, the court may exercise its powers under section 71 (instead of exercising its powers on the petition).
- (4) References in this section to the court's powers on a winding-up petition are to—
  - (a) its powers under section 125 of the 1986 Act (other than its power of adjournment), and
  - (b) its powers under section 135 of the 1986 Act.

#### Commencement Information

**I7** S. 74 in force at 1.10.2011 by S.I. 2011/2329, art. 3

## 75 Voluntary winding up **U.K.**

- (1) A company which is a universal service provider has no power to pass a resolution for voluntary winding up without the permission of the court.
- (2) Permission may be granted by the court only on an application made by the company.
- (3) The court is not to grant permission unless—
  - (a) notice of the application has been served on the Secretary of State and OFCOM, and
  - (b) a period of at least 14 days has elapsed since the service of the last of those notices to be served.
- (4) If an application for a postal administration order in relation to the company is made to the court in accordance with section 70(1) after an application for permission under this section has been made and before it is granted, the court may exercise its powers under section 71 (instead of granting permission).
- (5) In this section “a resolution for voluntary winding up” has the same meaning as in the 1986 Act.

#### Commencement Information

**I8** S. 75 in force at 1.10.2011 by S.I. 2011/2329, art. 3

## 76 Making of ordinary administration orders **U.K.**

- (1) This section applies if a person other than the Secretary of State makes an ordinary administration application in relation to a company which is a universal service provider.
- (2) The court must dismiss the application if—
  - (a) a postal administration order is in force in relation to the company, or
  - (b) a postal administration order has been made in relation to the company but is not yet in force.

*Status: Point in time view as at 01/10/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Postal Services Act 2011, Part 4. (See end of Document for details)*

- (3) If subsection (2) does not apply, the court, on hearing the application, must not exercise its powers under paragraph 13 of Schedule B1 to the 1986 Act (other than its power of adjournment) unless—
  - (a) notice of the application has been served on the Secretary of State and OFCOM,
  - (b) a period of at least 14 days has elapsed since the service of the last of those notices to be served, and
  - (c) there is no application for a postal administration order which is outstanding.
- (4) Paragraph 44 of Schedule B1 to the 1986 Act (interim moratorium) does not prevent, or require the permission of the court for, the making of an application for a postal administration order.
- (5) On the making of a postal administration order in relation to a company, the court must dismiss any ordinary administration application made in relation to the company which is outstanding.
- (6) In this section “ordinary administration application” means an application in accordance with paragraph 12 of Schedule B1 to the 1986 Act.

#### Commencement Information

**19** S. 76 in force at 1.10.2011 by [S.I. 2011/2329](#), [art. 3](#)

## 77 Administrator appointments by creditors etc **U.K.**

- (1) Subsections (2) to (4) make provision about appointments under paragraph 14 or 22 of Schedule B1 to the 1986 Act (powers to appoint administrators) in relation to a company which is a universal service provider.
- (2) If in any case—
  - (a) a postal administration order is in force in relation to the company,
  - (b) a postal administration order has been made in relation to the company but is not yet in force, or
  - (c) an application for a postal administration order in relation to the company is outstanding,a person may not take any step to make an appointment.
- (3) In any other case, an appointment takes effect only if each of the following conditions are met.
- (4) The conditions are—
  - (a) that a copy of every document in relation to the appointment that is filed or lodged with the court in accordance with paragraph 18 or 29 of Schedule B1 to the 1986 Act has been served on the Secretary of State and OFCOM,
  - (b) that a period of 14 days has elapsed since the service of the last of those copies to be served,
  - (c) that there is no outstanding application to the court for a postal administration order in relation to the company, and

*Status: Point in time view as at 01/10/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Postal Services Act 2011, Part 4. (See end of Document for details)*

- (d) that the making of an application for a postal administration order in relation to the company has not resulted in the making of a postal administration order which is in force or is still to come into force.
- (5) Paragraph 44 of Schedule B1 to the 1986 Act (interim moratorium) does not prevent, or require the permission of the court for, the making of an application for a postal administration order at any time before the appointment takes effect.

**Commencement Information**

**I10** S. 77 in force at 1.10.2011 by S.I. 2011/2329, art. 3

**78 Enforcement of security** **U.K.**

- (1) A person may not take any step to enforce a security over property of a company which is a universal service provider unless—
- (a) notice of the intention to do so has been served on the Secretary of State and OFCOM, and
  - (b) a period of at least 14 days has elapsed since the service of the last of those notices to be served.
- (2) In the case of a foreign company which is a universal service provider, the reference to the property of the company is to its property in the United Kingdom.

**Commencement Information**

**I11** S. 78 in force at 1.10.2011 by S.I. 2011/2329, art. 3

*Financial support for companies in administration*

**79 Grants and loans** **U.K.**

- (1) This section applies if a postal administration order has been made in relation to a company.
- (2) The Secretary of State may, with the consent of the Treasury, make grants or loans to the company of such amounts as it appears to the Secretary of State appropriate for achieving the objective of the postal administration.
- (3) The grants or loans may be made in whatever manner, and on whatever terms, the Secretary of State considers appropriate.
- (4) The terms on which the grants may be made include, in particular, terms requiring the whole or a part of the grants to be repaid to the Secretary of State if there is a contravention of the other terms on which they are made.
- (5) The terms on which loans may be made include, in particular, terms requiring—
- (a) the loans to be repaid at such times and by such methods as the Secretary of State may, with the consent of the Treasury, from time to time direct, and
  - (b) interest to be paid on the loans at such rates and at such times as the Secretary of State may, with the consent of the Treasury, from time to time direct.



*Status: Point in time view as at 01/10/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Postal Services Act 2011, Part 4. (See end of Document for details)*

- (6) The Secretary of State must pay sums received as a result of this section into the Consolidated Fund.

**Commencement Information**

**I12** S. 79 in force at 1.10.2011 by S.I. 2011/2329, art. 3

**80 Indemnities U.K.**

- (1) This section applies if a postal administration order has been made in relation to a company.
- (2) The Secretary of State may, with the consent of the Treasury, agree to indemnify persons in respect of one or both of the following—
- (a) liabilities incurred in connection with the exercise and performance of powers and duties by the postal administrator, and
  - (b) loss or damage sustained in that connection.
- (3) The agreement may be made in whatever manner, and on whatever terms, the Secretary of State considers appropriate.
- (4) As soon as practicable after agreeing to indemnify persons under this section, the Secretary of State must lay a statement of the agreement before Parliament.
- (5) If sums are paid by the Secretary of State in consequence of an indemnity agreed to under this section, the company must pay the Secretary of State—
- (a) such amounts in or towards the repayment to the Secretary of State of those sums as the Secretary of State may, with the consent of the Treasury, direct, and
  - (b) interest on amounts outstanding under this subsection at such rates as the Secretary of State may, with the consent of the Treasury, direct.
- (6) The payments must be made by the company at such times and in such manner as the Secretary of State may, with the consent of the Treasury, determine.
- (7) Subsection (5) does not apply in the case of a sum paid by the Secretary of State for indemnifying a person in respect of a liability to the company.
- (8) If a sum has been paid out in consequence of an indemnity agreed to under this section, the Secretary of State must lay a statement relating to that sum before Parliament—
- (a) as soon as practicable after the end of the financial year in which the sum is paid out, and
  - (b) if subsection (5) applies to the sum, as soon as practicable after the end of each subsequent financial year in relation to which the repayment condition has not been met.
- (9) The repayment condition is met in relation to a financial year if—
- (a) the whole of the sum has been repaid to the Secretary of State before the beginning of the year, and
  - (b) the company was not at any time during the year liable to pay interest on amounts that became due in respect of the sum.
- (10) The power of the Secretary of State to agree to indemnify persons—

*Status: Point in time view as at 01/10/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Postal Services Act 2011, Part 4. (See end of Document for details)*

- (a) is confined to a power to agree to indemnify persons in respect of liabilities, loss and damage incurred or sustained by them as relevant persons, but
  - (b) includes power to agree to indemnify persons (whether or not they are identified or identifiable at the time of the agreement) who subsequently become relevant persons.
- (11) The following are relevant persons for the purposes of this section—
- (a) the postal administrator,
  - (b) an employee of the postal administrator,
  - (c) a partner or employee of a firm of which the postal administrator is a partner,
  - (d) a partner or employee of a firm of which the postal administrator is an employee,
  - (e) a partner of a firm of which the postal administrator was an employee or partner at a time when the order was in force,
  - (f) a body corporate which is the employer of the postal administrator,
  - (g) an officer, employee or member of such a body corporate, and
  - (h) a Scottish firm which is the employer of the postal administrator or of which the postal administrator is a partner.
- (12) For the purposes of subsection (11)—
- (a) references to the postal administrator are to be read, where two or more persons are appointed as the postal administrator, as references to any one or more of them, and
  - (b) references to a firm of which a person was a partner or employee at a particular time include a firm which holds itself out to be the successor of a firm of which the person was a partner or employee at that time.
- (13) The Secretary of State must pay sums received as a result of subsection (5) into the Consolidated Fund.

**Commencement Information**

**I13** S. 80 in force at 1.10.2011 by S.I. 2011/2329, art. 3

**81 Guarantees where postal administration order is made** **U.K.**

- (1) This section applies if a postal administration order has been made in relation to a company.
- (2) The Secretary of State may, with the consent of the Treasury, guarantee—
  - (a) the repayment of any sum borrowed by the company while that order is in force,
  - (b) the payment of interest on any sum borrowed by the company while that order is in force, and
  - (c) the discharge of any other financial obligation of the company in connection with the borrowing of any sum while that order is in force.
- (3) The Secretary of State may give the guarantees in such manner, and on such terms, as the Secretary of State considers appropriate.

*Status: Point in time view as at 01/10/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Postal Services Act 2011, Part 4. (See end of Document for details)*

- (4) As soon as practicable after giving a guarantee under this section, the Secretary of State must lay a statement of the guarantee before Parliament.
- (5) If sums are paid out by the Secretary of State under a guarantee given under this section, the company must pay the Secretary of State—
  - (a) such amounts in or towards the repayment to the Secretary of State of those sums as the Secretary of State may, with the consent of the Treasury, direct, and
  - (b) interest on amounts outstanding under this subsection at such rates as the Secretary of State may, with the consent of the Treasury, direct.
- (6) The payments must be made by the company at such times, and in such manner, as the Secretary of State may, with the consent of the Treasury, from time to time direct.
- (7) If a sum has been paid out under a guarantee given under this section, the Secretary of State must lay a statement relating to that sum before Parliament—
  - (a) as soon as practicable after the end of the financial year in which the sum is paid out, and
  - (b) as soon as practicable after the end of each subsequent financial year in relation to which the repayment condition has not been met.
- (8) The repayment condition is met in relation to a financial year if—
  - (a) the whole of the sum has been repaid to the Secretary of State before the beginning of the year, and
  - (b) the company was not at any time during the year liable to pay interest on amounts that became due in respect of the sum.
- (9) The Secretary of State must pay sums received as a result of subsection (5) into the Consolidated Fund.
- (10) In this section “financial year” means a period of 12 months ending with 31 March.

#### **Commencement Information**

**I14** S. 81 in force at 1.10.2011 by S.I. 2011/2329, art. 3

#### *Modifications of regulatory conditions etc*

## **82 Regulatory powers exercisable during postal administration** **U.K.**

- (1) This section applies if a postal administration order has been made.
- (2) The Secretary of State may by order modify the universal postal service order made by OFCOM under section 30.

An order under this subsection is subject to negative resolution procedure.

- (3) Before modifying that order, the Secretary of State must consult—
  - (a) OFCOM, and
  - (b) such other persons as the Secretary of State considers appropriate.
- (4) If the Secretary of State modifies that order, it is for the Secretary of State (rather than OFCOM) to notify the European Commission of the modification.

*Status: Point in time view as at 01/10/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Postal Services Act 2011, Part 4. (See end of Document for details)*

- (5) The Secretary of State may by order amend section 31.
- (6) An order under subsection (5)—
  - (a) is subject to approval after being made, and
  - (b) may include such amendments of Part 3 as the Secretary of State considers necessary or expedient in consequence of any provision made by the order.
- (7) The Secretary of State may modify or revoke any regulatory condition if the Secretary of State considers it appropriate to do so for, or in connection with, achieving the objective of the postal administration.
- (8) The Secretary of State's power to make modifications includes power to make incidental, supplementary, consequential, transitional or transitory modifications.
- (9) Before modifying or revoking a regulatory condition, the Secretary of State must consult—
  - (a) OFCOM,
  - (b) the person whose condition is being modified or revoked, and
  - (c) such other persons as the Secretary of State considers appropriate.
- (10) The Secretary of State must publish every modification or revocation of a regulatory condition made under this section.
- (11) The publication must be in such manner as the Secretary of State considers appropriate.
- (12) The provisions of Part 3 (including section 29) other than—
  - (a) sections 57 to 60 (appeals), and
  - (b) paragraph 3 of Schedule 6 (procedure for modifying or revoking regulatory conditions),
 apply in relation to the modification or revocation by the Secretary of State of regulatory conditions as they apply in relation to the modification or revocation by OFCOM of regulatory conditions.
- (13) The power conferred by subsection (2) or (5) may not be exercised at any time after the postal administration order has ceased to be in force.
- (14) Any duty to consult under this section may be met by consultation before the making of the postal administration order.

#### Commencement Information

**I15** S. 82 in force at 1.10.2011 by [S.I. 2011/2329](#), [art. 3](#)

### 83 Regulatory conditions to secure funding of postal administration order **U.K.**

- (1) The modifications that may be made under section 82 include, in particular, modifications of any price control provision contained in a regulatory condition for the purpose of raising such amounts as may be determined by the Secretary of State.
- (2) The modified condition may require the person on whom it is imposed to pay those amounts to such persons as may be so determined for the purpose of—
  - (a) their applying those amounts in making good any shortfall in the property available for meeting the expenses of the postal administration, or

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- (b) enabling those persons to secure that those amounts are so applied.
- (3) The modified condition may require the person on whom it is imposed to apply amounts paid to it as result of this section in making good any shortfall in the property available for meeting the expenses of the postal administration.
- (4) For the purposes of this section “price control provision” means—
- (a) provision as to the tariffs that are to be used as mentioned in section 36(4) (designated USP condition: tariffs), or
  - (b) provision as to prices that may be charged for the giving of access under an access condition (within the meaning of Part 3).
- (5) For the purposes of this section—
- (a) there is a shortfall in the property available for meeting the costs of a postal administration if the property available (apart from this section) for meeting relevant debts is insufficient for meeting them, and
  - (b) amounts are applied in making good that shortfall if they are paid in or towards discharging so much of a relevant debt as cannot be met out of the property otherwise available for meeting relevant debts.
- (6) In this section “relevant debt”, in relation to a case in which a company is or has been subject to a postal administration order, means an obligation—
- (a) to make payments in respect of the expenses or remuneration of any person as the postal administrator of the company,
  - (b) to make a payment in discharge of a debt or other liability of the company arising out of a contract entered into at a time when the order was in force by the person who at that time was the postal administrator of the company,
  - (c) to repay the whole or a part of a grant made to the company under section 79,
  - (d) to repay a loan made to the company under section 79 or to pay interest on such a loan,
  - (e) to make a payment under section 80(5), or
  - (f) to make a payment under section 81(5).

**Commencement Information**

**I16** S. 83 in force at 1.10.2011 by S.I. 2011/2329, art. 3

*Supplementary provisions*

**84** **Modification of Part 4 under Enterprise Act 2002** **U.K.**

The power to modify or apply enactments conferred on the Secretary of State by—

- (a) sections 248 and 277 of the Enterprise Act 2002 (amendments consequential on that Act), and
  - (b) section 254 of that Act (power to apply insolvency law to foreign companies),
- includes power to make such consequential modifications of this Part as the Secretary of State considers appropriate in connection with any other provision made under any of those sections.

*Status: Point in time view as at 01/10/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Postal Services Act 2011, Part 4. (See end of Document for details)*

### Commencement Information

I17 S. 84 in force at 1.10.2011 by S.I. 2011/2329, art. 3

## 85 Interpretation of Part 4 **U.K.**

- (1) In this Part—
- “the 1986 Act” means the Insolvency Act 1986,
  - “business”, “member”, “property” and “security” have the same meaning as in the 1986 Act,
  - “company” means—
    - (a) a company registered under the Companies Act 2006, or
    - (b) an unregistered company,
  - “the court”, in relation to a company, means the court having jurisdiction to wind up the company,
  - “foreign company” means a company incorporated outside the United Kingdom,
  - “objective of the postal administration” is to be read in accordance with section 69,
  - “postal administration order” has the meaning given by section 68(1),
  - “postal administration rules” means rules made under section 411 of the 1986 Act as a result of section 73 above,
  - “postal administrator” has the meaning given by section 68(2) and is to be read in accordance with subsection (3) below,
  - “Scottish firm” means a firm constituted under the law of Scotland,
  - “UK affairs, business and property”, in relation to a company, means—
    - (a) its affairs and business so far as carried on in the United Kingdom, and
    - (b) its property in the United Kingdom, and
  - “unregistered company” means a company that is not registered under the Companies Act 2006.
- (2) Any expression which is used in this Part and in Part 3 has the same meaning in this Part as in that Part.
- (3) In this Part references to the postal administrator of a company—
- (a) include a person appointed under paragraph 91 or 103 of Schedule B1 to the 1986 Act, as applied by Part 1 of Schedule 10 to this Act, to be the postal administrator of the company, and
  - (b) if two or more persons are appointed as the postal administrator of the company, are to be read in accordance with the provision made under section 72(5).
- (4) References in this Part to a person qualified to act as an insolvency practitioner in relation to a company are to be read in accordance with Part 13 of the 1986 Act, but as if references in that Part to a company included a company registered under the Companies Act 2006 in Northern Ireland.
- (5) For the purposes of this Part an application made to the court is outstanding if it—
- (a) has not yet been granted or dismissed, and

*Status: Point in time view as at 01/10/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Postal Services Act 2011, Part 4. (See end of Document for details)*

- (b) has not been withdrawn.
- (6) An application is not to be taken as having been dismissed if an appeal against the dismissal of the application, or a subsequent appeal, is pending.
- (7) An appeal is to be treated as pending for this purpose if—
- (a) an appeal has been brought and has not been determined or withdrawn,
  - (b) an application for permission to appeal has been made but has not been determined or withdrawn, or
  - (c) no appeal has been brought and the period for bringing one is still running.
- (8) References in this Part to Schedule B1 to the 1986 Act, or to a provision of that Schedule (except the references in subsection (2) above), are to that Schedule or that provision without the modifications made by Part 1 of Schedule 10 to this Act.

**Commencement Information**

**I18** [S. 85](#) in force at 1.10.2011 by [S.I. 2011/2329](#), [art. 3](#)

**86 Partnerships** **U.K.**

- (1) The Lord Chancellor may, by order made with the concurrence of the Secretary of State and the Lord Chief Justice, apply (with or without modifications) any provision of this Part in relation to partnerships.
- (2) An order under subsection (1) is subject to negative resolution procedure.
- (3) Subsection (1) does not apply in relation to Scottish firms.
- (4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise the function of the Lord Chief Justice under subsection (1).
- (5) The Secretary of State may by order apply (with or without modifications) any provision of this Part in relation to Scottish firms.
- (6) An order under subsection (5) is subject to negative resolution procedure.

**Commencement Information**

**I19** [S. 86](#) in force at 1.10.2011 by [S.I. 2011/2329](#), [art. 3](#)

**87 Northern Ireland** **U.K.**

- (1) This section makes provision about the application of this Part to Northern Ireland.
- (2) Any reference to any provision of the 1986 Act is to have effect as a reference to the corresponding provision of the Insolvency (Northern Ireland) Order 1989.
- (3) Section 85(4) is to have effect as if the reference to Northern Ireland were to England and Wales or Scotland.
- (4) Section 86 is to have effect as if—
- (a) in subsection (1)—

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*Changes to legislation: There are currently no known outstanding effects for the Postal Services Act 2011, Part 4. (See end of Document for details)*

- (i) the reference to the Secretary of State were to the Department of Enterprise, Trade and Investment, and
  - (ii) the reference to the Lord Chief Justice were to the Lord Chief Justice of Northern Ireland, and
- (b) for subsection (4) there were substituted—
- “(4) The Lord Chief Justice of Northern Ireland may nominate—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002, or
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act), to exercise the function of the Lord Chief Justice of Northern Ireland under subsection (1).”

#### Commencement Information

**I20** S. 87 in force at 1.10.2011 by [S.I. 2011/2329](#), [art. 3](#)

## 88 Review of Part 4 **U.K.**

- (1) As soon as reasonably practicable after the end of the review period, the Secretary of State must—
  - (a) carry out a review of the provisions of this Part, and
  - (b) set out the conclusions of the review in a report.
- (2) The report must, in particular—
  - (a) set out the objectives intended to be achieved by the regulatory system established by those provisions,
  - (b) assess the extent to which those objectives have been achieved, and
  - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposed less regulation.
- (3) The review period is the period of 5 years beginning with the day on which the provisions of this Part come generally into force.
- (4) The Secretary of State must lay the report before Parliament.

#### Commencement Information

**I21** S. 88 in force at 1.10.2011 by [S.I. 2011/2329](#), [art. 3](#)



**Status:**

Point in time view as at 01/10/2011.

**Changes to legislation:**

There are currently no known outstanding effects for the Postal Services Act 2011, Part 4.