

Changes to legislation: There are currently no known outstanding effects for the Postal Services Act 2011, Part 1. (See end of Document for details)

SCHEDULES

SCHEDULE 10

CONDUCT OF POSTAL ADMINISTRATION

PART 1

MODIFICATIONS OF SCHEDULE B1 TO 1986 ACT

Introductory

- 1 Paragraphs 1, 40 to 50, 54, 59 to 68, 70 to 75, 79, 83 to 91, 98 to 107, 109 to 111 and 112 to 116 of Schedule B1 to the 1986 Act are to have effect in relation to postal administration orders as they have effect in relation to administration orders under that Schedule, but with the modifications set out in this Part of this Schedule.

Commencement Information

- II** [Sch. 10 para. 1](#) in force at 1.10.2011 by [S.I. 2011/2329](#), [art. 3](#)

General modifications of the applicable provisions

- 2 Those paragraphs are to have effect as if—
- (a) for “administration application”, in each place, there were substituted “postal administration application”,
 - (b) for “administration order”, in each place, there were substituted “postal administration order”,
 - (c) for “administrator”, in each place, there were substituted “postal administrator”,
 - (d) for “enters administration”, in each place, there were substituted “enters postal administration”,
 - (e) for “in administration”, in each place, there were substituted “in postal administration”, and
 - (f) for “purpose of administration”, in each place (other than in paragraph 111(1)), there were substituted “objective of the postal administration”.

Commencement Information

- I2** [Sch. 10 para. 2](#) in force at 1.10.2011 by [S.I. 2011/2329](#), [art. 3](#)

Specific modifications

- 3 Paragraph 1 (administration) is to have effect as if—

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(a) for sub-paragraph (1) there were substituted—

“(1) In this Schedule “postal administrator”, in relation to a company, means a person appointed by the court for the purposes of a postal administration order to manage its affairs, business and property.”,
 and

(b) in sub-paragraph (2), for “Act” there were substituted “Schedule”.

Commencement Information

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

4 Paragraph 40 (dismissal of pending winding-up petition) is to have effect as if sub-paragraphs (1)(b), (2) and (3) were omitted.

Commencement Information

I4 Sch. 10 para. 4 in force at 1.10.2011 by S.I. 2011/2329, art. 3

5 Paragraph 42 (moratorium on insolvency proceedings) is to have effect as if sub-paragraphs (4) and (5) were omitted.

Commencement Information

I5 Sch. 10 para. 5 in force at 1.10.2011 by S.I. 2011/2329, art. 3

6 Paragraph 44 (interim moratorium) is to have effect as if sub-paragraphs (2) to (4), (6) and (7)(a) to (c) were omitted.

Commencement Information

I6 Sch. 10 para. 6 in force at 1.10.2011 by S.I. 2011/2329, art. 3

7 Paragraph 46(6) (date for notifying administrator's appointment) is to have effect as if for paragraphs (a) to (c) there were substituted “the date on which the postal administration order comes into force”.

Commencement Information

I7 Sch. 10 para. 7 in force at 1.10.2011 by S.I. 2011/2329, art. 3

8 Paragraph 49 (administrator's proposals) is to have effect as if—

(a) in sub-paragraph (2)(b) for “objective mentioned in paragraph 3(1)(a) or (b) cannot be achieved” there were substituted “objective of the postal administration should be achieved by means other than just a rescue of the company as a going concern”, and

(b) in sub-paragraph (4), after paragraph (a) there were inserted—
 “(aa) to the Secretary of State and OFCOM.”.

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I8 Sch. 10 para. 8 in force at 1.10.2011 by S.I. 2011/2329, art. 3

- 9 Paragraph 54 is to have effect as if the following were substituted for it—
- “54 (1) The postal administrator of a company may on one or more occasions revise the proposals included in the statement made under paragraph 49 in relation to the company.
- (2) If the postal administrator thinks that a revision is substantial, the postal administrator must send a copy of the revised proposals—
- (a) to the registrar of companies,
 - (b) to the Secretary of State and OFCOM,
 - (c) to every creditor of the company of whose claim and address the postal administrator is aware, and
 - (d) to every member of the company of whose address the postal administrator is aware [^{F1}other than an opted-out creditor] .
- (3) A copy sent in accordance with sub-paragraph (2) must be sent within the prescribed period.
- (4) The postal administrator is to be taken to have complied with sub-paragraph (2)(d) if the postal administrator publishes, in the prescribed manner, a notice undertaking to provide a copy of the revised proposals free of charge to any member of the company who applies in writing to a specified address.
- (5) The postal administrator who fails without reasonable excuse to comply with this paragraph commits an offence.”

Textual Amendments

F1 Words in Sch. 10 para. 9 inserted (6.4.2017) by The Deregulation Act 2015 and Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) (Savings) Regulations 2017 (S.I. 2017/540), reg. 1, Sch. 1 para. 6(2) (with reg. 4)

Commencement Information

I9 Sch. 10 para. 9 in force at 1.10.2011 by S.I. 2011/2329, art. 3

- 10 Paragraph 60 (powers of an administrator) is to have effect as if the existing text were to become sub-paragraph (1) and as if after that sub-paragraph there were inserted—
- “(2) The postal administrator of a company has the power to act on behalf of the company for the purposes of any enactment which confers a power on the company or imposes a duty on it.
- (3) In sub-paragraph (2) “enactment” has the same meaning as in the Postal Services Act 2011 (see section 90).”

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I10 Sch. 10 para. 10 in force at 1.10.2011 by S.I. 2011/2329, art. 3

- 11 Paragraph 68 (management duties of an administrator) is to have effect as if—
- (a) in sub-paragraph (1), for paragraphs (a) to (c) there were substituted—
 - “the proposals as—
 - (a) set out in the statement made under paragraph 49 in relation to the company, and
 - (b) from time to time revised under paragraph 54,
 for achieving the objective of the postal administration.” and
 - (b) in sub-paragraph (3), for paragraphs (a) to (d) there were substituted “the directions are consistent with the achievement of the objective of the postal administration”.

Commencement Information

I11 Sch. 10 para. 11 in force at 1.10.2011 by S.I. 2011/2329, art. 3

- 12 Paragraph 71(3)(b) (charged property: non-floating charge) is to have effect as if for “market” there were substituted “the appropriate”.

Commencement Information

I12 Sch. 10 para. 12 in force at 1.10.2011 by S.I. 2011/2329, art. 3

- 13 Paragraph 72(3)(b) (hire-purchase property) is to have effect as if for “market” there were substituted “the appropriate”.

Commencement Information

I13 Sch. 10 para. 13 in force at 1.10.2011 by S.I. 2011/2329, art. 3

- 14 Paragraph 73(3) (protection for secured or preferential creditor) is to have effect as if for “or modified” there were substituted “under paragraph 54”.

Commencement Information

I14 Sch. 10 para. 14 in force at 1.10.2011 by S.I. 2011/2329, art. 3

- 15 Paragraph 74 (challenge to administrator's conduct) is to have effect as if—
- (a) for sub-paragraph (2) there were substituted—
 - “(2) If a company is in postal administration, a person mentioned in sub-paragraph (2A) may apply to the court claiming that the postal administrator is acting in a manner preventing the achievement of the objective of the postal administration as quickly and efficiently as is reasonably practicable.
 - (2A) The persons who may apply to the court are—

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- (a) the Secretary of State,
 - (b) with the consent of the Secretary of State, OFCOM,
 - (c) a creditor or member of the company.”,
- (b) in sub-paragraph (6)—
 - (i) at the end of paragraph (b) there were inserted “or”, and
 - (ii) paragraph (c) (and the “or” before it) were omitted, and
- (c) after that sub-paragraph there were inserted—
 - “(7) In the case of a claim made otherwise than by the Secretary of State or OFCOM, the court may grant a remedy or relief or make an order under this paragraph only if it has given the Secretary of State or OFCOM a reasonable opportunity of making representations about the claim and the proposed remedy, relief or order.
 - (8) The court may grant a remedy or relief or make an order on an application under this paragraph only if it is satisfied, in relation to the matters that are the subject of the application, that the postal administrator—
 - (a) is acting,
 - (b) has acted, or
 - (c) is proposing to act,in a way that is inconsistent with the achievement of the objective of the postal administration as quickly and as efficiently as is reasonably practicable.
 - (9) Before the making of an order of the kind mentioned in sub-paragraph (4)(d)—
 - (a) the court must notify the postal administrator of the proposed order and of a period during which the postal administrator is to have the opportunity of taking steps falling within sub-paragraphs (10) to (12), and
 - (b) the period notified must have expired without the taking of such of those steps as the court thinks should have been taken,and that period must be a reasonable period.
 - (10) In the case of a claim under sub-paragraph (1)(a), the steps referred to in sub-paragraph (9) are—
 - (a) ceasing to act in a manner that unfairly harms the interests to which the claim relates,
 - (b) remedying any harm unfairly caused to those interests, and
 - (c) steps for ensuring that there is no repetition of conduct unfairly causing harm to those interests.
 - (11) In the case of a claim under sub-paragraph (1)(b), the steps referred to in sub-paragraph (9) are steps for ensuring that the interests to which the claim relates are not unfairly harmed.
 - (12) In the case of a claim under sub-paragraph (2), the steps referred to in sub-paragraph (9) are—

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- (a) ceasing to act in a manner preventing the achievement of the objective of the postal administration as quickly and as efficiently as is reasonably practicable,
- (b) remedying the consequences of the postal administrator having acted in such a manner, and
- (c) steps for ensuring that there is no repetition of conduct preventing the achievement of the objective of the postal administration as quickly and as efficiently as is reasonably practicable.”

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I15 Sch. 10 para. 15 in force at 1.10.2011 by S.I. 2011/2329, art. 3

16 Paragraph 75(2) (misfeasance) is to have effect as if after paragraph (b) there were inserted—

- “(ba) a person appointed as an administrator of the company under the provisions of this Act, as they have effect in relation to administrators other than postal administrators.”.

Commencement Information

I16 Sch. 10 para. 16 in force at 1.10.2011 by S.I. 2011/2329, art. 3

17 Paragraph 79 (end of administration) is to have effect as if—

- (a) for sub-paragraphs (1) and (2) there were substituted—

“(1) On an application made by a person mentioned in sub-paragraph (2), the court may provide for the appointment of a postal administrator of a company to cease to have effect from a specified time.

- (2) An application may be made to the court under this paragraph—

- (a) by the Secretary of State,
- (b) with the consent of the Secretary of State, by OFCOM, or
- (c) with the consent of the Secretary of State, by the postal administrator.”, and

- (b) sub-paragraph (3) were omitted.

Commencement Information

I17 Sch. 10 para. 17 in force at 1.10.2011 by S.I. 2011/2329, art. 3

18 Paragraph 83(3) (notice to registrar when moving to voluntary liquidation) is to have effect as if after “may” there were inserted “, with the consent of the Secretary of State or of OFCOM,”.

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I18 Sch. 10 para. 18 in force at 1.10.2011 by S.I. 2011/2329, art. 3

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- 19 (1) Paragraph 84 (notice to registrar when moving to dissolution) is to have effect as if—
- (a) in sub-paragraph (1), for “to the registrar of companies” there were substituted—
 - “(a) to the Secretary of State and OFCOM, and
 - (b) if directed to do so by either the Secretary of State or OFCOM, to the registrar of companies.”,
 - (b) sub-paragraph (2) were omitted, and
 - (c) in sub-paragraphs (3) to (6), for “(1)”, in each place, there were substituted “(1)(b)”.

Commencement Information

I19 Sch. 10 para. 19 in force at 1.10.2011 by [S.I. 2011/2329](#), **art. 3**

- 20 Paragraph 87(2) (resignation of administrator) is to have effect as if for paragraphs (a) to (d) there were substituted “by notice in writing to the court”.

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I20 Sch. 10 para. 20 in force at 1.10.2011 by [S.I. 2011/2329](#), **art. 3**

- 21 Paragraph 89(2) (administrator ceasing to be qualified) is to have effect as if for paragraphs (a) to (d) there were substituted “to the court”.

Commencement Information

I21 Sch. 10 para. 21 in force at 1.10.2011 by [S.I. 2011/2329](#), **art. 3**

- 22 Paragraph 90 (filling vacancy in office of administrator) is to have effect as if for “Paragraphs 91 to 95 apply” there were substituted “Paragraph 91 applies”.

Commencement Information

I22 Sch. 10 para. 22 in force at 1.10.2011 by [S.I. 2011/2329](#), **art. 3**

- 23 Paragraph 91 (vacancies in court appointments) is to have effect as if—
- (a) for sub-paragraph (1) there were substituted—
 - “(1) The court may replace the postal administrator on an application made—
 - (a) by the Secretary of State,
 - (b) with the consent of the Secretary of State, by OFCOM, or
 - (c) where more than one person was appointed to act jointly as the postal administrator, by any of those persons who remains in office.”, and
 - (b) sub-paragraph (2) were omitted.

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I23 Sch. 10 para. 23 in force at 1.10.2011 by S.I. 2011/2329, art. 3

- 24 Paragraph 98 (discharge from liability on vacation of office) is to have effect as if sub-paragraphs (2)(b) and (3) were omitted.

Commencement Information

I24 Sch. 10 para. 24 in force at 1.10.2011 by S.I. 2011/2329, art. 3

- 25 Paragraph 99 (charges and liabilities upon vacation of office by administrator) is to have effect as if—
- (a) in sub-paragraph (4), for the words from the beginning to “cessation”, in the first place, there were substituted “A sum falling within sub-paragraph (4A)”;
 - (b) after that sub-paragraph there were inserted—
 - “(4A) A sum falls within this sub-paragraph if it is—
 - (a) a sum payable in respect of a debt or other liability arising out of a contract that was entered into before cessation by the former postal administrator or a predecessor,
 - (b) a sum that must be repaid by the company in respect of a grant that was made before cessation under section 79 of the Postal Services Act 2011 as is mentioned in subsection (4) of that section,
 - (c) a sum that must be repaid by the company in respect of a loan made before cessation under that section or that must be paid by the company in respect of interest payable on such a loan,
 - (d) a sum payable by the company under subsection (5) of section 80 of that Act in respect of an agreement to indemnify made before cessation, or
 - (e) a sum payable by the company under subsection (5) of section 81 of that Act in respect of a guarantee given before cessation.”; and
 - (c) in sub-paragraph (5), for “(4)” there were substituted “(4A)(a)”.

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I25 Sch. 10 para. 25 in force at 1.10.2011 by S.I. 2011/2329, art. 3

- 26 Paragraph 100 (joint and concurrent administrators) is to have effect as if sub-paragraph (2) were omitted.

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I26 Sch. 10 para. 26 in force at 1.10.2011 by S.I. 2011/2329, art. 3

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- 27 Paragraph 101(3) (joint administrators) is to have effect as if after “87 to” there were inserted “91, 98 and”.

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I27 Sch. 10 para. 27 in force at 1.10.2011 by S.I. 2011/2329, art. 3

- 28 Paragraph 103 (appointment of additional administrators) is to have effect as if—
- (a) in sub-paragraph (2) the words from the beginning to “order” were omitted and for paragraph (a) there were substituted—
 - “(a) the Secretary of State,
 - (aa) OFCOM, or”,
 - (b) after that sub-paragraph there were inserted—
 - “(2A) The consent of the Secretary of State is required for an application by OFCOM for the purposes of sub-paragraph (2).”, and
 - (c) sub-paragraphs (3) to (5) were omitted.

Commencement Information

I28 Sch. 10 para. 28 in force at 1.10.2011 by S.I. 2011/2329, art. 3

- 29 Paragraph 106(2) (penalties) is to have effect as if paragraphs (a), (b), (f), (g), (i) and (l) to (n) were omitted.

Commencement Information

I29 Sch. 10 para. 29 in force at 1.10.2011 by S.I. 2011/2329, art. 3

- 30 Paragraph 109 (references to extended periods) is to have effect as if “or 108” were omitted.

Commencement Information

I30 Sch. 10 para. 30 in force at 1.10.2011 by S.I. 2011/2329, art. 3

- 31 Paragraph 111 (interpretation) is to have effect as if—
- (a) in sub-paragraph (1), the definitions of “correspondence”, “holder of a qualifying floating charge”, “market value”, “the purpose of administration” and “unable to pay its debts” were omitted,
 - (b) in that sub-paragraph, after the definition of “administrator” (as modified as a result of paragraph 2 above) there were inserted—
 - ““appropriate value” means the best price which would be reasonably available on a sale which is consistent with the achievement of the objective of the postal administration,”
 - (c) in that sub-paragraph, before the definition of “creditors' meeting” there were inserted—
 - ““company” and “court” have the same meaning as in Part 4 of the Postal Services Act 2011,”

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- (d) in that sub-paragraph, after the definition of “hire purchase agreement” there were inserted—

““objective”, in relation to a postal administration, is to be read in accordance with section 69 of the Postal Services Act 2011,

“OFCOM” means the Office of Communications,

“postal administration application” means an application to the court for a postal administration order under Part 4 of the Postal Services Act 2011,

“postal administration order” has the same meaning as in Part 4 of the Postal Services Act 2011,

“prescribed” means prescribed by postal administration rules within the meaning of Part 4 of the Postal Services Act 2011.”,

- (e) sub-paragraphs (1A) and (1B) were omitted, and

- (f) after sub-paragraph (3) there were inserted—

“(4) For the purposes of this Schedule a reference to a postal administration order includes a reference to an appointment under paragraph 91 or 103.”

Commencement Information

I31 Sch. 10 para. 31 in force at 1.10.2011 by [S.I. 2011/2329](#), **art. 3**

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