LORDS AMENDMENTS TO THE
POSTAL SERVICES BILL

[The page and line references are to HL Bill 38, the bill as first printed for the Lords.]

Clause 2

1 Page 2, line 3, at end insert “, and
   (c) the objective intended to be achieved by the undertaking of it.

   (3A) The report must—
           (a) contain information about the expected commercial relationship,
               after the proposed disposal, between the Royal Mail company in
               question and any Post Office company, and
           (b) if the proposed disposal would result in shares or share rights being
               owned by or on behalf of an employee share scheme for the first
               time, give details of the scheme.

In paragraph (b) “employee share scheme” has the meaning given by
section 3.”

Clause 4

2 Page 2, line 41, after “may” insert “by order”

3 Page 3, line 7, after “has” insert “by order”

4 Page 3, line 7, at end insert—

   “(3A) An order under subsection (2) or (3)(b) is subject to affirmative resolution
   procedure.”

Clause 5

5 Page 3, line 28, leave out paragraphs (a) and (b) and insert “proposes to make an
   order under section 4(2) or (3)(b) (order directing or approving issue or transfer of
   shares or share rights in a Post Office company to a relevant mutual).”

6 Page 3, line 32, leave out subsection (2) and insert—
“(2) The Secretary of State must lay before Parliament a report on the proposed issue or transfer before making the order.”

Page 3, line 36, leave out paragraph (a) and insert—
“(a) give details of the proposed issue or transfer (including the expected time-scale for the issue or transfer),”

Page 3, line 38, after “are” insert “proposed”

Clause 11

Page 6, line 27, at end insert—
“( ) In subsection (2)(b) the reference to postal services includes postal services provided pursuant to arrangements made with a person who provides a universal postal service.”

Page 7, line 2, at end insert—
“( ) A Post Office company’s duties under this section are enforceable in civil proceedings by the Secretary of State—
(a) for an injunction,
(b) for specific performance under section 45 of the Court of Session Act 1988, or
(c) for any other appropriate remedy or relief.”

After Clause 11

Insert the following new Clause—

“Annual report on postal museum collection and archive

(1) A Royal Mail company must send to the Secretary of State each year a report on its activities in relation to—
(a) the British Postal Museum Collection, and
(b) the Royal Mail Archive.

(2) Before preparing the report, the company must consult any Post Office company.

(3) The Secretary of State must lay a copy of the report before Parliament.

(4) A Royal Mail company’s duties under this section are enforceable in civil proceedings by the Secretary of State—
(a) for an injunction,
(b) for specific performance under section 45 of the Court of Session Act 1988, or
(c) for any other appropriate remedy or relief.

(5) This section applies irrespective of whether the British Postal Museum Collection or the Royal Mail Archive alters the name by which it is known or forms part of a wider collection or archive.”

Clause 21

Page 11, line 40, at end insert—
“( ) For the purposes of this section as it applies in relation to the transfer of assets after the relevant time by virtue of a transfer order—
(a) treat the assets as if they had been transferred at the relevant time, but
(b) disregard so much of the assets as were transferred to reflect the fact that the assets were not actually transferred at the relevant time.”

Clause 23

Page 13, line 6, at end insert—
“(2) Information that—
(a) relates to pensions or other benefits under the RMPP or a new public scheme, or
(b) relates to the administration of the RMPP or a new public scheme in respect of those pensions or other benefits,
may be shared among relevant persons for the purpose of facilitating the administration of the RMPP or new public scheme.

(3) “Relevant persons” means—
(a) the Secretary of State,
(b) any person who administers, or exercises functions under, a new public scheme,
(c) the trustee of the RMPP,
(d) any person who exercises functions on behalf of the trustee of the RMPP, or
(e) any person who is or has been an employer of a qualifying member of the RMPP.

(4) In the event that a section of the RMPP is constituted as a separate pension scheme the members of which consist of or include persons who are qualifying members of the RMPP—
(a) any reference in subsection (2) to the RMPP includes that separate pension scheme, and
(b) any reference in subsection (3) to the trustee of the RMPP includes the trustees or managers of that separate pension scheme.”

Clause 24

Page 13, line 17, at end insert—
“( ) Any order under this Part may provide for it (or any of its provisions) to come into force on a specified day.

( ) A “specified day” means a day specified in an order made by the Secretary of State under this subsection (and different days may be specified for different purposes).
Subsections (1) to (3) do not apply to an order under this subsection.”

Clause 27

Page 15, line 3, at end insert—
“(ca) a notification condition (see section (Notification condition)),”
Clause 28

Page 15, line 17, at end insert “before the end of a reasonable period and for its provision to continue to be efficient at all subsequent times”

Page 15, line 17, at end insert—

“( ) The reference in subsection (3)(a) to the need for the provision of a universal postal service to be financially sustainable includes the need for a reasonable commercial rate of return for any universal service provider on any expenditure incurred by it for the purpose of, or in connection with, the provision by it of a universal postal service.”

Page 15, line 17, at end insert—

“( ) In subsection (3)(b) “a reasonable period” means such period beginning with the day on which the provisions of this Part come generally into force as OFCOM consider, in all the circumstances, to be reasonable.”

Page 15, line 21, at end insert—

“( ) The Secretary of State may direct OFCOM to take, or refrain from taking, specified action for the purpose of securing that, in the opinion of the Secretary of State, sufficient access points are provided throughout the United Kingdom to meet the interests of the public.

( ) The duty imposed on OFCOM as a result of subsection (4) is subject to any direction given under this section.

( ) The action that may be specified in a direction under this section includes the imposition of a regulatory condition consisting of or including provision specified in the direction.

( ) Before giving a direction under this section, the Secretary of State must consult OFCOM.”

After Clause 39

Insert the following new Clause—

“Notification condition

(1) OFCOM may impose a notification condition on—

(a) every person providing, or intending to provide, a service within the scope of the universal postal service, or

(b) every person providing, or intending to provide, a service within the scope of the universal postal service of a specified description.

(2) A notification condition is a condition requiring the person to give OFCOM—

(a) advance notice of the person’s intention to provide a letters business on a specified scale (whether or not the person is currently providing a letters business or any other postal service), and

(b) where the person is already providing a letters business on a specified scale, advance notice of the person’s intention to expand the business by a specified extent.

(3) A specified scale or extent may be determined by reference to any specified factor.
(4) The Secretary of State may at any time direct OFCOM to impose a notification condition.

(5) The direction may (but need not) specify some or all of the provision to be contained in the condition.

(6) Where a notification condition applies to a person at a time when the person is not providing a postal service—
   (a) Schedule 7 (enforcement of regulatory conditions) is to have effect as if paragraph 7(2) and (3) were omitted and as if, for the purposes of paragraph 11, the person were providing a postal service, and
   (b) Schedule 8 (information provisions) is to have effect as if the person were a person falling within paragraph 1(2) and as if, for the purposes of paragraph 8, the person were providing a postal service.

(7) In this section—
   “advance notice” means written notice given at least a specified period of time before the person intends to do as mentioned in subsection (2)(a) or (b),
   “a letters business” means a postal service which consists in the delivery of letters, and
   “specified” means specified in the notification condition.”

Clause 42

Page 25, line 41, leave out “3” and insert “5”

Clause 43

Page 27, line 9, at end insert—
   “( ) A direction under subsection (12) may not require OFCOM to make a procurement determination at any time in the period of 10 years beginning with the day on which this section comes into force unless the universal service provider has agreed to the making of the determination.”

Clause 58

Page 36, line 36, at end insert—
   “( ) An order under subsection (6) applying an enactment under which a criminal or civil penalty could be imposed may not provide for the penalty to be greater than that which could be imposed under the enactment.”

Clause 60

Page 37, line 35, leave out subsections (4) and (5)

Clause 63

Page 38, line 41, at end insert—
   ““notification condition” has the meaning given by section (Notification condition),”

Page 39, line 39, at end insert—
“( ) Any direction given by the Secretary of State under any provision of this Part—
(a) must be in writing, and
(b) may be varied or revoked by a further direction.”

Clause 80

Page 49, line 20, at end insert—
“An order under this subsection is subject to negative resolution procedure.”

Schedule 12

Page 149, line 30, leave out paragraph 174
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to be Printed, 24 May 2011.