



STATUTORY INSTRUMENTS.

S.I. No. 181 of 2013



COMMUNICATIONS REGULATION ACT 2002 (SECTION 30) POSTAL
LEVY ORDER 2013

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The Commission for Communications Regulation, in exercise of the powers conferred on it by section 30(2) of the Communications Regulation Act 2002 (No. 20 of 2002), as amended by section 44 of the Communications Regulation (Postal Services) Act 2011 (No. 21 of 2011), hereby makes the following order.

Citation

1. This Order may be cited as the Communications Regulation Act 2002 (Section 30) Postal Levy Order 2013.

Interpretation/Definitions

2. (1) In this Order:

“Act of 2002” means the Communications Regulation Act 2002 (No. 20 of 2002);

“Act of 2011” means the Communications Regulation (Postal Services) Act 2011 (No. 21 of 2011);

“applicable undertaking” means a postal service provider providing a postal service within the scope of the universal postal service;

“appropriate proportion” for the purposes of Article 5(3) means that proportion of the levy period for which the applicable undertaking is liable to pay the levy, to the levy period as a whole;

“Commission” means the Commission for Communications Regulation, established by Part 2 of the Act of 2002;

“levy period” means a period of 12 months commencing on 1 July and ending on 30 June;

“quarter” means a period of 3 months ending on 30 September, 31 December, 31 March and 30 June;

“relevant financial year” means, in relation to an applicable undertaking, the financial year of the applicable undertaking ending in a levy period;

“relevant turnover” means, in relation to an applicable undertaking, the gross revenue, excluding value added tax, paid or payable, of the applicable undertaking in respect of the provision of postal services in the State as provided under Article 6(1) of this Order;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 31st May, 2013.*

“universal postal service” has the meaning set out in section 6(1) of the Act of 2011;

“universal postal service provider” has the meaning set out in section 6(1) of the Act of 2011.

Applicability

3. This Order applies to applicable undertakings.

Terms and provisions

4. (1) A levy is imposed on every applicable undertaking, in the amounts specified in Article 5, in respect of each levy period commencing on or after 1 July 2013.

(2) The levy imposed by paragraph (1) shall, subject to Article 5, be payable to the Commission, by each applicable undertaking, in four separate instalments, with one such instalment payable at the end of each quarter of the levy period in question.

Amount of the levy

5. (1) The amount of the levy imposed on an applicable undertaking that is the universal postal service provider, in respect of each levy period, is the aggregate of:

- (a) 0.4 per cent of the relevant turnover, for the relevant financial year, of that applicable undertaking arising from the provision of the universal postal service; and
- (b) 0.4 per cent of the relevant turnover, for the relevant financial year, of that applicable undertaking arising from the provision of its non-universal postal services falling within the scope of the universal postal service.

(2) The amount of the levy imposed on each applicable undertaking, other than the universal postal service provider, in respect of each levy period, is 0.4 per cent of the relevant turnover, for the relevant financial year, of that applicable undertaking arising from the provision of its postal services falling within the scope of the universal postal service subject to a minimum charge of €5,000 per postal service provider providing postal services within the scope of the universal postal service.

(3) Where an applicable undertaking is liable to pay the levy for only part of a levy period, the amount of the levy imposed on the applicable undertaking in respect of the levy period shall be the appropriate proportion of the amount specified in paragraph (1) or (2) of this Article, as appropriate.

(4) Where, in respect of the levy period or part thereof, it is, by reason of the date on which the relevant financial year of an applicable undertaking terminates, impractical for an applicable undertaking to determine its liability under this Article for the purpose of making payments under Article 4 as they fall due, the applicable undertaking may, subject to Article 6, assess its liability on the

basis of its relevant turnover in its financial year ending in the previous levy period, and may make provisional payments under Article 4 accordingly.

(5) Where the relevant turnover arising from the provision of the universal postal service declines between 15 per cent and 22 per cent over the period of this Order, the Commission may increase the turnover percentage referred to in Article 5(1)(a) to 0.45 per cent.

(6) Where the relevant turnover arising from the provision of the universal postal service revenue declines by more than 22 per cent over the period of this Order, the Commission may increase the turnover percentage referred to in Article 5(1)(a) to 0.5 per cent.

(7) The Commission will issue an Information Notice in relation to any increase in turnover percentage under paragraphs (5) and (6), and will inform the universal postal service provider in writing.

Statement of relevant turnover

6. (1) Every applicable undertaking, shall, within 21 weeks of the end of its relevant financial year, submit to the Commission a statement, certified by a person who is qualified under the Companies Acts for appointment as an auditor of a company, of the relevant turnover of the applicable undertaking in question, in the relevant financial year. The statement of an applicable undertaking that is a universal postal service provider shall distinguish between postal services provided within the scope of the universal postal service and postal services provided outside the scope of the universal postal service.

(2) Where the amount paid by an applicable undertaking in accordance with Articles 4 and 5 in respect of the levy period is less than the amount payable by reference to the statement of relevant turnover provided to the Commission in accordance with paragraph (1), the applicable undertaking concerned shall, within such time or times as may be specified by the Commission, pay to the Commission the balance of the levy so payable.

Surplus of levy income

7. Any surplus of levy income over the expenses incurred by the Commission in the discharge of its functions relevant to this levy in the levy period will either—

- (a) be retained by the Commission to be offset against levy obligations for the subsequent year, or
- (b) be refunded proportionately to the applicable undertakings on whom the levy is imposed.

Payment terms

8. (1) A levy, or portion thereof, payable in accordance with the terms of this Order, shall be paid in cash or by cheque, money order, postal order or electronic funds transfer, to the Commission.

(2) A payment referred to in paragraph (1) (save in the case of a payment in cash or electronic funds transfer) and a statement of relevant turnover referred to in Article 6, may be delivered or sent by post to the Commission at Abbey Court, Irish Life Centre, Abbey Street, Dublin 1, or at such other address as may from time to time be notified by the Commission to each applicable undertaking.

(3) A request or repayment by the Commission to an applicable undertaking under this Order may be delivered or sent by post to the applicable undertaking at the last address of the applicable undertaking.

(4) In this Article “last address” in relation to an applicable undertaking means the last address notified to the Commission.

Revocations

9. The Communications Regulation Act 2002 (Section 30) Postal Levy Order 2005 (S.I. No. 319 of 2005) is hereby revoked.



GIVEN under the Official Seal of the Commission for Communications Regulation this
29 May 2013.

KEVIN O'BRIEN,
Commissioner.

on behalf of the Commission for Communications Regulation.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

This Order makes provision for a levy on postal service providers providing postal services within the scope of universal postal service for the purpose of meeting the expenses properly incurred by the Commission in the discharge of its functions in respect of postal services.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
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