



Number 20 of 2015

Communications Regulation (Postal Services) (Amendment) Act 2015



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**COMMUNICATIONS REGULATION (POSTAL SERVICES) (AMENDMENT) ACT
2015**

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[No. 20.] *Communications Regulation (Postal Services) (Amendment) Act 2015.* [2015.]

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**COMMUNICATIONS REGULATION (POSTAL SERVICES) (AMENDMENT) ACT
2015**

An Act to amend the Communications Regulation (Postal Services) Act 2011; and to provide for related matters. [2nd July, 2015]

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act “Principal Act” means the Communications Regulation (Postal Services) Act 2011.

Amendment of Principal Act

2. Part 3 of the Principal Act is amended by—
 - (a) the insertion of the following section before section 66:

“Interpretation

65A.(1) In this Part—

‘Act of 1988’ means the Data Protection Act 1988;

‘end user’ means a person who has entered into an end user contract with a postcode contractor or a value added reseller;

‘end user contract’ means a contract entered into between the postcode contractor or a value added reseller and an end user pursuant to which the postcode contractor or the value added reseller supplies a value added service to the end user;

‘legitimate postcode activity’ shall be construed in accordance with subsection (2);

‘national postcode system’ has the meaning assigned to it by section 66(1);

‘personal data’ has the meaning assigned to it by section 1(1) of the Act of 1988;

‘personalised data’ is information (other than a postcode, a geo-coordinate, an address or a variation of an address) associated to a postcode in a postcode database that:

- (a) is unique to a property and is associated in the postcode database concerned to the postcode corresponding to the address of that property, unless such information is lawfully and publicly available or accessible;
- (b) is associated directly or indirectly in the postcode database concerned to the name of a person;
- (c) is unique to an owner or occupier of property and is directly or indirectly associated in the postcode database concerned to the postcode corresponding to the address of that property;

‘postcode’ has the meaning assigned to it by section 66(1);

‘postcode contractor’ means the person with whom the Minister has entered into a contract under section 66(2);

‘postcode database’ means any database established and maintained by the postcode contractor or a value added reseller that contains or includes postcodes;

‘privacy notice’ shall be construed in accordance with section 66B;

‘processing’ has the meaning assigned to it by section 1(1) of the Act of 1988;

‘universal postal service provider’ has the meaning assigned to it by section 6(1);

‘value added reseller’ means the holder of a value added reseller licence;

‘value added reseller licence’ means a licence between the postcode contractor and a value added reseller, that authorises the value added reseller to supply a value added service in respect of a postcode database;

‘value added service’ means the supply by a value added reseller to an end user of a postcode database or a product or service that uses or is derived from a postcode database.

- (2) For the purposes of this Part, each of the following is a legitimate postcode activity:
 - (a) the development, implementation or maintenance by the Minister or the postcode contractor of the national postcode system;
 - (b) the association of a geo-coordinate or address (including any variation of an address) to a postcode by the Minister or the postcode contractor for the purposes of the development, implementation or maintenance of the national postcode system;
 - (c) the dissemination (including through the processing of personal data controlled by An Post, a universal postal service provider or

such other person as the Minister considers appropriate), on behalf of either the postcode contractor or the Minister, of a postcode to its corresponding address by An Post, a universal postal service provider or such other person as the Minister considers appropriate;

- (d) the matching (in this paragraph referred to as a ‘matching service’) for a person (in this paragraph referred to as a ‘matching service end user’) by the Minister, the postcode contractor or a value added reseller of an address (including variation of an address) to a postcode, or to a geo-coordinate associated to a postcode provided that—
 - (i) the information provided by the matching service end user to the Minister, postcode contractor or value added reseller for the purposes of obtaining the matching service is limited to one or more of the following:
 - (I) the address (including a variation of the address);
 - (II) an identifier of the property, other than the name of a person;
 - (III) such other information (other than the name of a person) specified by the Minister as appropriate to be provided,and
 - (ii) the Minister, contractor or value added reseller does not provide to the matching service end user the name of any person owning or occupying the property in question;
- (e) the inclusion within a postcode database by the Minister, postcode contractor or a value added reseller of a variation of an address obtained from a person who owns or occupies the property to which the address relates, or from an end user;
- (f) the creation or management by the Minister, postcode contractor or a value added reseller of a postcode database that—
 - (i) does not include personalised data, or
 - (ii) includes personalised data with the consent of the person concerned;
- (g) the licensing to a value added reseller by the Minister or postcode contractor, or the licensing to an end user by a postcode contractor or a value added reseller, of a postcode database that—
 - (i) does not include personalised data, or
 - (ii) includes personalised data with the consent of the person concerned;

- (h) the supply by a value added reseller to an end user of a value added service to the extent that the value added service uses or is derived from a postcode database where such database—
 - (i) does not include personalised data, or
 - (ii) includes personalised data with the consent of the person concerned;
- (i) such other activities as the Minister may, after consultation with the Minister for Justice and Equality and the Data Protection Commissioner, prescribe by regulations, having regard to the development, implementation and maintenance of the national postcode database and the rights of owners and occupiers of property.”,

and

- (b) the insertion of the following sections after section 66:

“Regulations

66A. (1) The Minister may, by regulations, specify such conditions to be attached to a value added reseller licence granted by a postcode contractor as he or she considers necessary to ensure that the privacy of the owners and occupiers of property in respect of which a postcode has been allocated is safeguarded.

- (2) Without prejudice to the generality of subsection (1), regulations made in accordance with that subsection may—

- (a) require that a value added reseller produces evidence of compliance with the provisions of section 19 of the Act of 1988 (where applicable) to the postcode contractor,
- (b) require that such licence contain a provision that it may be suspended or terminated by the postcode contractor whenever so directed by the Minister, and
- (c) require that an audit of the books and records of a value added reseller be carried out at such time and in such form and made in such manner as the Minister or, as the case maybe, the postcode contractor so directs.

- (3) Regulations under this Part may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

- (4) Every regulation made under this Part shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Privacy notice

66B. The postcode contractor and a value added reseller shall each publish a notice (in this Part referred to as a ‘privacy notice’) on their respective websites containing the following:

- (a) an explanatory note on the background and origin of postcodes,
- (b) particulars of the source and types of data included in the relevant postcode database,
- (c) in the case of the postcode contractor, a list of value added resellers to whom the postcode contractor has granted a value added reseller licence,
- (d) information regarding the entitlement of owners and occupiers of property to have any data rectified or erased, and
- (e) information regarding the entitlement to make a complaint to the postcode contractor.

Personal data protection

66C. (1) Nothing in this Part shall be construed as authorising the processing of personal data contrary to the provisions of the Data Protection Acts 1988 to 2003.

- (2) Section 6A of the Act of 1988 shall not apply in respect of such processing of personal data as is required for purposes related to the carrying out of a legitimate postcode activity.

Complaints procedures

66D. (1) The postcode contractor shall draw up procedures for dealing with complaints by an owner or occupier of property, (in this section referred to as ‘the complainant’) relating to the use of postcodes by the postcode contractor or a value added reseller and shall publish details of the procedures on the internet.

- (2) The postcode contractor may decide not to deal with a complaint where the complaint is, in its opinion, trivial, vexatious or frivolous or not made in good faith.
- (3) A complainant shall comply with all reasonable requests for information by the postcode contractor in carrying out an investigation into a complaint received by it.
- (4) A complaint shall be submitted by the complainant in writing to the postcode contractor.
- (5) The postcode contractor shall notify the complainant concerned in writing of the reasons for its decision.
- (6) The postcode contractor shall prepare and submit an annual report to the Minister in relation to—

- (a) the number and type of complaints and their resolution,
 - (b) any decision by the postcode contractor not to deal with a complaint, and
 - (c) any other information the postcode contractor considers appropriate.
- (7) The Minister may, by regulations, make provision for the following:
- (a) the procedure to be followed in investigating complaints;
 - (b) the requirements to be complied with by complainants;
 - (c) the remedies and redress available to complainants;
 - (d) any other matters the Minister considers necessary or appropriate to secure the effective protection of complainants.

Code of practice

- 66E.** (1) The postcode contractor shall prepare and submit to the Minister for his or her approval a draft code of practice regarding the retention of data related to postcode databases.
- (2) In preparing a draft code of practice under subsection (1), the postcode contractor shall consult with the Data Protection Commissioner and such other persons or bodies as the postcode contractor considers appropriate or as the Minister may direct.
- (3) The Minister may approve, refuse to approve, or after consultation with the postcode contractor, amend the draft code of practice.
- (4) A draft code of practice shall, if approved by the Minister under subsection (3), be published (including publication on the website of the postcode contractor) and shall apply and have effect in accordance with its terms.”.

Short title, collective citation and commencement

- 3.** (1) This Act may be cited as the *Communications Regulation (Postal Services) (Amendment) Act 2015.*
- (2) The *Communications Regulation Acts 2002 to 2011* and this Act may be cited together as the *Communications Regulation Acts 2002 to 2015.*
- (3) This Act shall come into operation on such day or days as the Minister for Communications, Energy and Natural Resources may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.