



STATUTORY INSTRUMENTS.

S.I. No. 170 of 2016



POSTAL AND TELECOMMUNICATIONS SERVICES ACT 1983
(SECTION 67) ORDER 2016

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(SECTION 67) ORDER 2016

The Minister for Finance, in exercise of the powers conferred on him by section 67 of the Postal and Telecommunications Services Act 1983 (No. 24 of 1983), and having complied with subsections (1) and (2)(b) of that section, hereby orders as follows:

Citation

1. This Order may be cited as the Postal and Telecommunications Services Act 1983 (Section 67) Order 2016.

Interpretation

2. (1) In this Order—

“Act” means the Postal and Telecommunications Services Act 1983 (No. 24 of 1983);

“An Post” means the company referred to in section 10 (1)(a) of the Act;

“An Post service provider” means a person who, under a contract entered into by the person with An Post, operates one or more post offices;

“Electronic Money Regulations” means the European Communities (Electronic Money) Regulations 2011 (S.I. No. 183 of 2011);

“Payment Services Regulations” means the European Communities (Payment Services) Regulations 2009 (S.I. No. 383 of 2009);

“post office” has the meaning given to it by section 6 of the Communications Regulation (Postal Services) Act 2011 (No.21 of 2011);

“subsidiary” has the meaning given to it by section 7 of the Companies Act 2014 (No.38 of 2014) and paragraph (4) supplements this definition.

(2) A reference in this Order to—

(a) a service, followed immediately by the mention of a number, or

(b) several services, followed immediately by the mention of a series of numbers,

shall be construed as a reference to, as the case may be—

(i) the service specified in the paragraph of the Schedule that bears the number so mentioned, or

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 22nd April, 2016.*

(ii) the several services specified in the paragraphs of the Schedule that bear the numbers in the series so mentioned.

(3) A word or expression that is used in this Order and is also used in the Payment Services Regulations or, as appropriate, the Electronic Money Regulations has the meaning in this Order that it has in the Payment Services Regulations or, as appropriate, the Electronic Money Regulations.

(4) Without prejudice to the generality of section 2(6) of the Act, a reference in this Order to a subsidiary is a reference to a subsidiary of An Post.

Authorisation of payment and other services

3. (1) An Post is authorised to provide services 1 to 7 either, as it considers fit—

(a) directly, or

(b) indirectly through one or more An Post service providers or subsidiaries,

in accordance with paragraph (2) and subject to fulfilling any condition that, by virtue of any other enactment or other law, is required to be fulfilled in respect of the provision of the service.

(2) Where An Post, either directly or indirectly through an An Post service provider or a subsidiary, provides services which comprise payment services, namely any of services 1 to 5, then Regulations 24, 31 and 32 of the Payment Services Regulations shall apply in relation to the provision of such a service as if An Post were a payment institution and An Post service providers were agents within the meaning of those Regulations.

(3) Where the services authorised under paragraph (1) are provided indirectly by an An Post service provider or a subsidiary, An Post shall be responsible for the obligations arising from the provision of the services as if the services were provided directly by An Post.

Authorisation of electronic money service

4. In relation to service 8, An Post is authorised to provide the service directly in accordance with Article 5 and subject to fulfilling any condition that, by virtue of any other enactment or other law, is required to be fulfilled in respect of the provision of the service.

Supplemental provision in relation to Article 4

5. Where An Post provides services which comprise the issuance, distribution or redemption of electronic money, namely service 8, then Regulations 20(1), 20(2), 24, 25, 29 and 30 of the Electronic Money Regulations shall apply in relation to such provision as if An Post were an electronic money institution and any An Post service providers and subsidiaries were agents and distributors within the meaning of those Regulations.

An Post acting as an agent, etc.

6. Where An Post or any An Post service providers or subsidiaries are promoting or providing services as an agent or distributor under the Electronic Money Regulations or the Payment Services Regulations, those services must be clearly distinguished from services offered or provided for on behalf of An Post.

Register

7. (1) An Post shall establish and maintain a register in which there shall be specified—

(a) each payment service which An Post is authorised by this Order to provide, and

(b) each place at which such service so authorised is, by either of the means referred to in Article 3(1), provided.

(2) An Post shall make the register referred to in paragraph (1) available for inspection free of charge on its website.

SCHEDULE

1. Any service enabling cash to be placed on a payment account as well as all the operations required for operating a payment account.
2. Any service enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account.
3. Execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider, that fall within one or more of the following subparagraphs:
 - (a) execution of direct debits, including one-off direct debits,
 - (b) execution of payment transactions through a payment card or a similar device,
 - (c) execution of credit transfers, including standing orders.
4. Issuing payment instruments or acquiring payment transactions.
5. Money remittance.
6. Any Giro service and related money remittance, including the issuance or encashment (or both) of Giro debit paper instruments.
7. Any foreign exchange service, including the purchase and sale of foreign currency and foreign currency instruments for the transmission of money.
8. Issuing electronic money.



GIVEN under the Official Seal of the Minister for Finance,
19 April 2016.

MICHAEL NOONAN,
Minister for Finance.

EXPLANATORY NOTE

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

This Order authorises An Post to provide a payment account and related payment services in accordance with Section 67 of the Postal and Telecommunications Services Act, 1983.

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