

POSTAL SECTOR ACT, 2010

(Act 27 of 2010)

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POSTAL SECTOR ACT, 2010

(Act 27 of 2010)

I assent

Danny Faure
Acting President

25th October, 2010



AN ACT to establish the Public Postal Operator and the Postal Regulator, to provide for the licensing of postal and courier services, the vesting of the property, rights and liabilities of the Post Office Department in the Public Postal Operator and related matters, and to repeal the Post Office Act, 1863.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

1. This Act may be cited as the Postal Sector Act, 2010 and shall come into operation on such date as the Minister may, by a notice published in the Official Gazette, appoint.

Short title and
commencement

Interpretation

2.(1) In this Act —

“authorised officer” means a person designated as such under section 28;

“cluster boxes” means a group of private letter boxes in a self contained unit that can be fitted to the side of a building or positioned in a street;

“courier service” means an individualised and time sensitive service for the collection, acceptance, conveyance and delivery of postal articles on a door to door basis but does not include postal articles weighing not more than 500 grams;

“Fair Trading Commission” means the Fair Trading Commission established under section 3(1) of the Fair Trading Commission Act;

“franking meter machine” means a machine which records prepayment of postage fees chargeable for the transmission and delivery of postal articles;

“letter” means any communication in the nature of current and personal correspondence and includes —

(a) aerogrammes; and

(b) postcards;

“letter posting box” means a box or receptacle put at the disposal of the public for the purpose of posting or sending letters and other postal articles;

“licence” means a licence issued under section 13;

“licensee” means the holder of a valid licence;

“Minister” means the Minister for the time being responsible for the postal sector;

“philatelic products” includes postage stamps,

labels, postal impressions, envelopes, stationery and related products sold to stamp collectors;

“postage” means the fee chargeable for the transmission and delivery of a postal article;

“postage stamp” means any label, printmark or Post Office sign which denotes postage or other sum payable in respect of a postal article and includes an adhesive postage stamp, postmark, revenue stamp or printed stamp impressed or otherwise indicated on a postal article to show that postage has been paid;

“postal article” includes any letter, postcard, newspaper, book, document, pamphlet, pattern, sample packet, small packet, parcel, package or other article tendered for dispatch by post or specified in a licence issued under section 13;

“Postal Regulator” means the Postal Regulator established under section 19;

“postal sector” means the sector of the economy providing postal, courier and ancillary services;

“postal services” means the service of conveying postal articles from one place to another, the incidental services of receiving, collecting, sorting, distributing and delivering those articles and any other service which relates to any of those services;

“post office” means a building, house, room, receptacle, vessel, vehicle or place —

- (a) established and operated by the Public Postal Operator; and
- (b) where postal articles are made up, received, sorted, processed, delivered or dispatched;

“Post Office Department” means the Post Office

Department established under section 2(1) of the Post Office Act, 1863;

“private bag” means a post office bag used for mail delivery;

“private letter box” means a small container or box used on the premises of a post office as a point of mail delivery;

“Public Postal Operator” means the Public Postal Operator established under section 5;

“reserved postal service” means a service which the Public Postal Operator has the exclusive right to provide in accordance with sections 7 and 8;

Cap 113

“Seychelles Licensing Authority” means the Seychelles Licensing Authority established under section 3 of the Licences Act;

“universal postal services” means postal products and services —

- (a) prescribed by regulations;
- (b) of general public interest; and
- (c) which customers are entitled to use throughout the country without discrimination in terms of accessibility, price and quality;

“Universal Postal Union” means the specialised agency of the United Nations on postal services.

(2) For the purposes of this Act, a postal article shall be deemed to have been delivered to the addressee where the packet is delivered —

- (a) at the address indicated on the article, to the addressee's lawful agent or any other person who may reasonably be considered as being entitled

to receive the article in the absence of the addressee; or

- (b) into the addressee's private letter box or private bag.

3. This Act—

Application

- (a) applies to all providers of postal, courier and ancillary services in the postal sector; and
- (b) binds the Republic.

4.(1) The Minister shall determine the general policy relating to the postal sector.

Functions of
the Minister

(2) The Minister shall perform this function so as to facilitate the development of the postal sector with the object of expanding the scope of provision of postal services and its systems so as to cater for the needs of economic, social and cultural development.

PART II - PUBLIC POSTAL OPERATOR

5.(1) There shall be a Public Postal Operator.

Public Postal
Operator

(2) The Public Postal Operator shall be a limited company incorporated under the Companies Act, 1972 in which the Government owns a majority of shares.

(3) The Public Postal Operator shall provide postal services in accordance with a licence issued under section 13.

6.(1) Subject to subsection (2), the functions of the Public Postal Operator are to—

Functions

(a) provide—

- (i) universal and non-universal postal services;

- (ii) commercial services; and
- (iii) other Government services,

throughout the Republic and between the Republic and other countries in a cost effective manner;

- (b) in relation to universal postal services, meet delivery targets set by the Postal Regulator;
- (c) provide suitable access to postal and ancillary services;
- (d) act as an agent for other companies in the provision of retail and counter services and transactions, and network and delivery services;
- (e) establish and operate post offices;
- (f) develop and enhance postal services in line with worldwide best practices;
- (g) issue and effect regular issues of postage stamps;
- (h) levy rates and charges for any service performed by it;
- (i) provide financial services involving the remittance of money domestically and internationally in accordance with the Financial Institutions Act;
- (j) provide enhanced postal related services in the areas of information and communication technology, postal financial services and other commercial activities; and
- (k) ensure the fulfilment of the obligations of the Republic to the Universal Postal Union and such other international, regional or sub-regional bodies as the Postal Regulator may designate.

(2) Nothing in subsection (1) shall prevent or restrict the Public Postal Operator from carrying out other business or providing other products and services which appear to it to be requisite, advantageous or incidental to —

- (a) improving its business performance; and
- (b) fulfilling its obligations.

(3) In furtherance of the performance of its functions, the Public Postal Operator has the power to enter into partnership or alliance with any other person, body or entity.

7.(1) Subject to subsection (2), the Public Postal Operator shall have, within and throughout the Republic, the exclusive right to —

Reserved
services

- (a) convey and deliver postal articles weighing not more 500 grams; and
- (b) perform all the incidental services of receiving, collecting, processing, transporting and delivering those articles.

(2) The exclusive right conferred on the Public Postal Operator by subsection (1) is not infringed by the conveyance, delivery and performance of incidental services in respect of—

- (a) a letter carried privately and delivered without hire, reward or profit for carrying, delivery or receiving;
- (b) a letter solely concerning the affairs of the sender or receiver of that letter, sent by messenger;
- (c) a letter concerning goods, sent and delivered with the goods;
- (d) a letter containing a writ or proceeding of a court or a legal instrument of any kind;

- (e) a letter carried to the premises of a provider of electronic mail services for the purpose of transmission electronically; or
- (f) a newspaper, magazine, book, non-addressed leaflet, catalogue or trade announcement.

(3) The Public Postal Operator shall have the exclusive right to—

- (a) provide and maintain private letter boxes and private bags for mail delivery;
- (b) provide letter posting boxes; and
- (c) establish post offices throughout the country,

and may use on such boxes, bags and post offices any wording or slogans as may be authorised by the Postal Regulator.

(4) The exclusive right to establish post offices conferred on the Public Postal Operator by subsection (3)(c), shall be exercised in consultation with the Postal Regulator and the Postal Regulator shall cause a notice of the establishment of any such Post Office to be published in the Official Gazette.

(5) The Public Postal Operator shall have the exclusive right to authorise the use by any person of a franking meter machine.

Issue of
postage stamps
and production
of philatelic
products

8.(1) The Public Postal Operator has the exclusive right to—

- (a) issue and cause to be produced, postage stamps for the prepayment of postal charges; and
- (b) produce philatelic products, pre-stamped envelopes, pre-stamped postcards and aerogrammes and international reply coupons.

(2) Postage stamps issued shall be—

- (a) definitive;
- (b) commemorative; or
- (c) special issues,

and shall, among other things —

- (i) depict themes of national and international interest or project the image of the Republic and its people;
- (ii) portray Seychelles culture, flora and fauna or notable events.

(3) All programmes for the issue of stamps approved by the Public Postal Operator shall be notified to the Postal Regulator for information.

(4) Philatelic products shall, among other things, bear —

- (a) the Armorial Bearings of the Republic; and
- (b) the word “Seychelles”; or
- (c) the name and emblem of the Public Postal Operator.

(5) The Public Postal Operator may establish a Stamp Advisory Committee, which shall advise on the themes, issues and designs of postage stamps and philatelic products.

(6) All philatelic archival materials produced by the Public Postal Operator shall be kept in the custody of —

- (a) the Public Postal Operator; or
- (b) the agent responsible for stamps production designated by the Postal Regulator unless the Public Postal Operator instructs the agent to destroy or dispose of such materials.

**Financial
services**

9.(1) Subject to the provisions of the Financial Institutions Act, the Public Postal Operator may provide financial services.

(2) The financial services referred to in subsection (1) include—

- (a)** the issue of money orders including postal orders; and
- (b)** any other financial service approved by the Postal Regulator.

**Power to erect
post boxes and
cluster boxes
on Government
land etc.**

10. The Public Postal Operator may erect letter posting boxes and cluster boxes on land owned by the Government or any other person subject to the consent and approval of the owner of such land.

**Exemption
from
liability**

11.(1) Notwithstanding section 17 and subject to subsection (2), the Public Postal Operator, its officers, employees or agents shall not incur any liability by reason of—

- (a)** the loss, misdelivery or delay of, or damage to, any postal article in the course of transmission of that article by post; or
- (b)** the detention or disposal of any postal article in accordance with this Act.

(2) Nothing in this section shall be construed as exempting the Public Postal Operator or any of its officers, employees or agents from liability for damage or loss caused to a person by reason of the negligence or fraud of that officer, employee or agent in relation to the activities of the Public Postal Operator.

(3) The bona fide payment of any sum of money as compensation for the damage or loss referred to in subsection (2)—

- (a)** as prescribed by the Minister in consultation with the Postal Regulator;

- (b) as provided for by the contract governing the service; or
- (c) as stipulated in the Universal Postal Union's Convention,

shall discharge the Public Postal Operator, the officer, employee or agent by whom such payment was made from any liability in respect of such damage or loss.

12.(1) The Public Postal Operator shall be the designated Universal Postal Service Provider.

Universal
postal
services

(2) As the designated Universal Postal Service Provider, the Public Postal Operator shall be under an obligation to provide —

- (a) universal postal services in accordance with the conditions of the licence issued to it under section 13;
- (b) free postal services for the blind and partially sighted persons; and
- (c) the services of clearing, sorting, transporting and delivery of postal articles of domestic and cross border correspondence and direct mail, whether by accelerated delivery or not, weighing five times more than 500 grams.

(3) The Public Postal Operator, as the designated Universal Postal Service Provider, shall have exclusive right to provide universal mail services up to 500 grams except for expedited or accelerated mail delivery.

(4) Nothing in this section shall prevent a person other than the Public Postal Operator from providing a universal service not falling within the scope of reserved services, specified in the licence issued to that person under section 13.

PART III - LICENSING

Licensing of
postal and
courier
services

13. (1) A person shall not operate, provide or undertake —

- (a) a postal service; or
- (b) a courier service,

without a licence issued by the Seychelles Licensing Authority on the advice of the Postal Regulator.

(2) Subsection (1) applies to reserved and unreserved postal services.

(3) The Seychelles Licensing Authority shall issue the following types of licences —

- (a) Public Postal Operator's licence;
- (b) Private Postal Operator's licence;
- (c) Courier Services Licence; and
- (d) any other type of licence as determined by the Postal Regulator.

(4) In considering an application for a licence, the following shall be taken into account, among other things —

- (a) the capability of the applicant; and
- (b) the financial situation of the applicant.

Public Postal
Operator's
licence

14. (1) A licence issued to the Public Postal Operator under section 13(3)(a) shall be granted for a period of 5 years.

(2) The conditions of the licence shall —

- (a) be determined by the Postal Regulator; and
- (b) set targets and prescribe among other things the

practices that will ensure the provision of a full range of universal and non-universal postal services.

15.(1) A licensee, the licensee's employee or agent shall treat as confidential—

Duty of
confidentiality
of licensees

- (a) the content of any postal article ; and
- (b) any information relating to a postal article which comes to the knowledge of that licensee, employee or agent in the course of performing their duties.

(2) A licensee, the licensee's employee or agent shall not, otherwise than in the course of performing their duties, make use of or record—

- (a) the contents of a postal article; or
- (b) information relating to that article,

that comes to his or her knowledge or to which he or she has access by reason of being a licensee or employee or agent of that licensee.

(3) Notwithstanding subsections (1) and (2), a licensee, a licensee's employee or agent shall not wilfully—

- (a) deliver a postal article to a person other than the addressee without the consent of the addressee; or
- (b) reveal, disclose or make known the contents of, or information relating to, a postal article,

otherwise than—

- (i) in accordance with this Act;
- (ii) in accordance with any other written law

including any law prohibiting or regulating importation or exportation; or

(iii) as may be necessary for the purpose of returning the article.

Duty of licensees relating to opening, delaying and detaining of postal articles

16.(1) Subject to subsection (2) and the other provisions of this Act, a licensee, the licensee's employee or agent shall not open, delay or detain or cause or allow to be opened, delayed or detained, a postal article in the course of transmission by post.

(2) Notwithstanding subsection (1), a licensee, the licensee's employee or agent may detain or delay or cause or allow to be detained or delayed a postal article where there are reasonable grounds to believe that the postal article contains any goods in contravention of—

- (a) this Act;
- (b) any other written law; or
- (c) that licensee's licence,

for such time as may be reasonable for obtaining a warrant under subsection (3).

(3) Upon an application by a licensee, a Judge of the Supreme Court may grant a warrant authorising the licensee or any other person to open a postal article in the presence of the addressee.

(4) After a postal article has been opened in accordance with subsection (3), it shall be dealt with in accordance with procedures prescribed by Regulations made by the Minister.

Liability of licensees

17.(1) Subject to section 11, a licensee is liable for—

- (a) the loss, misdelivery or delay of, or damage to any postal article in the course of transmission of that article by post; and

- (b) the interception, detention or disposal of a postal article otherwise than in accordance with this Act or any other written law.

(2) The compensation for a loss, misdelivery, delay of, or damage to a postal article shall not exceed that —

- (a) prescribed by Regulations made by the Minister in consultation with the Postal Regulator;
- (b) provided for by the contract governing the service; or
- (c) stipulated in the Universal Postal Union Convention on compensation.

18.(1) Every licensee shall supply to the Postal Regulator the rate or charge that the licensee proposes to levy in respect of each type of the licensed postal or courier service the licensee proposes to deliver.

Tariffs

(2) The rates and charges in respect of universal postal services shall be approved by the Postal Regulator and the Postal Regulator shall not approve any such rate or charge unless it considers that the rate or charge is reasonable and may call for such information as it thinks fit for the purpose of determining whether a rate or charge is reasonable.

(3) The Postal Regulator shall, within 90 days of being supplied with the proposed rate or charge in respect of a universal postal service, determine whether to allow, disallow or amend any such rate or charge.

(4) Every licensee shall make available at the licensee's place of business, for inspection and purchase, a copy of the rates and charges for every service that the licensee delivers.

(5) The Postal Regulator may, by notice in writing to a licensee, disallow any rate or charge in respect of a universal

postal service which does not comply with this Act or with any condition of the licensee's licence.

(6) A licensee shall not, in relation to a universal postal service, claim, demand or receive from any person a rate or charge which has —

- (a) not been approved by the Postal Regulator; or
- (b) been disallowed by the Postal Regulator.

PART IV - POSTAL REGULATOR

Establishment
of Postal
Regulator

19.(1) There is established for the purpose of this Act the Postal Regulator.

(2) The Postal Regulator shall be a body corporate.

Composition
and
appointment

20. The Postal Regulator consists of 3 members appointed by the President who shall cause the appointments to be published in the Official Gazette.

Term of
office

21. A member holds office for a term specified in the member's instrument of appointment and on such conditions as shall be determined by the President.

Objective

22. The objective of the Postal Regulator is to regulate the postal sector whilst simultaneously developing a competitive communications and logistics market nationally and sub-regionally.

Functions

23. The functions of the Postal Regulator are to —

- (a) define the scope of universal postal services;
- (b) establish universal postal service standards;
- (c) set universal postal service targets;
- (d) measure quality of service;

- (e) approve or fix rates for each product considered within the scope of the universal postal service area;
- (f) conduct surveys, tests and evaluations as regards the standards of services delivered by licensees;
- (g) collect information on licensees;
- (h) examine and settle disputes between licensees and licensees and customers;
- (i) promote, develop and enforce fair competition and equality of treatment among licensees in any business or service relating to the postal sector in accordance with section 24;
- (j) monitor, control, inspect and regulate postal, courier and ancillary services and ensure that these services are provided and operated in accordance with this Act; and
- (k) perform such other postal regulatory functions as may be specified or approved by the Minister.

24.(1) The Postal Regulator shall set parameters for optimising competition among postal service providers and operators with the objective of ensuring that the customer is served efficiently and at competitive prices and, without prejudice to the generality of the foregoing, shall —

Competition

- (a) institute a system that ensures conditions for optimum competition between postal service providers and operators for the purpose of ensuring that customers enjoy quality services at competitive prices;
- (b) through conditions attaching to licences, stipulate the norms of competition together with provisions for sanctions against defaulting

postal service providers and operators which may include but are not limited to the suspension and revocation of licences; and

- (c) take action to prevent anti-competitive tendencies, conducts and practices by postal service providers and operators including the establishment of any formal or informal cartels.

(2) Nothing contained in subsection (1) shall be construed as limiting the powers and functions of the Fair Trading Commission under the Fair Trading Commission Act, 2009 and the Fair Competition Act, 2009.

(3) The obligations of the Postal Regulator under subsection (1) shall be undertaken in consultation with the Fair Trading Commission established under section 3(1) of the Fair Trading Commission Act and any action taken or decision made under that subsection shall be subject to the approval of the Fair Trading Commission.

**General
powers**

25. The Postal Regulator shall have such powers as are necessary to enable it to effectively carry out its functions and may, in particular —

- (a) demand from a licensee, the production of that licensee's licence for inspection;
- (b) give such reasonable directions to a licensee as it considers appropriate and the licensee shall comply with those directions;
- (c) require a licensee to provide such information in relation to the postal services offered by that licensee as the Postal Regulator considers necessary;
- (d) require any person to furnish to the Postal Regulator any information in that person's

possession which relates to any postal, courier or ancillary services; and

- (e) take such audio, photographic or video evidence as required.

26.(1) The Postal Regulator shall at all reasonable times have full and free access to —

Other powers
of the Postal
Regulator

- (a) all buildings, facilities, premises and other places;
- (b) books, documents and other papers,

for the purpose of discharging its functions under this Act, and may, without payment, inspect, copy, or make extracts from any books, documents or papers referred to in paragraph (b).

(2) The Postal Regulator may take possession of any books, documents or papers referred to in subsection (1)(b) where —

- (a) the Postal Regulator has reasonable grounds to believe that the books, documents or papers may be interfered with or destroyed unless possession thereof is taken; and
- (b) the books, documents or papers may be required as evidence in proceedings for an offence under this Act.

27. No person shall by virtue of sections 25 and 26 be obliged to disclose any particulars as to which the person is under any statutory obligation to observe secrecy.

Exemption from
obligation to
disclose
particulars

28. The Postal Regulator may designate in writing a person to act as an authorised officer to assist in the performance of its functions.

Designation of
authorised
officer

29.(1) The Postal Regulator shall have the power to examine and resolve any dispute between —

Dispute
resolution

- (a) licensees; and
- (b) licensees and customers.

(2) The examination and resolution of disputes shall be done in accordance with procedures prescribed by regulations made by the Minister in consultation with the Postal Regulator.

(3) A party to a dispute who is aggrieved by the determination of the Postal Regulator made under this section may appeal to the Minister and the decision of the Minister is final and binding on the parties.

PART V - OFFENCES AND PENALTIES

Prohibition on
sending certain
articles by post

30.(1) A person shall not send by post —

- (a) an indecent or obscene printing, painting, photograph, lithograph, engraving, book or card or other indecent or obscene article;
- (b) a postal article having on that article, or on the cover of that article any words, marks or design of an indecent, seditious, scurrilous, threatening or grossly offensive character;
- (c) a narcotic or psychotropic substance;
- (d) an explosive, flammable or other dangerous substance;
- (e) a radio- active material;
- (f) an article which by its nature, content, packing or otherwise, may —
 - (i) expose any other person to danger; or
 - (ii) soil or damage other items, equipment or property; or

- (g) any other article or substance prohibited by any other written law or by the Universal Postal Union.

(2) A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding R50,000 or to imprisonment for a term not exceeding 2 years or to both such fine and imprisonment.

31. A person who operates, provides or undertakes a postal or courier service otherwise than in accordance with the terms of a valid licence commits an offence and is liable on conviction to —

Operation of
services without
a licence

- (a) in the case of a first offence, a fine not exceeding R50,000; and
- (b) in the case of a subsequent offence, a fine not exceeding R200,000 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment.

32. A person other than the Public Postal Operator who provides a reserved postal service in contravention of section 7 or 8 commits an offence and is liable on conviction, to a fine not exceeding R200,000 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment.

Provision of
reserved postal
service by person
other than the
Public Postal
Operator

33. A person who contravenes section 15 or 16 commits an offence and is liable on conviction to a fine not exceeding R100,000 or to imprisonment for a term not exceeding 2 years or to both such fine and imprisonment.

Contravention
of duties of
licensees

34. A person who —

Damaging of
letter posting
boxes

- (a) places in or against a letter posting box any —
- (i) fire, match, light or lighted, combustible substance;

- (ii) explosive substance;
 - (iii) dangerous, filthy, noxious or deleterious substance; or
 - (iv) fluid;
- (b) commits a nuisance in or against any such letter posting box; or
- (c) does anything likely to damage any such letter posting box or its appurtenances or contents,

commits an offence and is liable on conviction to a fine not exceeding R100,000 or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment.

Defacing
Post Office

35. A person who, without due authority —

- (a) affixes any placard, advertisement, notice, list, document, board or other thing in or on; or
- (b) paints, tars, or in any way disfigures,

a Post Office, commits an offence and is liable on conviction to a fine not exceeding R100,000 or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment.

Opening,
delaying or
detaining postal
articles

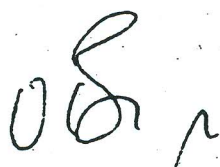
36. A person who —

- (a) except in accordance with section 16 opens, delays or detains a postal article in the course of transmission by post; or
- (b) on any pretence, opens a mail bag in the course of transmission by post,

commits an offence and is liable on conviction, to a fine not exceeding R100,000 or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment.

- (a) establishing Post Offices;
- (b) defining universal postal services; and
- (c) prescribing anything required to be prescribed under this Act.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 19th October, 2010.



Veronique Bresson
Clerk to the National Assembly

37. A person who —

Fraudulent
retention

- (a) fraudulently retains;
- (b) unlawfully detains, secretes, makes away with, keeps; or
- (c) when required by an authorised officer, neglects or refuses to deliver up a —
 - (i) postal article in the course of transmission by post which ought to have been delivered to any other person; or
 - (ii) a mail bag containing a postal article,

commits an offence and is liable on conviction to a fine not exceeding R200,000 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment.

38. A person who, willfully, maliciously and with intent to injure any other person —

Criminal
diversion of
postal articles

- (a) opens or causes to be opened, a letter which ought to have been delivered to that other person; or
- (b) does any act whereby the due delivery of a letter to that other person is prevented or impeded,

commits an offence and is liable on conviction to a fine not exceeding R100,000 or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment.

39.(1) A person who —

Offences
relating to
fictitious
postage
stamps

- (a) makes or knowingly sells, offers for sale, deals in or otherwise puts into circulation a fictitious postage stamp;

- (b) knowingly and without lawful excuse has in that person's possession a fictitious postage stamp;
- (c) makes or manufactures or without lawful excuse has in that person's possession any die, plate, instrument, contrivance or material or part of that die, plate, instrument, contrivance or material, for making a fictitious postage stamp;
- (d) knowingly uses a fictitious postage stamp, or a die, plate, instrument, contrivance or material for making a fictitious postage stamp;
- (e) makes, issues or sends by post a stamped or embossed envelope, wrapper, card, form or paper in imitation of an envelope, wrapper, card, form or paper issued under the authority of a licensee,

is guilty of an offence and is liable on conviction to a fine not exceeding R100,000 or to imprisonment for a term not exceeding 2 years or to both such fine and imprisonment.

(2) Any stamp, die, plate, instrument, contrivance or material found in the possession of a person in contravention of subsection (1) may be seized and if so seized shall be forfeited.

Protection
of postal
property and
information

40.(1) A person shall not without authority, falsify or destroy any postal document or record.

(2) A person shall not knowingly and without authority, damage, destroy, deface, steal or infect any postal property with a computer virus.

(3) A person who contravenes this section commits an offence and is liable on conviction, to a fine not exceeding R200,000 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment.

41.(1) A person shall not, while being or after ceasing to be, an employee or officer of the Public Postal Operator —

Disclosure of
information
concerning
Public Postal
Operator

- (a) disclose directly or indirectly; or
- (b) make a record of, divulge or communicate to any person,

any information concerning the commercial dealings, employee records, plans, finances or performance of the Public Postal Operator except —

- (i) where that person is a director or employee, in the course of performing that person's duties; or
- (ii) where authorised by any written law.

(2) A person who contravenes this section commits an offence and is liable on conviction, to a fine not exceeding R200,000 or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment.

PART VI - REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS

42. Upon the commencement of this Act —

Transfer of
property

- (a) all movable and immovable property owned by the Government immediately before the commencement of this Act and used and administered by the Post Office Department shall be transferred to and vest in the Public Postal Operator;
- (b) all rights, powers, privileges and interests arising in or out of such property and liabilities

subsisting on that date shall be transferred to and vest in the Public Postal Operator;

- (c) all contracts and agreements entered into by the Post Office Department and subsisting on that date shall be deemed to be contracts and agreements entered into by the Public Postal Operator.

Transitional provisions relating to licensing

43.(1) A person operating, providing or carrying on a postal or courier service immediately before the commencement of this Act shall have a period of six months to make an application for a licence to operate, provide or carry on that service.

(2) Notwithstanding section 13, the Public Postal Operator shall be deemed to have been validly licensed under this Act.

Repeal of Cap 175

44. The Post Office Act, 1863 is repealed.

Savings

45. Notwithstanding section 44, any statutory instruments made under the Post Office Act, 1863 and in force immediately before the commencement of this Act shall, to the extent that they are not inconsistent with this Act, continue in force as statutory instruments made under this Act until amended or repealed by a statutory instrument made under this Act.

PART VII - REGULATIONS

Regulations

46.(1) The Minister may, in consultation with the Postal Regulator, make regulations for giving effect to the provisions of this Act.

(2) Without limiting the generality of subsection (1), the Minister may make regulations —