SUBSIDIARY LEGISLATION 254.01

POSTAL SERVICES (GENERAL) REGULATIONS

4th October, 2005

LEGAL NOTICE 328 of 2005, as amended by Legal Notices 423 of 2007, 28 of 2009, 457 of 2010, 408 of 2012, 1 and 154 of 2014 and 146 and 305 of 2018.

Title.

1. The title of these regulations is the Postal Services (General) Regulations.

Part I

Preliminary

Interpretation.
Amended by: L.N. 28 of 2009; L.N. 457 of 2010; L.N. 408 of 2012; L.N. 154 of 2014.
Cap. 254.

2. (1) Any reference in these regulations to the "Act" is a reference to the Postal Services Act and any regulations made thereunder unless the context otherwise requires, and subject to the provisions of subregulation (2), the provisions of article 2 of the Act shall apply to these regulations.

(2) In these regulations unless the context otherwise requires:

"articles for the use of the blind" means:

(*a*) articles of correspondence to and from blind persons, impressed or otherwise prepared for the use of the blind,

(*b*) books, catalogues, newspapers and periodicals, impressed or otherwise prepared for the use of the blind or posted to any person for the purpose of being so impressed or prepared,

(*c*) aids for the teaching of braille to the blind,

(*d*) plates for embossing literature for the blind,

(*e*) any form of speech recording for the use of the blind, and

(*f*) braille instructional devices, including tools, precision instruments and games (including card games), and includes any other article which the Authority considers to be an article for the use of the blind;

"box-holder" means a person in whose name a private delivery box is registered;

"coin" means coin whether current or not, except such as is used or designed for purposes of ornament;

"customer" means any person who may also be a postal operator, who purchases a postal service from a postal operator;

"directive" means any directive that the Authority may issue in accordance with article 4 of the Malta Communications Authority Act; Cap. 418.

"European Commission" means the Commission of the European

Communities;

"franking machine" means a machine for making impressions indicating the value of the postage pre-paid on postal articles;

"impression slip" means the label affixed to a postal article and bearing on it an impression made by a franking machine indicating the value of the postage pre-paid;

"incoming", as applied to a postal article of any description, means a postal article received through the post from a place outside Malta for delivery to any place in Malta;

"Member State" means any member state of the European Union;

"money order exchange arrangement" means any treaty, convention, agreement or undertaking howsoever so described between Malta and such other country, or which applies to both such countries or to one of them, or of which both such countries or one of them are party thereof, which regulates the issue, transmission and encashment of money orders through postal administrations;

"national regulatory authority" means any such body as is notified for the purposes of Community law to the European Commission by a Member State of the European Union as having been assigned tasks in the regulation of postal services;

"outgoing", as applied to a postal article of any description, means a postal article posted in Malta for onward transmission through the post to a place outside Malta;

"paper money" includes:

(*a*) bank notes or currency notes, being current in Malta or elsewhere,

(*b*) money orders and postal orders,

(*c*) unobliterated postage stamps available for current use in Malta or elsewhere,

(*d*) treasury bills, bills of exchange, promissory notes, cheques, credit notes which entitle the holder to money or goods, and all orders and authorities for the payment of money, whether negotiable or not,

(*e*) bonds and coupons relating thereto, and other securities for money, whether negotiable or not, and

(*f*) coupons, vouchers, tokens, cards, stamps or similar documents, exchangeable (singly or with other such documents) for money, goods or services;

"postal arrangement" in relation to the transmission by post of postal articles between Malta and any other country, means any treaty, convention, agreement or undertaking for that purpose between Malta and such other country, or which applies to both such countries, or to one of them, or of which both such countries or one of them are a party;

"Postal Directive" means Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 amending

Directive 97/67/EC with regard to the full accomplishment of the internal market of community postal services;

"postal identifier" means any postage stamp, postmark or impression that is unique to each postal operator and which satisfies the following:

(*a*) it is affixed to, or impressed on, or printed on postal articles;

(*b*) it exclusively identifies the postal operator; and

(*c*) it clearly indicates to members of the public that those postal articles have been, or are intended to be, accepted by that postal operator for the purpose of being conveyed by post;

"postal infrastructure" includes physical infrastructure such as post office boxes and delivery boxes, and infrastructure in non-physical form such as postcode information, information on change of address, redirection service, return to sender service, or arrangements made with others for the provision of any postal service;

"postmark" means any mark or impression applied by a postal operator to a postal article for any postal purpose;

"*Poste Restante*" means a service whereby a postal article is addressed to a specific post office in Malta to be called for by the addressee;

"prescribed" means prescribed by these regulations;

"private delivery box" means a box installed in a post office and in which postal articles, other than parcels, are placed to await collection by that box-holder or by his authorised agent.

Application.

3. These regulations, except as otherwise provided, apply to postal articles posted in Malta for delivery to any place in or outside Malta and to postal articles posted in any place outside Malta for delivery to any place in Malta.

Ownership of postal articles.

4. Save as otherwise provided in the Act or in these regulations, a postal article shall remain the property of the sender until it is delivered to the rightful owner, except when the said article has been seized in pursuance of the law of the country of destination.

Part II

Requisites for Postal Services

Prohibitions.
Amended by: L.N. 457 of 2010.

5. Without prejudice to article 66 of the Act, there shall not be posted, or tendered or made over in order to be transmitted by post, or delivered by post, any postal article:

(*a*) containing any imitation of a currency note or of a bank note or any of the forged instruments referred to in articles 166, 167 and 168 of the Criminal Code; or Cap. 9.

(*b*) containing any material of any kind whatsoever, the possession or transmission of which would constitute a criminal offence at law; or

(*c*) containing or bearing any fictitious stamp not being a

fictitious stamp which is authorised under the Act, or any counterfeit impression of a stamping or franking machine or any counterfeit of any other impression authorised by these regulations for use to denote payment of postage or of any other fees; or

(*d*) having thereon, or on the cover thereof, any words, letters or marks which are used without due authority but which signify or imply, or may reasonably lead the recipient to believe, that the postal article is sent on Government Service; or

(*e*) such size, form or colour or so made up for transmission by post as to be likely to embarrass the officers of the postal operator in dealing with the postal article; or

(*f*) having anything written, printed or impressed upon or attached thereto which, either by tending to prevent the easy and quick reading of the address on the postal article or by inconvenient proximity to the stamp or stamps used in the payment of postage, or in any other way, is in itself, or in the manner in which it is written, printed, impressed or attached, likely to embarrass the officers of the postal operator in dealing with the postal article; or

(*g*) whereon the payment of postage or fees purports to be denoted by any stamp or impression which has been previously used to denote payment of the postage or fees on any other postal article; or

(*h*) containing any narcotic or psychotropic substance or any other drug or medicine unless its transmission by post is authorized by or under law; or

(*i*) containing radioactive materials except where a postal arrangement exists for the transmission of such materials.

Packing and posting.

6. (1) Every postal article shall be made up and secured in such manner as is calculated to prevent damage to any other postal article, to any receptacle in which the same is conveyed, or injury to an officer of the postal operator or to any other person who may deal with such postal article.

(2) When an outgoing postal article is posted or tendered or made over in order to be transmitted by post, the sender shall fill up such certificates and documents and affix such labels relating to the contents of the postal article as may be required by the law of the country to which it is addressed, or otherwise as the postal operator transmitting such postal article may direct.

(3) The address on a postal article shall not in any way be obscured or made difficult to read.

Irregular outgoing or incoming postal articles.

7. Save as otherwise provided under the Act, any postal article which, once posted, is found not to comply with the law of the country in which the postal article was posted or to which it is

addressed or with the law of any country through which it may pass, or which is not accompanied by any document required by any such law as aforesaid, may be disposed of in such manner as the postal operator may deem appropriate in accordance with the applicable law:

Provided that the postal operator shall keep a register recording any postal articles that may be disposed of under this regulation and shall, when requested by the Authority, send a list to the Authority of any postal articles so disposed.

Fictitious or used postage stamps. *Added by: L.N. 457 of 2010.*

7A. (1) Where a postal article is received by post at any post office -

(*a*) bearing a fictitious stamp; or

(*b*) purporting to be prepaid with any postage stamp which has been previously used to prepay any other postal article or which has otherwise been previously used for any other purpose,

an officer of a postal operator shall, if the addressee resides in Malta, send a notice to the addressee inviting him to attend, either in person or by means of an agent, within a specified time at a post office to receive delivery of the postal article, and if the addressee resides abroad, the postal operator shall deal with the postal article in such manner as the Authority may deem in the circumstances appropriate.

(2) If the addressee or his agent attends at a post office within the time specified in the notice and consents to make known to the said officer the name and address of the sender of the postal article and to re-deliver to the officer aforesaid the portion of the postal article which bears the address and the fictitious or previously used postage stamp or, if the postal article is inseparable from the stamp, the entire postal article, the postal article shall be delivered to the addressee or his agent.

(3) If the addressee, or his agent, fails to attend at a post office within the time specified in the notice, or having attended within that time, refuses to make known the name and address of the sender or to re-deliver the postal article or portion thereof as required by sub-regulation (2), the postal article shall not be delivered to him, but shall be disposed of by the postal operator in such manner as the Authority may direct, forfeiture excluded.

Premises to be provided with letter boxes. *Added by: L.N. 457 of 2010.*

7B. (1) In accordance with article 40 of the Act, all apartments shall be provided by the respective owner or occupier with separate private letter boxes made to lock, one for each of such apartments:

Provided that each such private letter box shall bear the number of the apartment to which it refers:

Provided further that all such private letter boxes shall be affixed within or outside the entrance hall or corridor near the main common entrance door or in a place on the ground floor easily visible and freely accessible.

(2) All premises which have their main entrance more than four

and a half metres distant from the gate or other access to the street, shall be provided with private letter boxes made to lock and immediately accessible from the street.

(3 All other premises shall be provided with a posting-slot immediately accessible from the street.

(4) A postal article, other than a registered or insured postal article, shall be deemed to have been duly delivered when such postal article has been placed in a private letter box required to be provided under this regulation which bears the same address as is indicated on the postal article.

(5) In this regulation, "apartment" means and includes any part of a building let or occupied, or intended to be let or occupied, separately and having in common a main entrance door from the street with other parts of the same building.

(6) The Authority in special circumstances may in writing exempt persons from complying with the provisions of this regulation.

Postal articles delivered to a post office not subject to attachment except in certain cases. *Added by: L.N. 457 of 2010.*

7C. (1) Save as otherwise provided in the Act or these regulations, no postal article, while it is in a post office or in the hands of an officer of a postal operator, may for any cause whatsoever, or by any warrant or order of any court or other authority, be seized or garnished, except in the following cases:

(*a* when the addressee is dead and the postal article is claimed by any of the heirs or other person interested;

(*b*) when the seizure is ordered by the competent judicial authority in connection with and for the purposes of a criminal action.

(2) In any of the cases mentioned in sub-regulation (1)(*a*) and (*b*) the postal article seized or garnished shall not be delivered except to the person appointed by the competent court and such person shall be bound to secrecy.

Delivery of postal articles in cases of bankruptcy. *Added by: L.N. 457 of 2010.*

7D. In any case of bankruptcy the competent court may direct any postal article addressed to the person adjudged bankrupt to be delivered by any officer of a postal operator to the curator of the bankrupt's estate or to any other person appointed by the court. In any such case the person adjudged bankrupt or his representatives may attend at the opening of the postal article, and, if the contents thereof do not concern the bankruptcy estate, such person or his representatives may claim its delivery, and the curator or person appointed by the court shall, with regard to such postal article, be bound to secrecy:

Cap. 371.

Provided that where a person has been appointed in terms of the Banking Act to take charge of the assets of a bank or to assume control of the business of a bank or as may be directed by the competent authority in terms of the Banking Act, any postal article addressed to the bank, partnership or firm in respect of which such person is given powers under the said Act, shall be delivered to such person.

Delivery of letters to take precedence over delivery of other postal article. *Added by: L.N. 457 of 2010.*

7E. Where the despatch or delivery of letters from a post office would be delayed by the despatch or delivery therefrom at the same time of other postal articles, such other articles or any of them may be detained for such time as in the opinion of the postal operator concerned is strictly necessary not to cause such delay:

Provided that the exercise of such discretion by the postal operator concerned shall be subject to compliance with any measures that the Authority may require.

Declaration to be made by postal officers. *Added by: L.N. 457 of 2010.*

7F. (*Deleted by Legal Notice 154 of 2014*).

Secrecy. *Added by: L.N. 457 of 2010.*

7G. (1) It shall not be lawful for any officer of a postal operator to disclose any information respecting postal articles passing through the post without the consent of the sender or of the person to whom they are directed, or to disclose any information he may have obtained by reason of his office, except for the purpose of performing his duties with a postal operator, or of any action in respect of any offence against any law, or in such other cases as he may be authorised or required by law to disclose such information.

(2) The provisions of sub-regulation (1) shall continue to apply to any person who at any time was an officer of a postal operator even after he has ceased to be such an officer in respect of any information obtained by him while he was such an officer.

Complaints and dispute resolution. *Added by: L.N. 457 of 2010.*

7H. (1) In accordance with guidelines which shall be laid down by the Authority, any postal operator shall draw up transparent, simple and inexpensive procedures to deal with complaints by users, particularly in cases involving loss, theft, damage or non-compliance with quality of service standards. These procedures shall enable disputes to be settled fairly and promptly and in an inexpensive manner.

(2) The universal service provider and where the Authority may consider appropriate, any operator providing services within the scope of the universal service, shall at least once every calendar year publish information on the number of complaints received, detailing what they were about and how they were dealt with.

Part III

Universal Services

Universal services. *Amended by: L.N. 457 of 2010; L.N. 154 of 2014.*

8. Unless otherwise provided in these regulations, regulations 9 to 43A shall apply only to the universal service provider in relation to those postal articles that conform to the maximum and minimum dimensions as specified in article 17(4) of the Act.

Facilities to buy postage stamps. *Amended by: L.N. 457 of 2010.*

9. The universal service provider or providers as the case may be shall ensure that, where feasible, there is available a facility to buy postage stamps in the vicinity of every post box.

Basic counter services. *Amended by: L.N. 457 of 2010.*

10. Save as the Authority may otherwise direct, the basic counter services to be provided by the universal service provider or providers as the case may be throughout Malta shall include:

(*a*) sale of stamps and postal stationery;

(*b*) posting and collection of bulk mail;

(*c*) posting and collection of postal articles including parcels;

(*d*) registration and insurance of postal articles; and

(*e*) any other service as the Authority may from time to time by directive require the universal service provider or providers as the case may be to provide:

Provided that before doing so the Authority shall first consult the universal service provider or providers as the case may be.

Stock quantities. *Amended by: L.N. 457 of 2010.*

11. The universal service provider or providers as the case may be shall ensure that sufficient stocks of postage stamps and postage stationery are available in such quantities as to reasonably satisfy the needs of the locality:

Provided that the Authority may, in particular to ensure the availability of postage stamps and postage stationary in any given locality, issue any such directives it considers appropriate to ensure that the universal service provider or providers as the case may be abides or abide with its obligations under this regulation.

Establishment of post offices. *Amended by: L.N. 457 of 2010.*

12. Without prejudice to regulation 11, the Authority may by directive require the universal service provider or providers as the case may be to establish post offices at such premises and from such dates as it may determine so as to ensure a basic counter service throughout Malta.

Management of post offices. *Amended by: L.N. 457 of 2010.*

13. Without prejudice to the provisions of the Act, the universal service provider or providers as the case may be shall determine the manner in which each of its post offices shall be managed.

Delivery. *Amended by: L.N. 457 of 2010.*

14. Without prejudice to the provisions of articles 33 to 35B of the Act, the universal service provider or providers as the case may be shall deliver a postal article including a parcel at the address indicated on the said postal article.

Postcodes. *Amended by: L.N. 457 of 2010. Substituted by: L.N. 146 of 2018.*

15. (1) All locally addressed postal articles shall include a postcode written immediately after the town or village of the address:

Provided that locally addressed postal articles which do not include a postcode shall still be delivered:

Provided further that a postal operator shall not incur any liability for compensation to any person whether by reason of delay or of mis-delivery of any postal article in the course of transmission which is caused by a missing or erroneous postcode.

(2) The provisions of sub-regulation (1) shall only apply once the Authority determines the conditions to be adhered to by the universal service provider in relation to the effective implementation

of the aforesaid sub-regulation, and the Authority subsequently is satisfied that the universal service provider is complying with all such conditions:

Provided that the Authority may from time to time vary such conditions.

Express delivery. *Amended by: L.N. 457 of 2010.*

16. Where an incoming postal article bears an "express" delivery label or is conspicuously marked with the words "Express Delivery" or with such other words so as to indicate the intention of the sender that the postal article be delivered by express delivery, the universal service provider or providers as the case may be shall deliver the postal article as soon as possible and in any case not later than two working days from its arrival in Malta.

Postal articles addressed to a deceased person. *Substituted by: L.N. 457 of 2010; L.N. 154 of 2014.*

17. When a postal operator is satisfied that a postal article is addressed to a deceased person, it may at its discretion immediately deliver or redirect such postal article upon a legitimate request in writing by -

(*a*) the executors named in the will of the addressee, or

(*b*) the surviving spouse of the addressee, or

(*c*) the heirs of the addressee, or

(*d*) the administrator of the estate of the addressee or any other person conducting the affairs of that estate, or

(*e*) any other interested person:

Provided that if the postal operator requires any evidence that a person has a legitimate interest to request the delivery or redirection of the postal article in question, then the postal operator concerned shall retain the postal article in question for such a reasonable period as is necessary to enable such person to produce any such evidence. If the required evidence is not provided within such period then the postal articles shall not be retained and shall be dealt with as provided in these regulations:

Provided further that in the case of registered postal articles, such postal articles shall not be retained in terms of this regulation and shall be treated as undeliverable and dealt with as provided in these regulations.

Post articles in dispute. *Amended by: L.N. 457 of 2010.*

18. When a member of a firm or partnership or of a dissolved firm or partnership, or a person who claims to be entitled to receive the mail of a firm or partnership or of a dissolved firm or partnership, or of a society, association, institution or any other body, satisfies any universal service provider so designated that he has reasonable grounds for such claim and, gives notice to such universal service provider not to deliver to any person other than himself any postal article addressed to the firm or partnership or the society, association, institution or other body, the universal service provider, unless it is satisfied as to who is entitled to delivery, may refuse to deliver all such postal articles until an agreement is arrived at between the persons interested as to delivery, or until the right of one or other of the parties concerned to receive such postal articles has been determined by a competent authority:

Provided that in default of such agreement or in the absence of such a determination, the postal article shall be marked "In Dispute" and shall be returned to the sender within a reasonable time.

Undelivered postal articles.

19. A postal article -

(*a*) which cannot for a valid reason be delivered to the addressee, or

(*b*) which has been refused by the addressee, or

(*c*) which has been duly delivered but is returned unopened to the universal service provider with an indication that the addressee has refused delivery, or

(*d*) which cannot be delivered by reason of any provision of the Act or of these regulations,

shall be treated as an undeliverable postal article and shall be dealt with as provided in these regulations.

Delivery of parcels. *Amended by: L.N. 457 of 2010.*

20. (1) Notwithstanding regulation 19(*a*), where a parcel cannot for a valid reason be delivered to the addressee, it shall not be treated as an undeliverable postal article and the universal service provider concerned shall notify in writing the addressee that he may, at his option, either:

(*a*) request the universal service provider concerned to arrange for another delivery subject to the payment of a reasonable fee to such universal service provider:

Provided that in doing so such universal service provider shall endeavour to agree with the addressee as to a mutually convenient time of delivery;

(*b*) collect the parcel from the post office indicated by the universal service provider concerned:

Provided that in indicating a post office such universal service provider shall endeavour to indicate the most reasonably convenient post office for collection of the parcel by the addressee.

(2) If the parcel is not delivered or otherwise collected by the addressee within thirty working days from the date of posting of the initial notice referred to in subregulation (1), the addressee shall be notified again by registered post of the options stated under subregulation (1):

Provided that if, notwithstanding such notification by registered post, the addressee fails to withdraw the said parcel within sixty working days from the date of posting of the initial notice mentioned in subregulation (1), the parcel shall be treated as an undeliverable postal article and shall be dealt with as such in accordance with these regulations.

Disposal of undeliverable postal articles for delivery in Malta. *Amended by: L.N. 457 of 2010.*

21. (1) This regulation applies to postal articles posted in Malta for delivery to any place in Malta.

(2) An undeliverable postal article which bears a legible return address on the outside shall be returned unopened and

appropriately endorsed to that address.

(3) An undeliverable postal article that does not bear a legible return address on the outside shall be opened by the universal service provider concerned and if the address of the sender can be ascertained, it shall then be returned to the sender under official cover:

Provided that if such postal article is found to contain paper money, coins or any other valuables, it shall be compulsorily registered at the expense of the sender before being so returned, and if the sender refuses to pay the postal charges due on that postal article the universal service provider concerned shall dispose of it as it may think fit, without prejudice to its right to claim from the sender those postal charges:

Provided further that if, notwithstanding the opening of the postal article, the universal service provider concerned is unable to establish the address of the sender and the universal service provider concerned considers that the said postal article contains items of value or importance, then it shall record such items in the appropriate register and shall, unless claimed, keep such items for a period not exceeding one year from the day on which the postal article is so recorded and thereafter the universal service provider concerned may dispose of such items in any manner as it may consider appropriate.

Disposal of undeliverable incoming or outgoing postal articles. *Amended by: L.N. 457 of 2010.*

22. (1) This regulation applies to incoming and outgoing postal articles.

(2) An incoming postal article that is undeliverable shall be returned to the country of origin, with the reason for non-delivery clearly indicated on such postal article:

Provided that unregistered postcards without the particulars of the sender shall be disposed of in such manner as the universal service provider concerned may, in the circumstances, deem appropriate:

Provided further that an unregistered postal article consisting in direct mail shall be disposed of in such manner as such universal service provider may deem appropriate, unless the sender has requested, by means of a note written on the outside of such article, the return thereof in case of non-delivery.

(3) A postal article posted in Malta for delivery at a place outside Malta which is returned to Malta as undeliverable, shall be dealt with as follows:

(*a*) an undeliverable postal article which bears a legible return address on the outside shall be returned unopened and appropriately endorsed to that address;

(*b*) an undeliverable postal article which does not bear a legible return address on the outside shall be opened by the universal service provider concerned and if the address of the sender can be ascertained, it shall then be returned to the sender under official cover:

Provided that if such postal article is found to contain paper

money, coins or any other valuables it shall be compulsorily registered at the expense of the sender before being so returned and if the sender refuses to pay the postal charges due on that postal article the universal service provider concerned shall dispose of it as it may think fit, without prejudice to its right to claim from the sender those postal charges:

Provided further that if, notwithstanding the opening of the postal article, the universal service provider concerned is unable to establish the address of the sender and the universal service provider concerned considers that the said postal article contains items of value or importance, then it shall record such items in the appropriate register and shall unless claimed, keep such items for a period not exceeding one year from the day on which the postal article is so recorded and thereafter the universal service provider concerned may dispose of such items in any manner as it may consider appropriate.

Postal services to be provided by the universal service provider.
Amended by: L.N. 457 of 2010.

23. The postal services that shall be required to be provided by the universal service provider or providers so designated shall include all or any of the following:

(*a*) withdrawal of the postal article before delivery to the addressee,

(*b*) *Poste Restante*,

(*c*) re-direction,

(*d*) certificate of posting,

(*e*) certificate of loss or damage,

(*f*) Business Reply Service,

(*g*) registration of postal articles,

(*h*) private delivery boxes, and

(*i*) any other service as the Authority may from time to time by directive require the universal service provider to provide:

Provided that before doing so the Authority shall first consult the universal service provider.

Power of the Authority to regulate postal services.
Amended by: L.N. 457 of 2010.

24. Without prejudice to the provisions of the Act and these regulations, the universal service provider or providers so designated shall provide the postal services referred to in regulation 23 and any other postal services that it may provide, at such hours of business, at such post offices, and under such conditions as the Authority may by directive from time to time reasonably require in the exercise of its functions at law:

Provided that before doing so the Authority shall first consult the universal service provider or providers so designated and any other stakeholders whom the Authority considers should be consulted.

Quality of service standards in relation to the universal service. *Added by: L.N. 457 of 2010.*

24A. (1) Quality-of-service standards in relation to the universal service, paying attention in particular, to routing time and to the regularity and reliability of services, shall be set and published from time to time by the Authority, having taken into account such views of interested parties as it may deem necessary.

(2) The Authority may establish quality standards in respect of cross-border mail:

Provided that in respect of intra-Community cross-border mail, such standards shall be set in accordance with those set by the European Parliament and the Council.

(3) Compliance with quality-of-service standards by the universal service provider shall be monitored by the Authority which shall from time to time make a report on the results of the monitoring exercise.

(4) The Authority may, when establishing quality of service standards under this regulation, adopt those measures that it considers to be appropriate in respect of non-compliance with such standards by the universal service provider. Such measures may include requiring the universal service provider to pay such administrative fines as the Authority may establish in accordance with it powers at law.

Information on universal service. *Added by: L.N. 457 of 2010.*

24B. (1) Any universal service provider shall provide users and postal operators with regular, detailed and up to date information on the particular features of the universal service offered, with special reference to the general conditions of access to the service, as well as to prices and quality standard levels.

(2) Information referred to in sub-regulation (1) shall be published at least annually by the universal service provider in a manner that is to the satisfaction of the Authority.

Withdrawal from the post by sender. *Amended by: L.N. 457 of 2010.*

25. (1) This regulation applies to postal articles posted in Malta for delivery to any place in Malta.

(2) Where a sender applies for the withdrawal of a postal article before delivery to the addressee, the universal service provider concerned shall if it considers that the reasons for withdrawal are satisfactory, give the necessary direction.

(3) Any fees paid for the withdrawal of a postal article need not be refunded to the applicant if the postal article is not found or if subsequently it is not withdrawn by the said applicant.

(4) The postage and registration fee, if any, paid on a postal article which is withdrawn in accordance with this regulation shall not be refunded:

Provided that if the stamps affixed to any such postal article have not been cancelled by an official postmark at the time it is found, the postal article shall be returned with the stamps uncancelled.

Withdrawal from incoming and outgoing post.

26. (1) This regulation applies to incoming and outgoing postal articles.

(2) The sender of an outgoing postal article may have such postal article withdrawn from the post or have its address altered so long as the postal article has not been delivered to the addressee, or has not been confiscated or destroyed by the competent authorities of the countries through which the postal article has been transmitted or of the country of destination.

(3) Any fees and expenses shall not be refunded to the sender if the postal article is not found or if the postal article is subsequently not withdrawn.

(4) The postage and any registration fee paid on an outgoing postal article which is withdrawn shall not be refunded:

Provided that if the stamps affixed to any such postal article have not been cancelled by an official post-mark at the time the postal article is found, the said postal article shall be returned to the sender with the stamps uncancelled.

Poste Restante.
Amended by: L.N. 457 of 2010.

27. (1) The following shall have the right to make use of a *Poste Restante* Service which shall be provided by the universal service provider:

(*a*) travellers, tourists and foreigners of no fixed abode;

(*b*) persons who reside within an area which is not accessible for delivery by postman; and

(*c*) persons who in the opinion of the universal service provider so designated cannot for a good and sufficient reason conveniently receive their correspondence by postman or through a private delivery box.

(2) The universal service provider shall require the caller of *Poste Restante* to furnish proof of his identity and to provide any other particulars that may be reasonably required to identify him as the rightful addressee of the postal article.

Re-direction.
Amended by: L.N. 457 of 2010.

28. (1) Any postal article, other than a business reply article, may be redirected from its original address in Malta to the same addressee at any other address either by an officer of the universal service provider concerned or after delivery at the original address.

(2) An application for redirection to the universal service provider concerned shall be signed -

(*a*) by the person or persons to whom the incoming postal articles are addressed; or

(*b*) by the person having the legal representation of the company, firm or body corporate or unincorporate in respect of incoming postal articles addressed to such company, firm or body; or

(*c*) by the person having parental authority over, or legal custody of, minor children in respect of incoming postal articles addressed to such minor children; or

(*d*) by a person duly authorised by another person in respect of incoming postal articles addressed to such other person.

(3) A postal article which is re-directed on the working day of its delivery, or on the working day next following, to its original address shall be transmitted by post free of any charge or postage in respect of such transmission if it is either handed to an officer of the universal service provider concerned or dropped in a letter box of such universal service provider with an indication of the new address:

Provided that the provisions of this subregulation shall not apply if before re-direction the postal article has been opened or tampered with (other than by the substitution of a new address) or if the name or address of the original addressee has been rendered illegible:

Provided further that if the postal article is re-directed to a place outside Malta and the amount of postage paid is insufficient to cover transmission to the new destination, it shall be taxed and treated as an insufficiently pre-paid postal article.

Certificate of posting. *Amended by: L.N. 457 of 2010.*

29. The universal service provider so designated shall issue a certificate of posting indicating that an unregistered postal article has been posted to a particular address when so requested by the person posting the article.

Certification of damage, etc. *Amended by: L.N. 457 of 2010.*

30. The universal service provider so designated shall, if requested by an interested person, issue a certificate whereby it is established that the postal article has been damaged, lost or destroyed while in its custody.

Business reply service. *Amended by: L.N. 457 of 2010.*

31. The universal service provider so designated shall provide a business reply service whereby payment of postage payable on postal articles is made by a person other than the sender of those postal articles.

Registration. *Amended by: L.N. 457 of 2010.*

32. The universal service provider so designated shall provide a registration service whereby every postal article may be registered.

Receipt for registered postal articles. *Amended by: L.N. 457 of 2010.*

33. On the delivery of a registered postal article, the addressee, his representative, or a member of his household shall, unless instructions to the contrary are given to the universal service provider concerned by the addressee, give a written receipt therefor to the universal service provider:

Provided that when such a receipt is not obtained, the postal article shall be considered as undelivered:

Provided further that this regulation shall be without prejudice to any other law regulating receipts for registered postal articles.

Advice of delivery. *Amended by: L.N. 457 of 2010.*

34. The sender of a registered postal article may at the time of posting arrange for the advice of its delivery to be sent to him:

Provided that no enquiry fee may be charged by the universal service provider concerned if the enquiry regarding the disposal of such postal article is made within twelve months from the date of posting.

Re-direction of registered postal articles. *Amended by: L.N. 457 of 2010.*

35. When a registered postal article has been delivered and a receipt obtained in accordance with the provisions of regulation 33, it shall not be re-directed as provided for in regulation 28(3):

Provided that the universal service provider so designated may, in exceptional circumstances, re-direct the said registered postal article if it is handed to any officer of such universal service provider not later than the next working date following delivery.

Posting out of course. *Amended by: L.N. 457 of 2010.*

36. If any registered postal article is, after delivery, dropped into a letter-box of the universal service provider so designated for re-direction such article may become liable to a surcharge of a single rate of postage and to a fresh registration fee.

Compulsory registration. *Amended by: L.N. 423 of 2007.*

37. (1) If any postal article having written or impressed on it or on its envelope or cover the word "registered", or any other word, phrase or mark conveying the impression that the postal article is registered or is intended to be registered, is found in the post or is left at a post office, it shall then be registered.

(2) A postal article shall be registered if it contains one or more of the following:

(*a*) any uncrossed money order or postal order in which the name of the payee has not been inserted, or

(*b*) any cheque or dividend warrant which is uncrossed and payable to bearer, or

(*c*) any bearer security, or

(*d*) any bank note, currency note or coin being current in Malta or elsewhere, or

(*e*) any unobliterated postage stamps of a total value of eleven euros and sixty cents (11.60) or over, or

(*f*) any paper money as is mentioned in paragraphs (*d*), (*e*) and (f) of the definition of "paper money" in regulation 2, or

(*g*) platinum, gold or silver, whether or not manufactured, precious stones and other valuable articles.

Surcharge. *Amended by: L.N. 457 of 2010.*

38. (1) Any postal article which is subject to compulsory registration may be charged the registration fee and an amount not exceeding double the deficient postage, if any, and shall be forwarded to the addressee or returned to the sender, as the case may be:

Provided that any amount of postage which may have been prepaid in respect of any postal article in excess of the ordinary postage, shall be reckoned as payment or part-payment of the registration fee.

(2) When a postal article surcharged in accordance with subregulation (1), is tendered to the addressee or sender and he refuses or fails to pay the charges to which the postal article has become liable, the postal article may be dealt with or disposed of in such a manner as the universal service provider so designated may think fit.

Application for private delivery box. *Substituted by: L.N. 457 of 2010.*

39. Any person who has attained the age of eighteen years shall be entitled to the lease of a private delivery box by the universal service provider so designated upon application:

Provided that such universal service provider may refuse to award the lease of such a delivery box where a reasonable problem of lack of space arises and upon giving reasons for its refusal.

Keys to private delivery boxes. *Amended by: L.N. 457 of 2010.*

40. The universal service provider so designated shall make available, free of charge, one key to the box-holder. Before providing a key, the universal service provider may require a box-holder to deposit a reasonable sum which sum shall be refunded to the box-holder on the termination of the lease and upon the surrender of the key and the payment of any outstanding rent.

Delivery of postal article.

41. A postal article shall be deemed to have been delivered to the box-holder as soon as it is placed in his private delivery box.

Information to be provided. *Amended by: L.N. 457 of 2010.*

42. (1) Without prejudice to any other obligation under the Act or under any other law, or under any directive or under any authorisation, any universal service provider shall, at least once every calendar year, submit to the Authority the following information:

(*a*) the location of all access points including each of its post offices and letter boxes,

(*b*) the times of opening and closing of each of its post offices and times of collection and delivery,

(*c*) a contingency plan setting out the measures to be taken by the universal service provider to ensure, as far as practicable, the provision of universal postal service in the event of industrial action, emergency or natural disaster, and

(*d*) about the arrangements it has established or intends to establish to ensure that its post offices, including its letter boxes, are accessible to persons with disabilities.

(2) The information referred to in sub-regulation (1) shall be submitted to the Authority in such manner as to ensure reasonable publicity thereof.

Schemes as to terms and conditions. *Amended by: L.N. 28 of 2009; L.N. 457 of 2010.*

43. (1) Without prejudice to any other obligation under the Act, any other law, any directive or any authorisation, any universal service provider may make schemes in relation to the postal services provided by it:

Provided that the Authority may by directive:

(*a*) require the universal service provider concerned to have in place such schemes as the Authority may consider necessary. In doing so the Authority may also establish the time frames by when such schemes must be in place, and

(*b*) require the universal service provider concerned to amend any existing scheme that may have been adopted in accordance with this regulation where the said scheme is iin conflict with the Act, the licence or

authorisation conditions, or with any decision or directive issued by the Authority:

Provided further that the Authority shall, before requiring the universal service provider to adopt or amend a scheme, consult with the universal service provider concerned and any other stakeholders whom the Authority considers to have an interest.

(2) A scheme made in accordance with this regulation is a scheme for determining any or all of the following:

(*a*) the charges which are to be imposed in respect of the postal services concerned,

(*b*) the other terms and conditions which are to be applicable to the postal services concerned, and

(*c*) the procedures for dealing with the complaints of persons who use the postal services concerned, including the compensation that may be awarded accordingly.

(3) A scheme or any amendments to a scheme under this regulation shall be forwarded to the Authority which shall ensure that the universal service provider concerned at its expense gives such publicity to the scheme or any amendments thereto as the Authority may consider appropriate.

(4) A scheme under this regulation may amend any previous scheme made under this regulation.

(5) Any obligation undertaken by a universal service provider under any scheme made in accordance with this regulation shall bind the universal service provider as if such obligations form part of the terms and conditions of a contract at law, and may be enforced against the universal service provider accordingly.

Burden sharing in relation to the provision of universal services. *Added by: L.N. 457 of 2010. Substituted by: L.N. 154 of 2014.*

43A. (1) Where the Authority determines that the universal service obligations entail a net cost calculated taking into account the Second Schedule which represent an unfair financial burden on the universal service provider or providers, the Authority may then introduce:

(*a*) a mechanism to compensate the postal operator or operators concerned from public funds:

Provided that such a mechanism may only be established with the prior approval in writing of the Minister granted with the concurrence of the Minister for Finance; and, or

(*b*) a mechanism for the sharing of the net cost of the universal service obligations between postal operators and, or users:

Provided that in such a case the Authority may establish a compensation fund which may be funded by postal operators and, or the fees paid by users, and which is administered for this purpose by the Authority or a body independent of the beneficiary or beneficiaries under the supervision of the Authority.

(2) The Authority shall notify each postal operator required to share the cost of a universal service obligation of its obligation to contribute to such cost, including the amount, manner and timing of payments to be made.

(3) A postal operator which has been notified of its obligation to contribute an amount specified by the Authority, shall pay that amount in the time and manner specified by the Authority.

(4) The Authority shall ensure that the principles of transparency, non-discrimination and proportionality are respected in establishing the compensation fund and when fixing the level of financial contributions referred to in sub-regulation (1)(*b*):

Provided that decisions taken shall be based on objective and verifiable criteria and that they shall be published.

Universal service provider failing to provide service. *Added by: L.N. 408 of 2012. Amended by: L.N. 154 of 2014.*

43B. (1) If a universal service provider designated in accordance with the Act at any time ceases, for a continuous period of one week, to provide a universal service the provision of which it has been designated to provide, for any reason other than:

(*a*) industrial action or other *force majeure*; or

(*b*) if the universal service provider goes into liquidation or is declared bankrupt,

then the Authority may consider the universal service provider as effectively being unable to abide with the said universal service obligation onerous on it.

(2) Where a universal service provider ceases to provide a universal service in the circumstances referred to in sub-regulation (1), the Government may, with the prior written approval of the Authority, in order to ensure the continuity of that service, take over that part of the operation of the postal services relating to the provision of the universal service obligation which a universal service provider has ceased to provide, without any obligation to pay compensation to the universal service provider concerned:

Provided that in doing so the Authority, in consultation with Government, where necessary, shall without any undue delay endeavour to find an alternative operator to provide the said universal service in line with the Act:

Provided further that the Government or any person authorised by the Government for the purpose, shall be empowered to use the assets of the universal service provider concerned subject to the payment of such compensation for the said use as may be agreed between the parties, or in default of agreement, as may be determined by the competent Maltese courts or, where all the parties agree, by arbitration according to Maltese law, and to recoup any reasonable costs incurred in providing the said universal service from the defaulting universal service provider.

Part IV

Authorisations

Authorisation for postal services and exemptions.

44. (1) In accordance with the provisions of article 7(3) of the Act, the following activities are exempt from the requirements of article 7(1) of the Act:

(*a*) the conveyance and delivery of a postal article personally by the sender or a person authorised to deliver on behalf of the sender, provided no payment or reward, profit or advantage of any kind is given or received for the conveyance or delivery of those postal articles;

(*b*) the conveyance and delivery by any person of postal articles concerning, and for delivery with, goods carried by that person, provided that no payment or reward, profit or advantage of any kind is given or received for the conveyance or delivery of those postal articles;

(*c*) the conveyance, delivery and collection of correspondence by a person who has a business interest in that correspondence. For the purposes of this paragraph a person shall be deemed to have a business interest if:

(i) he is an employee of one of the correspondents or of a member of the same group as one of the correspondents and the postal article relates to the business affairs of that correspondent, or

(ii) he and one of the correspondents are employees of the same person or of different members of the same group and the postal article relates to the business affairs of that person or, as the case may be, of the employer of that correspondent;

(*d*) the conveyance and delivery of postal articles from one public authority or agency however so described to another or within that same authority or agency, and the collection of postal articles for that purpose;

(*e*) the conveyance and delivery of postal articles by a non-profit making organisation where the postal article is addressed to some or all of the members of that organisation, provided no payment or reward, profit or advantage of any kind is given or received for the conveyance or delivery of those postal articles.

(2) Nothing in this regulation shall be construed as authorising any person to make a collection of postal articles for the purpose of their being conveyed in any manner authorised under this regulation.

Licensing of universal service provider.
Amended by: L.N. 408 of 2012.

45. (*Deleted by Legal Notice 1 of 2014*).

Licensing of services within the scope of universal services.
Amended by: L.N. 408 of 2012; L.N. 1 of 2014.

46. (1) The authorisation by virtue of which a postal operator provides postal services falling within the scope of the universal service shall be granted by individual licence.

(2) The grant of a licence under sub-regulation (1) shall be deemed to authorise the licensee to provide also postal services outside the scope of the universal services:

Provided that the licensee shall also comply with the conditions attached to the general authorisation.

(3) During the currency of an individual licence issued in accordance with this regulation, the licensee shall pay to the Authority the annual fee specified in the First Schedule.

Authorisation to provide services outside the scope of the universal service.
Amended by: L.N. 408 of 2012; L.N. 1 of 2014.

47. (1) The authorisation to provide postal services that are outside the scope of the universal service shall be granted in accordance with a general authorisation:

Provided that nothing in these regulations shall be construed as authorising a postal operator who enjoys a general authorisation in accordance with this regulation to provide any postal services that fall within the scope of the universal service.

(2) The Authority shall by directive determine and publish the conditions attached to a general authorisation.

(3) Any conditions attached to a general authorisation shall be objectively justified, non-discriminatory, proportionate and transparent.

(4) A postal operator shall comply with the conditions attached to the general authorisation.

(5) Authorised postal operators shall pay to the Authority such annual fees as established in the First Schedule:

Provided that these fees shall not be paid if the operator in question is licensed and has paid the annual fee referred to in regulation 46(3).

Conditions applicable on the granting of individual licences.
Added by: L.N. 154 of 2014.

47A. The granting of an individual licence may:

(*a*) if necessary and justified, impose requirements concerning the quality, availability and performance of the relevant services;

(*b*) where appropriate, be subject to an obligation to make a financial contribution to the sharing mechanisms as may be established in accordance with the Act and, or with these regulations if the provision of the universal service entails a net cost and represents an unfair burden on the universal service provider or providers as may be designated in accordance with the Act;

(*c*) where appropriate, be subject to an obligation to make a financial contribution to the operational costs of the Authority;

(*d*) include the provision to the Authority by the licensee of such information relating to the turnover of postal services that are within the scope of the universal

service and any postal services outside this scope;

(*e*) include such conditions as the Authority may consider to be necessary having regard to its functions at law and, or to the international obligations of Malta; and

(*f*) in the case of universal service providers only, be made subject to universal service obligations.

Processing and determination of an individual licence. *Added by: L.N. 154 of 2014.*

47B. (1) An application for an individual licence shall be submitted to the Authority, following which the application shall be processed and determined in a timely manner by the Authority which shall, in writing, inform the applicant of its decision to grant or refuse the application within one month from when it receives the application in a complete state and drawn up in a manner that complies with the provisions of the Act and, or these regulations. In the case of a refusal the Authority shall give its reasons:

Provided that such period of one month may be extended by the Authority up to a maximum of another two months where an application requires consultation between the Authority and any other government body or other local or foreign public authority, however so described, with regard to any aspect of the provision of postal services applied for. If the Authority requires such an extension it shall inform the applicant accordingly informing in writing the applicant of the reasons as to why such an extension is required.

(2) The time limits provided for in this regulation shall be without prejudice to any applicable international agreements relating to postal services.

(3) Upon receipt of an application for an individual licence, the Authority shall publicise on its website that such an application has been made, giving such details as it may deem necessary to enable any persons wishing to make representations within such period as the Authority may establish.

(4) The applicant in his application shall provide a clear description of the postal service or services being applied for and shall include with his application any such information as the Authority may require:

Provided that in any case the applicant must provide such information as is sufficient to demonstrate that he fulfils the conditions for the grant of the licence.

(5) Due to overriding reasons of public interest, the absence of a final decision from the Authority within the time periods stated in this regulation shall not be construed to imply the granting of an individual licence applied for:

Provided that the applicant, if he considers the delay to be unjustified and as a result has suffered prejudice, may then appeal in accordance with the provisions of Part VIII of the Malta Communications Authority Act.

Cap. 418.

(6) A person authorised in accordance with regulation 46 shall notify the Authority in writing of any changes to the information provided in accordance with sub-regulation (4) within fourteen

days of such change.

Grounds for refusal of an application for an individual licence. *Added by: L.N. 154 of 2014.*

47C. The Authority may refuse to grant an application for an individual licence if it considers that the grant of the licence would -

(*a*) be against the public interest, or be inconsistent with Government policy and the Minister agrees that is the case;

(*b*) be inconsistent with the provisions of the Act or of any other law, or with any international commitment undertaken or in the process of being undertaken by Malta;

(*c*) pose a danger or nuisance to the public or damage to any property, or obstruct or interfere with any lawfully operated postal services;

(*d*) authorise an applicant when he does not demonstrate to the Authority that he fulfils the conditions for the grant of such a licence;

(*e*) be given to a person who the Authority has valid grounds to consider as not being a fit and proper person to hold the licence applied for, or would not be in a position because of his financial and, or other specific circumstances, to comply with the provisions of the Act and, or of these regulations or with the licence conditions if granted.

Notification. *Amended by: L.N. 408 of 2012.*

48. (1) Any person who intends to provide postal services outside the scope of the universal services shall, before doing so, notify the Authority of his intention to provide such services.

(2) The notification under subregulation (1) shall be in such form as the Authority may from time to time determine and shall include the following:

(*a*) the full name, business address and contact details of the person concerned including, in the case of a body corporate -

(i) the company registration number and,

(ii) where the business address differs from the address of its registered office, the address of the registered office,

(*b*) a clear description of the postal services to be provided,

(*c*) the estimated date of commencement for the relevant activity,

(*d*) the geographical area intended to be covered by the service in question, and

(*e*) a signed declaration of compliance with the relevant conditions as prescribed under the Act and by these regulations.

(3) Upon receipt by the Authority of a notification pursuant to

subregulation (2), the person concerned is deemed to be authorised to provide the postal service described in the notification.

(4) A person who is duly authorised in accordance with regulation 47 shall notify the Authority of any changes to the information supplied under subregulation (2)(*a*), within fourteen days of such change and, in relation to the matters referred to in subregulation (2)(*b*) to (*d*), within fourteen days prior to the commencement of the relevant activity.

Declaration upon receipt of application or notification. *Amended by: L.N. 457 of 2010. Substituted by: L.N. 1 of 2014.*

49. The Authority shall, within seven working days of the receipt by it of an application made in accordance with regulation 46 or a notification made to it in accordance with regulations 47 and 48, issue to the postal operator making such an application or such a notification, in such form as the Authority may, from time to time, determine, a declaration confirming, where applicable, that such postal operator submitted an application pursuant to regulation 46 or a notification pursuant to regulations 47 and 48, as the case may be.

Requirements and controls. *Added by: L.N. 457 of 2010.*

49A. (1) In granting any authorization in accordance with the Act, the Authority shall not duplicate requirements and controls which are equivalent or essentially comparable as regards their purpose to which a postal operator may already be subject to in another Member State:

Provided that the Authority may consult with, verify and check the fulfilment of such requirements and controls with any other national regulatory authority of another Member State as may be required:

Provided further that the Authority shall evaluate the equivalence or comparability of such requirements and controls on a case-by-case basis and its decision may be appealed to the Appeals Board.

(2) Nothing in this regulation shall affect the right of the Authority to request a non-certified translation of any certificate or document into the Maltese or English language.

Register of postal operators. *Amended by: L.N. 154 of 2014.*

50. (1) The Authority shall establish and maintain a register of those persons who are authorised to provide postal services in accordance with these regulations:

Provided that any information that the Authority considers appropriate, other than information which the Authority reasonably considers to be confidential, shall be entered in the register established and maintained under this sub-regulation.

(2) The Authority may, as necessary, amend or delete an entry in the register.

(3) Members of the public may inspect the register free of charge at such reasonable times as the Authority may establish and may, at a reasonable charge to be determined by the Authority, make copies of, or take extracts from, entries in the register.

Transferability of authorisation. *Added by: L.N. 154 of 2014.*

50A. (1) No individual licence may be transferred or assigned by the authorised provider to another person without the prior consent in writing of the Authority:

Provided that the Authority shall communicate its decision within one month from when the authorised provider applies in writing for its consent and, in doing so, the Authority shall state its reasons for the decision:

Provided further that where the authorised provider is a body corporate or another body of persons, a change in the control of ownership or management of that body shall be equivalent to the transfer of the individual licence, and shall be subject to the prior consent of the Authority as aforesaid.

(2) The change in the control of the ownership or management of an authorised body corporate or other body of persons enjoying a general authorisation, shall be immediately notified in writing to the Authority.

Part V

Tariffs

Non-valid postage stamps.

51. There shall not be used to denote payment of postage or fees, any mutilated postage stamps or any postage-due stamps, nor shall such stamps be accepted as valid for the pre-payment or part pre-payment of postage.

Official mark to be evidence of postage paid. *Added by: L.N. 457 of 2010.*

51A. The official mark or postage stamp on a postal article denoting that any postage or other sum is due in respect thereof to a postal operator, or to a post office of any other country, shall, until the contrary is proved, be evidence that the sum denoted as aforesaid is due.

Stamps to be sold at face value. *Amended by: L.N. 457 of 2010.*

52. Unless otherwise provided for under the Act or these regulations, postage stamps shall only be sold at their face value:

Provided that nothing in this regulation shall be interpreted as prohibiting a postal operator providing services within the scope of the universal services to pay a commission to any person selling postage stamps on its behalf.

Unpaid or underpaid postage for inland post. *Amended by: L.N. 28 of 2009.*

53. (1) This regulation applies to postal articles posted in Malta for delivery to any place in Malta.

(2) A postal article posted without the postage being prepaid or when insufficiently pre-paid, may be charged up to double the deficient postage and shall be delivered to the addressee who shall be liable to pay the said charge upon acceptance of the postal article:

Provided that if in such case the postal article is refused by the addressee or delivery of the postal article cannot be effected, the postal article shall be returned to the sender who shall be liable to pay the aforementioned charge:

Provided further that the provisions of this regulation shall not apply to any such instances as may be established at law or by the Authority as may require the universal service provider to deliver postal articles free of charge or at a reduced rate of postage to a designated addressee.

Unpaid or underpaid postage for incoming and outgoing postal articles

54. (1) This regulation applies to incoming and outgoing postal articles.

(2) All outgoing postal articles, other than registered postal articles, upon which no part, or a part only, of the postage payable thereon has been pre-paid, shall be dealt with as follows:

(*a*) where the address of the sender is shown on the outer cover, the postal article shall be returned to sender appropriately endorsed for the payment of the deficient postage,

(*b*) where an outgoing postal article cannot be returned to the sender for the full payment of postage, it may be charged with up to double the amount of the deficient postage and shall be delivered to the addressee who shall be liable to pay the said charge upon acceptance of the postal article.

(3) An incoming postal article, including a registered postal article, upon which no part, or a part only, of the postage payable thereon has been paid, shall be delivered to the addressee and charged with such amount as the foreign postal operator concerned shall have requested to be collected.

(4) Any amount charged under subregulation (2)(*a*) and under subregulation (3) shall be paid by the sender or the addressee, as the case may be, and the universal service provider may withhold transmission or delivery until such amount is paid.

Exemption from postage payment.

55. (1) There shall be no exemption of payment of postage unless this is expressly provided for under the Act, these regulations or any other law:

Provided that the Authority after public consultation may, by directive, determine that no payment of postage shall be due in those instances as it may specify.

(2) The sender of a postal article which is entitled to free transmission by post shall not be exempt from paying the prescribed registration fee and other postal fees due on such postal article.

Articles for the blind.

56. (1) No postage shall be payable on postal articles consisting of articles for the use of the blind provided that -

(*a*) the postal articles are sent by or addressed to a blind person or an institution or organization that is recognized by the Authority as an institution or organization which serves the blind,

(*b*) every postal article is marked on the outside "Articles for the Blind" and bears the name and address of the sender,

(*c*) every postal article is posted either without a cover or in a cover which can be easily removed for the purpose of examination,

(*d*) the postal article does not contain any article not being an article for the use of the blind,

(*e*) the postal article contains no communication or inscription either in writing or printed other than instructions for the use of any enclosed article, and

(*f*) the postal article complies with the limits of size and weight referred to in regulation 8.

(2) For the purposes of this regulation a postal article shall also include a parcel containing solely articles for the use of the blind.

Part VI

Money and Postal Orders

Money orders. *Amended by: L.N. 457 of 2010.*

57. (1) The universal service provider so designated may remit any amount of money to any person in Malta by means of a money order, including a postal order.

(2) The universal service provider concerned may remit any amount of money to any person in any country with which a money order exchange arrangement exists by means of a money order, including a postal order.

(3) The amount of money to be remitted and the commission chargeable thereon shall be paid at a post office at the time of issuing the money order.

(4) When a money order is issued, it shall be handed to the remitter to be transmitted by him to the payee.

Power of remitter to recall money order or alter name of payee. *Added by: L.N. 457 of 2010.*

57A. (1) Subject to such conditions as the Minister may, by regulations made under article 81 of the Act prescribe, a person remitting money through the postal operator by means of a money order may require that the amount of the order, if not paid to the payee, be repaid to him, or be paid to such person other than the original payee as he may direct.

(2) If neither the payee nor the remitter of a money order can be found, and if, within the period of one year from the date of the issue of the order, no claim is made by such payee or remitter, the amount of such order shall not be claimable from the postal operator.

Maximum and minimum amounts. *Amended by: L.N. 423 of 2007.*

58. The minimum and maximum amounts for which a single money order may be issued shall respectively be of two euros and thirty cents (2.30) and two thousand and three hundred and twenty-five euros (2,325), but the remitter may apply for more than one money order at the same time:

Provided that nothing contained in this regulation shall be construed as affecting or derogating from any limitation, restriction, requirement or permission required or imposed by any law in respect of any payment to the credit of persons residing in or outside Malta

Payment. *Amended by: L.N. 457 of 2010.*

59. (1) Unless the universal service provider so designated agrees otherwise, a money order shall not be payable on the same day of issue.

(2) Money orders shall be encashed at the post office indicated

thereon or through a bank.

(3) If a money order is presented for payment at a post office, payment will be made to the payee against his signature on proof of his identity.

(4) Crossed money orders shall only be payable through a bank.

(5) When money orders are presented for payment by the Bank, the formalities referred to in this regulation shall not be applicable.

Period of validity.

60. A money order shall be valid for a period of sixty days from the date when it is issued.

Repayment.

61. The amount of a money order may be refunded to the remitter against presentation of the order within the period of its validity.

Money paid in excess or to wrong person.
Added by: L.N. 457 of 2010.

61A. If any person without reasonable excuse, the burden of proving which shall lie on him, neglects or refuses to refund -

(*a*) any amount paid to him in respect of a money order or postal order by an officer of a postal operator in excess of what ought to have been paid to him in respect thereof; or

(*b*) the amount of a money order or postal order paid by an officer of a postal operator to him instead of to some other person to whom it ought to have been paid,

such amount shall be recoverable as a civil debt on the demand of the postal operator.

Void money order.

62. Money orders whose validity has lapsed and which have not been revalidated, shall be refunded to the remitter.

Added by: L.N. 28 of 2009.

Part VII

Postal Identifier

Obligation to affix, etc., on a postal article the postal identifier.
Added by: L.N. 28 of 2009.

62A. (1) A postal operator shall, as soon as is reasonably practicable on accepting a postal article for conveyance by post and prior to conveying the postal article, affix to, impress or print on, that postal article its postal identifier:

Provided that this requirement shall not apply if the postal identifier of the conveying postal operator is already affixed to, impressed or printed on the postal article.

(2) A postal operator who provides postal services which fall within the scope of the universal service shall ensure that a postal article carried by him is marked with a postmark which also indicates the date when it was delivered into the care of the said postal operator.

Amended by: L.N. 28 of 2009.

Part VIII

Compliance and Sanctions

Compliance.

63. (1) The Authority shall ensure compliance with the provisions of these regulations and may, for this purpose and for the carrying into effect of any provisions of these regulations, issue

any directives it may consider to be necessary in this regard.

(2) A person shall in all instances comply with a directive or decision, however so described, of the Authority issued under these regulations notwithstanding any dispute, appeal or any other legal proceedings contemplated or commenced in relation to the said directive or decision.

(3) A person who fails to comply with any directive or decision issued by the Authority under these regulations shall be considered to have acted in breach of these regulations.

Sanctions. *Amended by: L.N. 423 of 2007.* Cap.418.

64. Unless otherwise prescribed in these regulations, the Authority may, in accordance with the provisions of Part VII of the Malta Communications Authority Act, impose such sanctions, as it may consider appropriate in accordance with the aforesaid Act, upon any person who acts in breach of any provision of these regulations:

Provided that any administrative fines that the Authority may decide to impose for an infringement of any provision of these regulations shall in no case exceed the sum of eleven thousand and six hundred and forty-five euros (11,645) for each infringement and, or four hundred and sixty-five euros (465) for each day during which any such non-compliance continues.

Added by: L.N. 408 of 2012.

Part IX

Market Regulation

Defining a postal services market. *Added by: L.N. 408 of 2012.*

64A. (1) The Authority shall define the relevant postal services markets within the scope of the universal service appropriate to national circumstances.

(2) The provisions of sub-regulation (1) are without prejudice to any other relevant postal services markets that the Authority may define in accordance with the principles of competition law.

Postal operators with significant market power. *Added by: L.N. 408 of 2012.*

64B. (1) The Authority shall determine whether postal operators have significant market power in accordance with this regulation and taking into account any guidelines howsoever described by the Authority:

Provided that, on the coming into force of these regulations, the Authority may designate the postal operator designated as the universal service provider, as having significant market power in any relevant postal services market within the scope of the universal service as identified by the Authority.

(3) A postal operator shall be deemed to have significant market power if either individually or jointly with others, it enjoys a position equivalent to dominance, that is to say a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately users.

(4) Where a postal operator has significant market power on a specific relevant postal services market, it may also be designated as having significant market power on a closely related postal services market where the links between the two markets are such

as to allow the market power held on one market to be leveraged into the other market, thereby strengthening the market power of the postal operator.

Market analysis procedure. *Added by: L.N. 408 of 2012.*

64C. (1) The Authority may, at any time as it may deem necessary, after having defined a postal services market in accordance with regulation 64A, carry out an analysis of such a market taking into account any guidelines howsoever described by the Authority.

(2) Where the Authority is required under sub-regulations (3) and (4), or regulations 64E to 64I, to determine whether to impose, maintain, amend or withdraw specific obligations on postal operators, it shall determine on the basis of its market analysis referred to in sub-regulation (1) whether a relevant postal services market is effectively competitive.

(3) Where the Authority determines that a postal services market is effectively competitive, it shall not impose or maintain any of the specific regulatory obligations referred to in sub-regulation (2) applicable to a postal operator with significant market power:

Provided that in cases where a postal operator had previously been designated as having significant market power and such obligations already exist, the Authority shall, after giving reasonable notice to any parties which the Authority considers to be affected by such withdrawal, withdraw such obligations onerous on the postal operator concerned.

(4) Where the Authority determines that a postal services market is not effectively competitive, it shall designate postal operators as having significant market power in accordance with regulation 64B, and it shall impose on such postal operators appropriate regulatory obligations referred to in sub-regulation (2), or maintain and amend such obligations where they already exist.

(5) The Authority shall, when necessary, carry out a further analysis of a relevant postal services market referred to in sub-regulation (1), and sub-regulations (2) to (4) shall apply accordingly.

Imposition, amendment or withdrawal of obligations on postal operators with significant market power. *Added by: L.N. 408 of 2012.*

64D. (1) The Authority shall impose the obligations identified in regulations 64E to 64I, as appropriate, on any postal operator having significant market power in a relevant postal services market as a result of a market analysis carried out in accordance with these regulations.

(2) Unless otherwise provided in the Act or in these regulations, and without prejudice to the need to comply with international commitments, the Authority shall not impose any of the obligations set out in regulations 64E to 64I on postal operators who have not been designated as having significant market power in accordance with sub-regulation (1):

Provided that regulations 64E to 64I shall be without prejudice to the power of the Authority to issue any directives to any postal operator as it may be authorised to issue at law,

including but not limited to any such directives issued in respect of article 76A of the Act.

Obligation to provide services at cost-oriented prices. *Added by: L.N. 408 of 2012.*

64E. In accordance with the provisions of regulation 64D, a postal operator, designated as having significant market power in a relevant postal services market, shall provide such services in that market to customers at cost-oriented prices, that is to say, that prices shall take account of, and reflect the costs of, providing the postal service or part of the postal service in that market.

Obligation of non-discrimination. *Added by: L.N. 408 of 2012.*

64F. (1) In accordance with the provisions of regulation 64D, a postal operator designated as having significant market power in a relevant postal services market must provide such services in that market to customers:

(*a*) at prices, terms and conditions that are non-discriminatory; and

(*b*) shall not discriminate in favour of itself, or of its subsidiaries or partners, in the provision of such services in that market.

(2) The obligation to provide such services on a non-discriminatory basis requires that differences in the prices, terms and conditions for comparable postal services have to be based on objective differences, such as, but not limited to, variations in the cost of the service provided, variations in the quantity or quality of the service provided, or variations in the duration of the service agreement period.

Obligation of provision of services on an unbundled basis. *Added by: L.N. 408 of 2012.*

64G. (1) In accordance with the provisions of regulation 64D, a postal operator, designated as having significant market power in a relevant postal services market, shall provide such services in that market on an unbundled basis.

(2) Without prejudice to the generality of sub-regulation (1), the postal operator shall not require that, as a condition of purchasing such a service, a customer shall also purchase any other postal service or non-postal service or product:

Provided that the postal operator may offer customers the option to purchase a package that contains multiple postal services and non-postal services or products.

Approval of tariffs and publication. *Added by: L.N. 408 of 2012.*

64H. (1) In accordance with the provisions of regulation 64D, and in accordance with any directives that the Authority may issue, a postal operator designated as having significant market power in a relevant postal services market shall submit a tariff for the written approval of the Authority prior to offering or modifying the terms and conditions on which it offers any postal service that it provides in that market, including postal services designed for specific customers:

Provided that where a tariff has been approved in accordance with this regulation the postal operator shall obtain the written approval of the Authority prior to the withdrawal of the postal service that it provides.

(2) The Authority may issue directives to a postal operator

designated as having significant market power in a relevant postal services market in respect of the manner in which approved tariffs, terms and conditions (including quality of service) on which the postal operator provides the service, shall be published.

Accounting separation. *Added by: L.N. 408 of 2012.*

64I. (1) Without prejudice to the provisions of article 23 of the Act, in accordance with regulation 64D and with any directives as the Authority may issue, a postal operator designated as having significant market power in a relevant postal services market is required to keep separate accounts within its accounting system.

(2) An internal accounting system as referred to in sub-regulation (1) shall operate on the basis of consistently applied and objectively justifiable cost accounting principles:

Provided that the Authority may specify the format and accounting methodology to be used by a postal operator found to have significant market power.

(3) Compliance with the cost accounting system, including related regulatory accounts, shall, at the choice of the Authority, be verified by the Authority or by a suitably qualified independent body approved by the Authority.

(4) The postal operator concerned shall also publish in its annual accounts a statement concerning compliance by it with any cost accounting system imposed under this regulation.

General access for the provision of postal services. *Added by: L.N. 408 of 2012.*

64J. (1) A postal operator shall have a right and, when requested by another postal operator, an obligation to negotiate access with a view to concluding an agreement with each other for the purpose of providing postal services and shall serve a notice on the Authority upon the commencement of any such negotiations.

(2) The Authority shall, if so requested in writing by either party to the negotiations, specify the period within which the negotiations referred to in sub-regulation (1) shall be completed.

(3) Where agreement is not reached within the period specified by the Authority under sub-regulation (2), the Authority, at its discretion and if so requested by either party to the negotiations, may take steps to resolve any dispute which may have arisen as a result of the failure to reach an agreement:

Provided that the resolution of any such dispute shall be in accordance with procedures established and maintained by the Authority.

(4) A postal operator which acquires information from another postal operator before, during or after the process of negotiating access arrangements shall use that information solely for the purpose for which it was supplied, and shall respect at all times the confidentiality of information transmitted or stored. The received information shall not be passed on to any other person including any subsidiaries or partners, for whom such information could provide a competitive advantage.

Access to the postal infrastructure. *Added by: L.N. 408 of 2012.*

64K. (1) The Authority may issue directives to a postal operator providing services within the scope of the universal service, requiring it to permit access to other postal operators to its postal infrastructure on such terms and conditions as the Authority may direct for that purpose, in particular, in situations where the Authority considers that denial of access, or unreasonable terms and conditions having a similar effect, hinder the emergence of a sustainable competitive market or would not be in the interest of the user.

(2) The Authority may require a postal operator providing services within the scope of the universal service to adopt and publish a reference offer which specifies the terms and conditions on which the postal operator will permit access to other postal operators to its postal infrastructure.

(3) The Authority may specify the precise information to be made available in a reference offer, including provisions related to the type of access to be provided, the price of access, terms and conditions relating to matters other than price, and the level of detail required and the manner of publication.

(4) The Authority may impose changes to reference offers to give effect to the obligations imposed under these regulations.

Access to the postal network of a universal service provider. *Added by: L.N. 408 of 2012.*

64L. (1) The Authority may issue directives to a universal service provider requiring it to meet reasonable requests for access to, and use of, specific elements of the postal network on such terms and conditions as the Authority may direct for that purpose, in particular, in situations where the Authority considers that denial of access, or unreasonable terms and conditions having a similar effect would hinder the emergence of a sustainable competitive market or would not be in the interest of the user.

(2) The Authority may require a universal service provider to adopt and publish a reference access offer which specifies the terms and conditions on which the universal service provider shall permit access to specific elements of the postal network, which shall be sufficiently unbundled to ensure that postal operators are not required to pay for facilities which are not necessary for the services requested:

Provided that the universal service provider shall, in doing so, give a description of the relevant offerings broken down into components according to market needs, and the associated terms and conditions including prices.

(3) The Authority may specify the precise information to be made available in a reference access offer, including provisions related to the type of access to be provided, the price of access, terms and conditions relating to matters other than price, and the level of detail required and the manner of publication.

(4) The Authority may impose changes to reference access offers to give effect to the obligations imposed under these regulations.

Transitory provisions. *Added by: L.N. 408 of 2012.*

64M. Any directives and decisions howsoever described issued by the Authority and in force prior to the coming into force of these regulations shall continue to be in force until revoked or amended by the Authority.

Amended by: L.N. 28 of 2009; L.N. 408 of 2012.

Part X

Miscellaneous

Exceptions to clearance and delivery obligations. *Amended by: L.N. 457 of 2010; L.N. 154 of 2014.*

65. Any exception or derogation granted by the Authority in accordance with article 17(2) of the Act shall be communicated to the European Commission and to all other national regulatory authorities.

Mail integrity. *Amended by: L.N. 457 of 2010.*

66. The Authority may issue directives to a postal operator to ensure the protection of the integrity of mail:

Provided that before issuing any such directives the Authority may consult with such interested parties as it deems appropriate in the circumstances.

Access. *Amended by: L.N. 457 of 2010.*

67. (*Deleted by Legal Notice 408 of 2012*).

No exemption from the need to obtain any other permit, etc.

68. Nothing in these regulations shall exempt any person from the obligation to diligently obtain at his own expense any permit, licence or other approval or authorisation however so described, necessary to operate and maintain the postal services or any part thereof to which these regulations apply, or from the obligation of complying with any condition of any such permit, licence or other approval or authorisation.

FIRST SCHEDULE
(Regulations 46 and 47)

Substituted by:
L.N. 423 of 2007.
Amended by:
L.N. 28 of 2009;
L.N. 457 of 2010;
L.N. 408 of 2012.
Substituted by:
L.N. 1 of 2014.

Fees to be paid on an annual basis

The fees listed in this Schedule shall be applicable as from the 1st January 2014

	Fees
(*a*) Fees to be paid by operators who are authorised in accordance with regulation 46 to provide postal services both within and outside the scope of the universal services: Provided that if in the opinion of the Authority, an operator does not, within a reasonable timeframe given by the Authority, provide adequate and satisfactory information on the total gross revenue generated from the provision of postal services within the scope of the universal service, the Authority may establish an alternative mechanism to determine the total fees due in line with the principles of proportionality and reasonableness.	€5,000 or one and one half per cent (1.5%) of the total gross revenue from postal services within the scope of the universal service, whichever amount is the higher.
(*b*) Fees to be paid by operators who are authorised in accordance with regulation 47 to provide postal services which are outside the scope of the universal services.	€150; Provided that an operator who demonstrates to the satisfaction of the Authority that its annual gross revenue does not exceed €24,300 shall be exempt from the payment of any such fees.

Added by:
L.N. 457 of 2010.
Substituted by:
L.N. 154 of 2014.

SECOND SCHEDULE
(Regulation 43A)

Guidance on calculating the net cost, if any, of universal service in accordance with the Postal Directive

Part A: Definition of the universal service obligations

Universal service obligations refer to the obligations, referred to in article 17 of the Act, placed upon a postal service provider by a Member State which concern the provision of a postal service throughout a specified geographical area, including, where required, uniform prices in that geographical area for the provision of that service or provision of certain free services for blind and partially sighted persons.

These obligations may include, among others, the following:

- a number of days of delivery, superior to those set in this Directive;
- accessibility to access points, in order to satisfy the universal service obligations;
- the tariffs affordability of the universal service;
- uniform prices for universal service;
- the provision of certain free services for blind and partially sighted persons.

Part B: Calculation of net cost

The Authority shall consider all means to ensure appropriate incentives for postal service providers (designated or not) to provide universal service obligations cost efficiently.

The net cost of universal service obligation is any cost related to and necessary for the operation of the universal service provision. The net cost of universal service obligations is to be calculated, as the difference between the net cost for a designated universal service provider of operating with the universal service obligations and the same postal service provider operating without the universal service obligations.

The calculation shall take into account all other relevant elements, including any intangible and market benefits which accrue to a postal service provider designated to provide universal service, the entitlement to a reasonable profit and incentives for cost efficiency.

Due attention is to be given to correctly assessing the costs that any designated universal service provider would have chosen to avoid, had there been no universal service obligation. The net cost calculation should assess the benefits, including intangible benefits, to the universal service operator.

The calculation is to be based upon the costs attributable to:

(i) elements of the identified services which can only be provided at a loss or provided under cost conditions falling outside normal commercial standards. This category may include service elements such as the services defined in Part A;

(ii) specific users or groups of users who, taking into account the cost of providing the specified service, the revenue generated and any uniform prices imposed by the Authority, can only be served at a loss or under cost conditions falling outside normal commercial standards.

This category includes those users or groups of users that would not be served by a commercial operator that did not have an obligation to provide universal service.

The calculation of the net cost of specific aspects of universal service obligations is to be made separately and so as to avoid the double counting of any direct or indirect benefits and costs. The overall net cost of universal service obligations to any designated universal service provider is to be calculated as the sum of the net costs arising from the specific components of universal service obligations, taking account of any intangible benefits. The Authority shall be responsible for verifying the net cost. The universal service provider(s) shall cooperate with the Authority to enable it to verify the net cost.

Part C: Recovery of any net costs of universal service obligations

The recovery or financing of any net costs of universal service obligations may require designated universal service providers to be compensated for the services that they provide under non-commercial conditions. As such compensation involves financial transfers the Authority shall ensure that these are undertaken in an objective, transparent, non-discriminatory and proportionate manner. This means that the transfers result as far as possible in the least distortion to competition and to user demand.

A sharing mechanism based on a fund referred to in regulation 43A of these regulations should use a transparent and neutral mechanism for collecting contributions that avoids a double imposition of contributions falling on both outputs and inputs of undertakings.

The Authority or the independent body administering the fund, as the case may be, is to be responsible for collecting contributions from undertakings, which are assessed as liable to contribute to the net cost of universal service obligations and is to oversee the transfer of sums due to the undertakings entitled to receive payments from the fund.