

I assent.

(L.S.)

GUIDO DE MARCO
President

24th December, 2002

ACT No. XXVII of 2002

AN ACT to amend the Post Office Act, Cap. 254.

BE IT ENACTED by the President by and with the advice and consent of the House of Representatives in the present Parliament assembled and by the authority of the same as follows:

Title and
commencement.

Cap. 254.

1. (1) The short title of this Act is the Post Office (Amendment) Act, 2002, and this Act shall be read and construed as one with the Post Office Act hereinafter referred to as the "principal Act".

(2) This Act shall come into force on such date as the Minister responsible for postal services may by notice in the Gazette appoint, and different dates may be so appointed for different purposes and for different provisions of this Act.

Deletion and
renumbering of
articles of the
principal Act as
amended up to,
and in force on,
1st July, 2001.

2. (1) Articles 5, 5A, 5B, 8, 54 and 56 of the principal Act, as in force on 1st July, 2001, shall be deleted.

(2) The articles of the principal Act as amended up to, and in force on, 1st July, 2001, shall be renumbered as appears in the Schedule to this Act.

(3) Any reference to an article in the principal Act as in force on the 1st July, 2001, shall be deemed and construed to be a reference to the article as renumbered by this Act, and the principal Act is hereby amended accordingly.

(4) References in this Act to an article are references to the relative article as renumbered in virtue of subarticle (2) of this article.

3. (1) The short title of the principal Act shall be deleted and substituted by the words "Postal Services Act".

Amendment of short title and other parts of the principal Act.

(2) In the long title of the principal Act, the words "to the Post Office and" shall be deleted.

(3) The Arrangement of Act of the principal Act shall be deleted and substituted by the following:

"ARRANGEMENT OF ACT"

	Articles
Part I Preliminary	1 - 2
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SCHEDULES

First Schedule	Declaration
Second Schedule	Printed Matter Appeals Board
Third Schedule	Accounting procedures

(4) In article 1 of the principal Act, for the words "Post Office Act" there shall be substituted the words "Postal Services Act".

4. Article 2 of the principal Act shall be amended as follows:

Amendment of article 2 of the principal Act.

(a) immediately before the definition of "fictitious stamp" there shall be inserted the following new definitions:

"access points" means physical facilities, including letter boxes provided for the public either on streets, public way or at the premises of the postal operator, where postal articles may be deposited with the public postal network by customers;

"article of correspondence" means a communication in written form on any kind of physical medium to be conveyed and delivered at the address indicated by the sender on the article itself or on its wrapping but does not include books, catalogues,

newspapers and periodicals;

"authorisation" includes any licence issued under this Act to operate or provide postal services and includes general authorisations and individual licences as defined under this article;

"authorised provider" means any person who holds a valid licence or authorisation to operate or provide postal services;

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"Authority" means the Malta Communications Authority established under the Malta Communications Authority Act;

"basic counter service" means a network of access points distributed throughout Malta providing postal services including the sale of stamps, registration of mail, parcel collection and delivery;

"clearance" means the operation of collecting postal articles deposited at access points;

"cross-border mail" means mail to or from another country;

"customs duty" includes value added tax or any other tax where payable upon importation;

"data protection" includes personal data protection, the confidentiality of information transmitted, shared or stored, and protection of privacy;

"direct mail" means a communication consisting solely of advertising, marketing or publicity material and comprising an identical message, except for the addressee's name, address and identifying number as well as other modifications which do not alter the nature of the message, which is sent to a significant number of addressees, to be conveyed and delivered at the address indicated by the sender on the article itself or on its wrapping and includes cross-border as well as inland mail. Bills, invoices, financial statements or other non-identical messages and communications combining direct mail with other articles within the same wrapping shall not be included as direct mail;

"distribution" means the process from sorting at the

distribution centre to delivery of postal articles to their addressees;

"document exchange" means provision of means, including the supply of *ad hoc* premises as well as transportation by a third party, allowing self-delivery by mutual exchange of postal articles between users subscribing to this service;

"essential requirements" means general non-economic reasons which can induce the Government to impose conditions on the supply of postal services. Such reasons are the confidentiality of correspondence, security of the network as regards the transport of dangerous goods and, where justified, data protection, environmental protection and regional planning:"

(b) immediately after the definition of "Gazette" there shall be inserted the following new definition:

"general authorisation" means an authorisation which does not require that the postal operator concerned obtain an explicit decision by the Authority before exercising the rights stemming from the authorisation, irrespective of whether such authorisation is granted to all persons or persons of a class and of whether the authorisation requires registration or declaration procedure:"

(c) immediately after the definition of "Government" there shall be inserted the following new definition:

"individual licence" means an authorisation which is granted by the Authority and which gives a person specific rights or which subjects that person's operations to specific obligations granted where the person concerned is not entitled to exercise the said rights before a decision is given by the Authority:"

(d) immediately after the definition of "inland" there shall be inserted the following new definitions:

"insured article" means a service insuring a postal article up to the value declared by the sender in the event of loss, theft or damage;

"interested parties" includes licensed postal service operators, manufacturers, registered consumer associations registered in accordance with the Consumer Affairs Act and any postal users' groups duly recognised as such by the Authority which groups must satisfy any criteria that the Authority with the consent of the Minister may by notice in the Gazette prescribe:";

(e) immediately after the definition of "letter" there shall be added the following new definition:

"letter-box" includes every pillar box, wall box, and every other box or receptacle provided under the permission of the Authority for the purpose of receiving postal articles:";

(f) for the definition of "mail ship", there shall be substituted the following:

"mail ship" means any ship or aircraft employed for the conveyance of mail, pursuant to a contract or arrangement made by a postal operator or by an entity performing similar functions in another country:";

(g) the definition of "officer of the Post Office" shall be deleted;

(h) after the definition of "Minister" there shall be inserted the following new definition:

"officer of a postal operator" includes every person employed in any business carried by a postal operator or is acting for or on behalf of a postal operator:";

(i) for the definition of "Post Office", there shall be substituted the following:

"post office" includes any branch or subdivision of a postal operator, and any house, building, room, vehicle, place or device used for the purposes of the postal operator, and any letter-box:";

(j) the definition of "post office letter box" shall be deleted;

(k) in the definition of the word "postage" the words "the duty" shall be substituted by the words "the fees";

- (l) for the definition of the words "postal article" there shall be substituted the following:

"postal article" means an article addressed in the final form in which it is to be carried by a postal operator. In addition to articles of correspondence, such articles also include, books, catalogues, newspapers, periodicals and postal packages containing merchandise with or without commercial value;"

- (m) after the definition of "postal article" there shall be inserted the following new definitions:

"postal operator" means any person licensed to supply postal services in Malta and between Malta and other countries and includes any person who carries on within or outside Malta any business or activity relating to postal services including any services that are ancillary to postal services;

"postal services" means services involving the clearance, sorting, transport and delivery of postal articles;

"Postal Services Appeals Board" and "Appeals Board" means the Postal Services Appeals Board established under article 4;"

- (n) the definition of "Postmaster-General" shall be deleted;

- (o) after the definition of "postcard" there shall be inserted the following new definitions:

"prescribed" means prescribed by regulations made under this Act;

"printed matter" includes any newspaper and any record, tape, film or other means whereby words or visual images may be heard, perceived or reproduced;"

- (p) after the definition of "prohibited" there shall be inserted the following new definitions:

"public postal network" means the system of organisation and resources of all kinds used by the universal service provider for the purposes in particular of:

- (i) the clearance of postal articles covered

by a universal service obligation from access points throughout Malta,

(ii) the routing and handling of those articles from the postal network access point to the distribution centre,

(iii) distribution to the addresses shown on articles;

"registered article" means a service providing a flat-rate guarantee against risks of loss, theft or damage and supplying the sender, where appropriate upon request, with proof of the handing in of the postal article or of its delivery to the addressee;

"reserved services" means the services so described in article 20;

"sender" means a legal or natural person responsible for originating postal articles;

"terminal dues" means the remuneration of the universal service provider for the distribution of incoming cross-border mail comprising postal articles from another country;

"universal service provider" means the public or private entity providing the universal postal service within Malta as may be designated by the Minister by notice in the Gazette;

"users" means any legal or natural person benefiting from universal service provision as a sender or an addressee;

"working day" means a day which is not a Sunday or public holiday;

Substitution of
certain words in
the principal
Act.

5. (a) The word "Postmaster-General" wherever it occurs in the principal Act, unless provided otherwise in this Act, shall be substituted by the word "Authority".

(b) The words "the Post Office" wherever they occur in the principal Act, unless otherwise provided in this Act, shall be substituted by the words "a post office", and the words "officer of the Post Office" wherever they occur in the principal Act, unless provided otherwise in this Act, shall be substituted by the words

"officer of a postal operator".

6. The heading to Part II of the principal Act shall be substituted by the following: "REGULATION AND ADMINISTRATION OF POSTAL SERVICES".

Substitution of heading to Part II of the principal Act.

7. Article 3 of the principal Act shall be substituted by the following:

Substitution of article 3 of the principal Act.

"Regulatory authority.

3. (1) The Authority is designated as the competent regulatory authority for the postal sector and shall monitor and ensure compliance with this Act and any regulations made thereunder.

(2) The Authority shall interpret the term "significant number of addressees" in relation to direct mail and publish by notice in the Gazette an appropriate definition from time to time.

(3) For the purposes of its functions under this Act or any regulations made thereunder the Authority may:

(a) require any postal operator to provide any information as the Authority may require;

(b) enter and search any premises where postal operations may be conducted other than premises used exclusively as a place of residence. No entry and search shall be conducted between seven in the evening and seven in the morning;

Provided that when required, the officer of the Authority, in undertaking such functions, shall produce a written authorisation signed by the Chairman of the Authority. The Authority may furthermore request the assistance of the Police in the performance of such functions."

8. Article 4 of the principal Act shall be substituted by the following:

Substitution of article 4 of the principal Act.

"Postal Services Appeal Board.

4. (1) There shall be a Postal Services Appeals Board, consisting of three members, of whom one, who shall be the chairperson, shall be a person who has practised as an advocate for not less than seven years.

(2) The members of the Appeals Board shall be appointed by the Prime Minister for a period not exceeding three years, and shall be eligible for re-appointment.

(3) A person shall not be qualified to be appointed as, or to remain a member of the Appeals Board if he is a serving judge or magistrate or a member of the House of Representatives or of a Local Council or a public officer.

(4) A member of the Appeals Board shall be disqualified from hearing an appeal in such circumstances as would disqualify a judge in a civil suit; and in any such case he shall be substituted by another person appointed for the purpose by the Prime Minister.

(5) A member of the Appeals Board may be removed from office by the Prime Minister on the grounds of gross negligence, conflict of interest, incompetence, or acts or omissions unbecoming a member of the Appeals Board.

(6) The Minister shall designate a person to serve as secretary to the Appeals Board and such person shall serve in such capacity in accordance with ethical standards which conform to public service values.

(7) A member of the Board shall not, for a period of one year following the termination of his appointment, engage in any activity which would have been incompatible with the exercise of his function had he been a member of the Board."

Addition of new articles 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 to the principal Act.

9. The following new articles 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 shall be added after article 4 of the principal Act:

"Functions and procedure of the Postal Services Appeal Board.

5. (1) An aggrieved person may appeal any final decision given by the Authority in the exercise of its functions by and under this Act, before the Appeals Board:

Provided that a decision of the Authority to impose an administrative fine under this Act may only be contested in accordance with the procedure as may be stipulated under this Act.

(2) An appeal to the Appeals Board may be filed on any of the following grounds -

(a) that a material error as to the facts has been made;

(b) that there was a material procedural error;

(c) that an error of law has been made;

(d) that there was some material illegality, including unreasonableness or lack of proportionality;

Provided that a party in making an appeal to the Appeals Board shall also explain its juridical interest in impugning the decision appealed from.

(3) The Appeals Board shall give reasons for its decision and shall cause such decisions to be made public.

(4) In determining an appeal under this article the Appeals Board may:

(a) dismiss the appeal;

(b) annul the decision,

and where the Appeals Board annuls the decision it may refer the matter to the Authority or the Minister (as the case may be) with a direction to reconsider it and reach a decision in accordance with the findings of the Appeals Board.

(5) The effect of a decision to which an appeal relates shall not, except where the Appeals Board or the Court of Appeal (Inferior Jurisdiction), as the case may be, so orders, be suspended in consequence of the bringing of the appeal.

(6) In the exercise of its functions, the Appeals Board may summon any person to appear before it and give evidence and produce documents; and the chairperson shall have the power to administer the oath. The Appeals Board may also appoint experts to advise it on any technical issue that may be relevant to its decision.

(7) For the purpose aforesaid the Appeals Board shall have the same powers as are competent to the First Hall, Civil Court according to law.

(8) The procedure to be followed before the Appeals Board, the time within which and the manner in which an appeal to the Board is to be made shall be such as may be prescribed; and subject thereto and to any other applicable provision of this Act, the Board may establish its own procedure.

Appeal to the
Court of Appeal
(Inferior
Jurisdiction).

6. (1) Any party to an appeal before the Appeals Board who feels aggrieved by a decision of the Board, or the Authority if it feels dissatisfied with any such decision, may on a question of law appeal to the Court of Appeal (Inferior Jurisdiction) by means of an application filed in the registry of that court within thirty days from the day when the decision is delivered by the Appeals Board.

(2) The Minister responsible for justice may by regulations under this subarticle establish fees payable in the registry of the court for the filing of judicial acts under this article in the Court of Appeal (Inferior Jurisdiction):

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Provided that until such fees are so established by the Minister, the fees contained in Schedule A to the Code of Organization and Civil Procedure shall apply.

(3) The board established under article 29 of the Code of Organization and Civil Procedure may make rules governing applications under this article.

Requirement of
authorisation for
postal services.

7. (1) No person shall provide postal services in Malta unless he is an authorised provider.

(2) An authorisation granted to a person under this Act shall not relieve such person from the requirement of any other licence or other authorisation, or from any obligation arising under any other law.

(3) The provisions of this article shall not be contravened by any activities listed as being exempt from the said provisions in regulations which the Minister after consultation with the Authority may from time to time prescribe.

Individual licences
and general
authorisations.

8. (1) An authorisation to operate or provide postal services may be granted:

(a) by individual licence granted by the Authority in accordance with this Act -

(i) in respect of reserved services as defined in article 20; and

(ii) to the extent necessary in order to guarantee compliance with essential requirements and to safeguard the universal service, in respect of services which are not reserved services but which are within the scope of the universal services as defined in article 17(5);

(b) in accordance with a general authorisation issued by the Authority in respect of non-reserved services which are outside the scope of the universal services as defined in article 17(5).

(2) The granting of authorisations under this Act may be made subject to conditions imposing:

(i) universal service obligations;

(ii) requirements concerning the quality, availability and performance of the postal services as may be included in such authorisation; and

(iii) obligations not to infringe the exclusive or special rights granted to the universal service provider or providers for the reserved postal services as defined in article 20.

(3) An individual licence granted under this Act may include

(a) such conditions (whether relating to the postal services to which the individual licence relates or otherwise) as appear to the Authority to be requisite or expedient having regard to the duties of the Authority and to the international obligations of Malta;

(b) conditions requiring the payment to the Authority of a fee on the grant of the individual licence or of payments during the currency of the individual licence or both, which fee or payments shall be of such amount or amounts (which may also be determined by reference to the licensee's income, sales or turnover) as may be determined in the individual licence;

and the Authority may, in exercising its powers under this Act, take into account the international obligations of Malta.

(c) in the case of an individual licence granted to all persons or to persons of a class, conditions requiring any person or any person who falls within the class of persons to which the individual licence relates, to notify the Authority of his intention to run postal services under that individual licence;

(d) conditions requiring the licensee to comply with any directives given by the Authority as to matters stated in the individual licence;

(e) conditions requiring the licensee to do or not to do such things as may be specified in the individual licence;

(f) conditions obliging the licensee to refer for determination by the Authority such questions arising under the individual licence as are specified in the individual licence;

(g) such other conditions as may be prescribed.

Grant or refusal of authorisation. 9. (1) The Authority shall complete its investigations within a reasonable time or within such time as may be prescribed and shall thereupon report to the Minister recommending whether the authorisation applied for is to be granted or not.

(2) If the recommendation is that an authorisation is to be granted, and the Minister agrees with the recommendation, the Authority shall approve the application and grant the individual licence under the Minister's signature.

(3) If the Authority is of the opinion that the application should be refused for any of the reasons set out in article 10, it shall inform the Minister accordingly and refuse the authorisation.

(4) If the Authority recommends that the application be approved but the Minister disagrees with such recommendation on any of the grounds indicated in article 10, the application shall be refused.

(5) Decisions of the Authority and of the Minister made in pursuance of this article shall include reasons for the decision and shall be published in the Gazette.

(6) The Authority shall inform the applicant of its decision to grant or refuse an authorisation within twelve weeks from the date when it receives the application in a complete state and drawn up in a manner that complies with the provisions of this Act:

Provided that such period may be extended to up to six months in the following cases:

(a) where there is disagreement between the decision of the Authority and that of the Minister as to whether an authorisation should be issued; or

(b) where an application requires consultation between the Authority and any Government department or other authority with regard to any aspect of the provision of postal services applied for.

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

Grounds for refusal.

10. (1) The Authority may refuse to authorise a person to operate or provide postal services, if it is of the opinion that the grant of the authorisation would -

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

(b) be inconsistent with the provisions of this 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 applying for an individual licence, when he does not demonstrate to the Authority that he fulfils the conditions for the grant of such a licence.

(2) The Authority may also refuse to grant the authorisation applied for if it has grounds to believe that the applicant is not a fit and proper person to hold the authorisation applied for, or is not in a position, because of the financial and other specific circumstances of the applicant, to comply with the provisions of this Act or of any regulations made thereunder or with the conditions of the licence if granted.

(3) The Authority shall communicate in writing to the applicant the decision to refuse an application and it shall set out briefly in writing the reasons for such a decision.

Non-compliance
with conditions of
general
authorisations.

11. (1) Where a person enjoying a general authorisation does not comply with a condition attached to a general authorisation, the Authority may inform that person that he is not entitled to avail himself of the general authorisation and it may impose on that person such measures as may be necessary to ensure compliance by him with the conditions of the general authorisation.

(2) The Authority shall at the same time give such person as referred to in subarticle (1) a reasonable opportunity to state his views on the applications of the conditions and to remedy any breaches within one month from the intervention of the Authority.

(3) If the person as referred to in subarticle (1) remedies the breaches to the satisfaction of the Authority, the Authority shall, within two months of its initial intervention, revoke or modify its decision as it may consider appropriate and it shall give the reasons for its decision.

(4) If the person as referred to in subarticle (1) does not remedy the breaches the Authority shall, within two months of its initial intervention, confirm the decision and give the reasons for its decision. The decision of the Authority shall be communicated within one week of its adoption to the person concerned.

Non-compliance
of individual
licences.

12. (1) Where the beneficiary of an individual licence does not comply with a condition attached to the licence, the Authority may withdraw, amend or suspend the individual licence or impose such measures as it may consider appropriate to ensure compliance.

(2) The Authority shall at the same time give the beneficiary concerned a reasonable opportunity to state his views on the application of the condition and, except in the case of repeated breaches by the said beneficiary (in which case the Authority can immediately take appropriate measures), to remedy any breaches within one month commencing from the date of the intervention of the Authority.

(3) If the beneficiary concerned remedies the breaches the Authority shall within two months from its initial intervention revoke or modify its decision as it deems appropriate and it shall give the reasons for its decision.

(4) If the beneficiary concerned does not remedy the breaches the Authority shall, within two months from its initial intervention, confirm its decision and give the reasons for its decision. The decision shall be communicated within one week from its adoption to the beneficiary concerned.

(5) Decisions of the Authority taken in pursuance of subarticles (3) and (4) shall be appealable to the Appeals Board.

Transferability of
authorisation.

13. (1) No licence or other authorisation, whether it is an individual licence or an entitlement to act under a general authorisation, may be transferred or assigned by the authorised provider to another person without the prior consent in writing of the Authority. The decision of the Authority in this regard shall be communicated in writing, and the Authority shall give the reasons for its decision.

(2) Where the authorised provider is a body corporate or another body of persons, a change in the control of the ownership or management of that body shall be equivalent to the transfer of the authorisation, and shall be subject to the prior consent of the Authority as aforesaid.

Application for
authorisation.

14. (1) Any person seeking an authorisation by means of an individual authorisation shall apply to the Authority on such form and in such manner as may be prescribed, or as may be provided or required by the Authority, and shall provide to the Authority all such information as may be prescribed and as the Authority may require to enable it to assess the application.

(2) The application shall in particular specify the postal service for which it is made and shall include such information as may be prescribed or, in the absence of such prescription, such information as is sufficient to demonstrate that the applicant fulfils the conditions for the grant of the authorisation.

(3) Upon receipt of an application as aforesaid the Authority shall cause the fact that an application has been made, to be published in the Gazette, giving such details as it may deem appropriate to enable any person wishing to make representations about the application.

(4) The Authority shall consider the application after conducting the necessary investigations and considering any representations made in respect thereof, and may for this purpose require from any person any further information it may deem necessary.

(5) Anything to be done under this article shall be done in such form and manner and within such time as may be prescribed."

Amendment of
article 15 of the
principal Act.

10. Article 15 of the principal Act shall be amended as follows:

(a) the words "under article 5A" wherever they occur shall be substituted by the words "under this Act"; and

(b) subarticle (5) thereof shall be deleted.

Addition of new
articles 17, 18,
19, 20, 21, 22,
23, 24, 25, 26,
27 and 28 to the
principal Act.

11. The following new articles 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 shall be added after article 16 of the principal Act:

"Universal
Services.

17. (1) (a) Users at all points in Malta shall enjoy the right to a universal service involving the permanent provision of a postal service of a quality as may be prescribed and, subject to article 21(1), at affordable prices for all users.

(b) The Authority shall issue directives to the universal service provider in respect of the quality of the postal service to be provided hereunder. Before issuing such directives the Authority may consult such interested parties as it deems appropriate in the circumstances.

(c) The Authority shall publish details of any directives under paragraph (b) in the Gazette.

(2) The Authority shall issue directives to the universal service provider, after such consultation with interested parties as it may consider appropriate, to ensure that the density of access points takes account of the needs of users.

(3) (a) The Minister shall, after consultation with the Authority, by notice in the Gazette designate a postal operator as the universal service provider having an obligation to provide all the universal services.

(b) The Minister may, after consultation with the Authority, by notice in the Gazette withdraw, amend or suspend any designation made under paragraph (a), provided that, prior to the effective date of any such withdrawal, the Minister has designated another postal operator under this article in respect of the service concerned affected by such withdrawal.

(4) (a) The universal service provider shall guarantee, on every working day and not less than five days a week, save in circumstances deemed exceptional by the Authority, as minimum:

(i) one clearance,

(ii) one delivery to the home or premises of every person or, by way of derogation, under conditions at the discretion of the Authority, one delivery to appropriate installations.

(b) The Authority may issue directives to a universal service provider, after such consultation with interested parties as it may deem appropriate, for the purpose of ensuring compliance by the provider with its obligations under paragraph (a) and with the requirements set out in article 18.

(5) Universal service shall include the following minimum facilities:

(a) the clearance, sorting, transport and distribution of postal articles up to two kilogrammes;

(b) the clearance, sorting, transport and distribution of postal packages up to ten kilogrammes;

(c) services for registered articles;

(d) services for insured articles within Malta and to and from all countries which, as signatories to the Convention of the Universal Postal Union, declare their willingness to admit such articles whether reciprocally or in one direction only; and

(e) a basic counter service throughout Malta.

(6) The minimum and maximum dimensions for postal articles in question shall be those laid down in the 1994 Seoul Convention and the Agreement concerning Postal Parcels adopted by the Universal Postal Union or by any other convention as the Minister may prescribe.

(7) The universal service as defined in this article shall cover both inland and cross-border services.

Requirements of
universal service.

18. The universal service provider shall meet the following requirements with respect to provision of the universal service:

(a) the service shall guarantee compliance with the essential requirements;

(b) an identical service shall be offered to users under comparable conditions;

(c) the service shall be made available without any form of discrimination whatsoever, especially without discrimination arising from political, religious or ideological considerations;

(d) the service shall not be interrupted or stopped except in cases of *force majeure*; and

(e) the service shall evolve in response to the technical, economic and social environment and to the needs of users.

Information on
universal service.

19. (1) The universal service provider shall provide users with regular, detailed and up to date information on the particular features of the universal service, 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 subarticle (1) shall be published at least annually by the universal service provider in a manner that is to the satisfaction of the Authority.

Reserved services.

20. (1) The services which shall be reserved for the universal service provider designated in accordance with this Act, shall be the clearance, sorting, transport and delivery of articles of inland correspondence, cross-border and direct mail, whether by accelerated delivery or not, the price of which is less than five times the inland public tariff for an article of correspondence in the first weight step of the fastest standard category, provided that they weigh less than 350g:

Provided that such weight or price restrictions shall not apply with regard to a free postal service for the blind or partially sighted persons that may be provided by the universal service provider.

(2) Document exchange shall not be reserved.

(3) The Minister may, after consultation with the Authority, by regulation amend or revoke the weight or price restrictions stated in subarticle (1).

Tariff principles
and transparency
of accounts.

21. (1) The tariffs for each of the services provided by a universal service provider which form part of its universal service shall comply with the following principles:

(a) prices must be affordable and must be such that all users have access to the services provided;

(b) prices must be geared to costs;

(c) with the consent of the Minister, the Authority may decide that a uniform tariff shall be applied throughout Malta;

(d) the application of a uniform tariff shall not exclude the right of the universal service provider to conclude individual agreements on prices with customers;

(e) tariffs must be transparent and non-discriminatory;

(f) whenever a universal service provider applies special tariffs, for example for services for business, bulk mailers or consolidators of mail from different customers, it shall apply the principles of transparency and non-discrimination with regard both to the tariffs and to the associated conditions. The tariffs shall take account of the avoided costs, as compared to the standard service covering the complete range of features offered for the clearance, transport, sorting and delivery of individual postal articles and together with the associated conditions, shall apply equally both as between different third parties and as between third parties and the universal service provider when supplying equivalent services. Any such tariffs shall also be available to private customers who post under similar conditions; and

(g) cross-subsidisation of universal services outside the reserved sector out of revenues from services in the reserved sector shall be prohibited except to the extent to which it is shown to be strictly necessary to fulfil specific universal service obligations imposed in the competitive areas.

(2) Where the Authority is of the opinion that the universal service provider is not complying with the principles laid down in subarticle (1), the Authority may, after consultation with the Minister and, in the case of subarticle (1)(c), with the consent of the Minister, issue directives to the provider for the purposes of satisfying the requirements specified in subarticle (1).

Agreements on terminal dues.

22. (1) In order to ensure the cross-border provision of the universal service, the universal service provider shall, where appropriate international legal frameworks so allow, arrange in its agreements on terminal dues for cross-border mail that the following principles are respected:

(a) terminal dues shall be fixed in relation to the costs of processing and delivering incoming cross-border mail,

(b) levels of remuneration shall be related to the quality of service achieved, and

(c) terminal dues shall be transparent and non-discriminatory.

(2) The Authority may issue directives to the universal service provider, after such consultation with such interested parties as it may deem appropriate, for the purpose of ensuring compliance by the provider with the principles set out in subarticle (1).

(3) The implementation of the principles set out in subarticle (1) may include transitional arrangements, designed to avoid undue disruption on postal markets or unfavourable implications for economic providers of postal services, provided there is agreement between the operators of origin and receipt. Such arrangements shall, however, be restricted to the minimum required to achieve these objectives.

Accounting.

23. The accounting procedures of the universal service provider shall be conducted in accordance with the Third Schedule. The Minister may, after consulting the Authority, by notice in the Gazette amend the Third Schedule.

Quality of service.

24. (1) Quality-of-service standards in relation to the universal service, paying attention in particular, to routing times 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. The Authority may by regulation establish quality standards in respect of cross-border mail.

(2) 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.

Adoption of
quality standards.

25. (1) The Authority shall prescribe quality standards for inland mail. The Minister may after consultation with the Authority require that such standards be compatible with any international standards as the Minister may by order in the Gazette establish.

(2) The Authority shall monitor the performance by a universal service provider of the universal service in accordance with the quality standards for inland mail.

(3) Where the Authority is of the opinion that the performance levels of the universal service provider do not meet or have not met the required standards laid down under subarticle (1), the Authority shall give such directives or orders to ensure that the provider takes corrective action where necessary.

Exemptions from quality standards.

26. (1) Exemptions from any quality standards as may be prescribed in accordance with or under this Act may be determined by the Authority where the Authority is satisfied that exceptional situations relating to infrastructure or geography so require.

(2) The Authority may give directives to the universal service provider to take corrective action where necessary when it considers that quality standards which form part of the universal service are not being met.

Complaints and dispute resolution.

27. (1) In accordance with guidelines which shall be laid down by the Authority, the universal service provider shall draw up transparent, simple and inexpensive procedures to deal with complaints by users, particularly in cases involving non-compliance with service quality standards. These procedures shall enable disputes to be settled fairly and promptly and in an inexpensive manner.

(2) The universal service provider 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.

Consultation with interested parties.

28. (1) The Authority shall take into account the views of interested parties as it may consider appropriate in relation to its functions under this Act or any regulations made thereunder, in accordance with any procedures that the Authority may draw up for that purpose.

(2) Where the Authority establishes any procedures as referred to in subarticle (1), it shall publish notice thereof in the Gazette."

12. Article 29 of the principal Act shall be substituted by the following:

Substitution of article 29 of the principal Act.

"29. The postal operator shall not incur any liability for compensation by reason of loss, misdelivery, or delay of, or damage to, any postal article in the course of transmission by post, unless such compensation -

(a) has been agreed to by the postal operator and the sender, or

(b) has been established by regulations as may from time to time be prescribed under this Act, irrespective of the value of the article:

Provided neither the Authority or any of its officers or any officer of a postal operator shall incur any liability by reason of any such loss, misdelivery, delay, or damage, unless the same has been caused in bad faith or recklessly."

13. In article 30 of the principal Act for the words "of Postmaster-General or of an officer of the Post Office", there shall be substituted the words "of an officer of a postal operator".

Amendment of article 30 of the principal Act.

14. Article 31 of the principal Act shall be amended as follows:

Amendment of the article 31 of the principal Act.

(a) in paragraph (a) thereof, the words "establish the rates of postage and the postal fees" shall be substituted by the words "establish for the reserved services the rates of postage and the postal fees";

(b) in paragraph (c) thereof the word "require" shall be substituted by the word "regulate"; and

(c) paragraph (f) thereof shall be deleted and paragraphs (g) to (i) shall be renumbered respectively (f) to (h).

15. Article 32 of the principal Act shall be amended as follows:

Amendment of article 32 of the principal Act.

(a) in paragraph (a) of subarticle (2) thereof, the words "prescribe the rates of postage and postal fees," shall be substituted with the words "prescribe for the reserved services the rates of postage and postal fees,";

(b) in paragraph (b) of subarticle (2) thereof, the words "require the prepayment of postage and postal fees" shall be substituted with the words "require for the reserved services the

prepayment of postage and postal fees"; and

(c) in paragraph (c) of subarticle (2) thereof, the words "prescribe the postage and postal fees" shall be substituted with the words "prescribe for the reserved services the postage and postal fees".

Amendment of
article 34 of the
principal Act.

16. Article 34 of the principal Act shall be amended as follows:

(a) in subarticle (4) thereof the words "shall be confiscated by the Postmaster-General." shall be substituted by the words "shall be confiscated by the Comptroller of Customs:

Provided that where the postal operator or the Authority have reason to believe that the provisions of this subarticle may have been contravened they shall withhold delivery of the postal article to its addressee and shall inform the Comptroller of Customs accordingly.";

(b) in subarticle (5) thereof the words "may be confiscated, together with their contents, by the Postmaster-General." shall be substituted by the words "may be confiscated, together with their contents, by the Comptroller of Customs:

Provided that where the postal operator or the Authority have reason to believe that the provisions of this subarticle may have been contravened they shall withhold delivery of the postal article to its addressee and shall inform the Comptroller of Customs accordingly.";

(c) in subarticle (6) thereof the words "take proceedings against the Postmaster-General" shall be substituted by the words "take proceedings against the Comptroller of Customs".

Amendment of
article 35 of the
principal Act.

17. Article 35 of the principal Act shall be amended as follows:

(a) in subarticle (4) thereof the words "as he shall think fit" shall be substituted by the words "as the Authority thinks fit";

(b) immediately after subarticle (4) thereof there shall be added the following proviso:

"Provided that where a postal operator has a reasonable cause to suspect that the provisions of subarticle (4) has been contravened, the postal operator

shall not deliver the postal article to its addressee and shall notify the Comptroller of Customs accordingly by the next working day."

18. Article 36 of the principal Act shall be substituted by the following:

Substitution of article 36 of the principal Act.

"Provision of postage stamps.

36. (1) The Minister shall be responsible for the approval of stamp issues and the formulation of a programme in respect of stamp issues. In doing so the Minister shall consult a stamp advisory board consisting of a chairman and not less than four and not more than eight other members appointed by the Minister for a term of not more than three years, which term may be renewed. The Board shall regulate its own procedure in the conduct of its business.

(2) The Minister may, after consultation with the postal operators concerned, by notice published in the Gazette, direct that any postage stamps, in use at the time of such notice, shall be no longer valid for prepayment of postage, and from and after any day stated in such notice, any postal article stamped with postage stamps so invalidated, shall be deemed to be not duly stamped for the purposes of this Act and of any directives or regulations made thereunder;

Provided that any person, having in his possession any postage stamps invalidated by the Minister as aforesaid, may at any time within two months after the day stated in the said notice, surrender the same to a postal operator, who shall exchange them for other valid postage stamps of an equal value.

(3) The Minister may, after consultation with the Authority, make regulations with regard to the activity and functions of the Board."

19. Article 37 of the principal Act shall be amended as follows:

Amendment of article 37 of the principal Act.

(a) in subarticle (1) thereof the words "the Postmaster-General shall deal with the postal article in such manner as he may deem, in the circumstances, appropriate," shall be substituted by the words "the postal operator shall deal with the postal article in such manner as the Authority may deem, in the circumstances, appropriate.":

(b) in subarticle (3) thereof the words "in such manner

as the Postmaster-General may direct," shall be substituted by the words "by the postal operator in such manner as the Authority may direct."

Amendment of article 38 of the principal Act.

20. In article 38 of the principal Act after the words "The Minister" there shall be inserted the words "after consultation with the Authority".

Substitution of article 39 of the principal Act.

21. Article 39 of the principal Act shall be substituted by the following:

"39. The Authority may give directives establishing the manner and times in which postal articles shall be posted and delivered and in particular it may also establish the core hours during which post offices shall open to the public."

Amendment of article 40 of the principal Act.

22. Article 40 of the principal Act shall be amended as follows:

(a) in subarticle (8) thereof the words "twenty liri" and "three liri" shall be substituted respectively with the words "fifty liri" and "ten liri";

(b) in subarticle (9) thereof the word "Postmaster-General" wherever it occurs shall be substituted by the words "postal operator"; and

(c) immediately after subarticle (9) thereof there shall be inserted the following new subarticle:

"(10) A postal operator may also refuse to deliver any postal article where the premises to which it is addressed may be of threat to the health and personal safety of the officer of a postal operator."

Amendment of article 42 of the principal Act.

23. In paragraph (d) of article 42 of the principal Act the word "Postmaster-General" shall be substituted by the words "postal operator".

Amendment of article 43 of the principal Act.

24. Article 43 of the principal Act shall be amended as follows:

(a) the word "Postmaster-General" wherever it occurs in this article shall be substituted by the words "postal operator"; and

(b) the following proviso shall be added after subarticle (2) thereof:

"Provided that any action taken by the postal operator in pursuance of the provisions of this article shall require the prior approval in writing of the Authority."

25. Article 44 of the principal Act shall be substituted by the following:

Substitution of article 44 of the principal Act.

"44. The Authority may by regulation make provision for and otherwise regulate the disposal of postal articles which for any reason cannot be delivered."

26. Article 46 of the principal Act shall be amended as follows:

Amendment of article 46 of the principal Act.

(a) the word "Cap. 215" in the marginal note to the proviso thereof shall be substituted with the words "Cap. 371"; and

(b) the proviso thereto shall be substituted by the following:

"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."

27. Article 47 of the principal Act shall be amended as follows:

Amendment of article 47 of the principal Act.

(a) in paragraph (f) of subarticle (2) thereof the words "by the Postmaster-General" shall be substituted by the words "the postal operator with the prior approval of the Authority"; and

(b) subarticle (3) thereof shall be substituted by the following:

"(3) Notwithstanding the provisions of subarticle (2)(g) relating to lotteries set up or permitted by the Government, the Authority may order a postal operator not to transmit abroad any postal article relating to any such lottery as aforesaid if such article does not conform with instructions relating thereto issued by a competent authority and communicated to the Authority; and in such

case, the postal operator may return it to the sender or otherwise deal with it in accordance with the directives of the Authority."

Amendment of
article 48 of the
principal Act.

28. Article 48 of the principal Act shall be amended as follows:

(a) subarticle (1) thereof shall be substituted by the following:

"(1) Subject to the provisions of this Act, if the Authority has reason to believe that any postal article other than a closed letter has been posted or sent by post in contravention of the provisions of article 47, the Authority may order such postal article to be detained and opened and if it is satisfied that any of the provisions of the said article have been contravened, such article may be destroyed:

Provided that when the Authority is satisfied that a postal article addressed to a person legally entitled to provide television broadcasting services in Malta consists of audiovisual material which has been posted or sent by post only for the purpose of its being broadcast on television according to the provisions of the Broadcasting Act and of any regulations made or licence issued thereunder, it shall, notwithstanding the provisions of this article and of article 47, direct the postal operator to deliver such postal article to the addressee without further examination or censorship.";

(b) subarticle (2) thereof shall be renumbered as subarticle (5); and

(c) after subarticle (1) thereof there shall be added the following new subarticles:

"(2) Any postal article which is reasonably believed to be of a seditious nature shall be so detained, opened and disposed of by the postal operator with the approval of the Authority. In doing so the postal operator shall also act in accordance with any enactment relating to sedition and in such cases the provisions of such enactment shall apply.

(3) Any postal article which is reasonably believed to contain any explosive, dangerous substance or other thing which may expose any person to injury may be

detained and opened by the postal operator and, if found to contain any thing as aforesaid shall, with the approval of the Authority, be destroyed.

(4) Where the postal operator has reason to believe that any postal article has been posted or sent by post in contravention of the provisions of article 47, the postal operator shall withhold delivery of any suspect postal article to the addressee and shall inform the Authority thereof by the next working day."

29. In subarticle (1) of article 49 of the principal Act the words "including any newspaper," shall be deleted. Amendment of article 49 of the principal Act.

30. In article 51 of the principal Act the words "on the demand of the Postmaster-General, be recovered as provided in article 466 of the Code of Organization and Civil Procedure" there shall be substituted the words "on the demand of the postal operator, be recovered as a civil debt." Amendment of article 51 of the principal Act.

31. In article 52 of the principal Act the words "shall be recoverable as if it were postage due under this Act" shall be substituted by the words "shall, without prejudice to the operation of any law in terms of which such duty is due, also be recoverable as if it were postage under this Act." Amendment of article 52 of the principal Act.

32. In article 53 of the principal Act the words "the Post Office of Malta," shall be substituted by the words "a postal operator". Amendment of article 53 of the principal Act.

33. Article 54 of the principal Act shall be amended as follows: Amendment of article 54 of the principal Act.

(a) subarticle (1) thereof shall be substituted by the following:

"(1) Every master of a ship or pilot of an aircraft having on board any postal article or mail bag which is directed to Malta shall, immediately on arriving at any port or place in Malta, cause such postal article or mail bag to be delivered to the postal operator entitled to receive the same."; and

(b) in subarticle (2) thereof the words "to the notice of the Postmaster General" shall be substituted by the words "to the notice of the postal operator concerned."

34. In article 55 of the principal Act the words "Post Office" shall be substituted by the word "Authority". Amendment of article 55 of the principal Act.

Amendment of
article 57 of the
principal Act.

35. In subarticle (1) of article 57 of the principal Act after the words "The Minister" there shall be inserted the words "after consultation with the Authority".

Amendment of
article 58 of the
principal Act.

36. Article 58 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof the words "the Post Office" shall be substituted by the words "the postal operator"; and

(b) in subarticle (2) thereof the words "from the Government." shall be substituted by the words "from the postal operator."

Amendment of
article 59 of the
principal Act.

37. In article 59 of the principal Act after the words "The Minister" there shall be inserted by the words "after consultation with the Authority".

Amendment of
article 60 of the
principal Act.

38. In article 60 of the principal Act the words "such amount shall be recoverable on the demand of the Postmaster-General, as provided in article 466 of the Code of Organization and Civil Procedure." shall be substituted by the words "such amount shall be recoverable as a civil debt on the demand of the postal operator."

Amendment of
article 61 of the
principal Act.

39. In article 61 of the principal Act the words "no action shall lie against the Government or any officer of the Post Office" shall be substituted by the words "no action shall lie against the Government, the Authority or any of its officers, a postal operator or an officer of a postal operator".

Substitution of
article of 62 of
the principal
Act.

40. Article 62 of the principal Act shall be substituted by the following:

"62. (1) Any person who provides or operates any postal services without authorisation under and in accordance with any of the provisions of this Act or in breach of any condition, restriction or limitation imposed by or under this Act or in the instrument containing the authorisation shall be guilty of an offence under this Act and shall be liable to a fine (*multa*) not exceeding ten thousand liri and in the case of a continuing offence not exceeding one hundred liri for each day during which the offence continues:

Provided that any person shall also be deemed to have contravened the provisions of this subarticle if such a person -

(a) performs any service incidental to the conveyance of a postal article in contravention of this subarticle; or

(b) sends, tenders or delivers, in order to be sent, any postal article in contravention of this subarticle; or

(c) makes a collection of postal articles for the purpose of sending them in contravention of this subarticle.

(2) Any person who fails to provide any information as the Authority may require in accordance with this Act, or who furnishes information to the Authority or to the Minister which he knows, or has reasonable cause to believe, to be false or misleading, or impedes or obstructs the Authority or the Minister, in the performance of any function under this Act shall be guilty of an offence under this Act and shall be liable to a fine (*multa*) not exceeding ten thousand liri or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

(3) Any person who assaults or obstructs or impedes any officer, employee or agent of an authorised provider in the exercise of his duties with such authorised provider shall be guilty of an offence under this Act, and shall on conviction be liable to a fine (*multa*) not exceeding one thousand liri or to imprisonment for a period not exceeding one month, or to both such fine and imprisonment.

(4) Any person who uses any service, including the conveyance of any postal article provided by a postal operator, and as a result causes any injury or alarm or is likely to cause any injury or alarm, shall, on conviction, be liable to a fine (*multa*) of not less than two hundred liri and not more than two thousand liri.

(5) Without prejudice to the provisions of this Act, any person who contravenes or fails to comply with any provisions of this Act or of any regulations made or directives given thereunder shall be guilty of an offence against this Act, and shall on conviction be liable to a fine (*multa*) not exceeding one thousand liri and in case of a continuing offence to a further fine (*multa*) not exceeding one hundred liri for every day during which the offence continues."

Addition of new articles 63 and 64 to the principal Act.

41. The following new articles 63 and 64 shall be added after article 62 of the principal Act:

"Authority may suspend or revoke licence, etc.

63. In addition and without prejudice to any of the penalties that may be inflicted under the provisions of this Act, the Authority may suspend or revoke any licence or authorisation issued in favour of a postal operator in accordance with this Act or any regulations made thereunder, where the postal operator has repeatedly contravened any of the provisions of this Act or any regulations or directives made thereunder.

Proceedings for offences.

64. (1) No proceedings for any offence under this Act shall be instituted without the consent in writing of the Authority or at its request.

Cap. 9.

(2) Notwithstanding anything contained in the Criminal Code, an appeal to the court of competent jurisdiction shall lie to the prosecution against any judgement delivered in any proceedings with respect to an offence under this Act.

(3) The Authority may assist in or conduct the prosecution with respect to any offences under this Act or under any regulations made thereunder."

Amendment of article 65 of the principal Act.

42. In article 65 of the principal Act the words "fifty liri" shall be substituted by the words "two hundred liri".

Amendment of article 66 of the principal Act.

43. In subarticle (1) of article 66 of the principal Act the words "one hundred liri" shall be substituted by the words "five hundred liri".

Amendment of article 67 of the principal Act.

44. In article 67 of the principal Act the words "be liable to imprisonment for a term not exceeding three months or to a fine (*multa*) or to both such imprisonment and fine" shall be substituted by the words "be liable to a fine (*multa*) not exceeding five hundred liri or to imprisonment for a term not exceeding three months or to both such a fine and imprisonment."

Substitution of article 68 of the principal Act.

45. Article 68 of the principal Act shall be substituted by the following:

"68. Any person who without any lawful authority makes use of any seal or instrument used by the Authority or by a postal operator for marking any postage stamp shall, on conviction, be liable to a fine (*multa*) not exceeding five hundred liri or to imprisonment for a term not exceeding three months or to both such a fine and imprisonment."

46. In article 69 of the principal Act the words "by the Post Office" shall be substituted by the words "by a postal operator".
Amendment of article 69 of the principal Act.
47. In article 70 of the principal Act the words "fifty liri" shall be substituted by the words "two hundred liri".
Amendment of article 70 of the principal Act.
48. In article 71 of the principal Act the words "one hundred liri" shall be substituted by the words "five hundred liri".
Amendment of article 71 of the principal Act.
49. In article 72 of the principal Act the words "to the Post Office any postal article within the exclusive right conferred on the Postmaster-General by article 5 shall be liable, on conviction, to a fine (*multa*) not exceeding one hundred liri" shall be substituted by the words "to the postal operator concerned any postal article shall be liable, on conviction, to a fine (*multa*) not exceeding five hundred liri".
Amendment of article 72 of the principal Act.
50. In article 73 of the principal Act the words "the Postmaster-General" and "one hundred liri" shall be substituted respectively by the words "the postal operator" and "five hundred liri".
Amendment of article 73 of the principal Act.
51. In article 75 of the principal Act the words "one hundred liri" shall be substituted by the words "five hundred liri".
Amendment of article 75 of the principal Act.
52. In article 77 of the principal Act the words "his duties in the Post Office" shall be substituted by the words "his duties with a postal operator".
Amendment of article 77 of the principal Act.
53. In article 78 of the principal Act the words "all officers of the Post Office" shall be substituted by the words "all officers of the universal service provider".
Amendment of article 78 of the principal Act.
54. The following new articles 80 and 81 shall be added after article 79 of the principal Act:
Addition of new articles 80 and 81 to the principal Act.
80. (1) The licence issued by the Minister to Maltapost p.l.c. with effect from the 1st May 1998 under this Act shall, notwithstanding the repeal of any provisions of this Act in force at the time of issue of the said licence, continue to have effect subject to the provisions of this Act as these may be amended from time to time and until the making in respect thereof of such modifications, adaptations and limitations as the Minister after consulting the Authority may deem necessary or appropriate for the purpose.

"Transitory provisions."

(2) Any modifications, adaptations and limitations to the licence granted to Maltapost p.l.c. with effect from the 1st May 1998 shall be made by the Minister after consultation with the Authority and shall be prescribed in accordance with article 81.

(3) Any order, regulation or legal notice issued in terms of any provisions of this Act and in force on the 1st May 1998 shall, notwithstanding the repeal of any provisions of this Act, continue to be in force and to have effect until repealed or amended in accordance with article 81.

Power to make regulations.

81. (1) The Minister may, after consultation with the Authority, make regulations in respect of any of the functions of the Authority or for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of the aforesaid power, such regulations may in particular provide -

(a) for any matters in respect of licences and other authorisations under this Act, including the establishment of fees and of registration and declaration procedures;

(b) for the minimum standards to be adopted in the provision of postal services including the dimensions of letter boxes and posting slots and matters relating to health and safety, and in the context of "basic counter services" for the variation of the requirements with regard to the minimum postal services that are to be provided;

(c) for the better protection of the interests of users of the postal services and for the establishment of any criteria or procedures to be followed by postal operators in the handling of complaints;

(d) for ensuring fair competition in all practices, operations and activities relating to postal services;

(e) for the undertaking of research or investigation on any matter relating to postal services regulated by or under this Act and the provision of information, the issue of directives or guidelines to the public, to postal operators, and to commercial entities on matters relating to postal services;

(f) for the compliance with any international obligation entered into by Government in relation to any aspect of postal services regulated by or under this Act;

(g) for regulating any aspect of postal services relating to reserved services with regard to the time, manner, place and condition in which or under which such services are to be provided;

(h) for prescribing the information to be retained by any postal operator under this Act and the provision of statistical information by such operators;

(i) for the making of any deposit or the giving of any guarantee to ensure the performance of any obligation by any person imposed as a condition of any licence or authorisation under this Act;

(j) for establishing any criteria on the basis of which postal services users' groups may be recognised in accordance with the provisions of this Act;

(k) for the Authority to be empowered to impose administrative fines or sanctions upon any postal operator acting in contravention of any provisions of this Act or of any regulations or directives made thereunder and provide for the procedure for the imposition and enforcement of such fines which enforcement procedures may include provisions to the effect that any such fines shall constitute an executive title for the effects and purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure:

Provided that the administrative fines provided for by regulations or directives made under this article shall not exceed the sum of five thousand liri for each offence and two hundred liri for each day during which failure to observe the provisions of this Act or of any regulations made thereunder or of any authorisation persists;

(l) for prescribing that any person who acts in contravention of any regulation made under this Act shall be guilty of an offence and for establishing the penalties to which such person may be liable;

Provided that no such penalty shall be greater than a fine (*multa*) exceeding one thousand liri;

(m) for prescribing the manner as to how any notice, instrument, act or document which is required or authorised by or under this Act may be served or given;

(n) for prescribing anything which may be or is required to be prescribed by this Act."

Amendment of
the First
Schedule to the
principal Act.

55. In paragraph (a) of the First Schedule to the principal Act, the words "in the Post Office" shall be substituted by the words "in the postal service".

Amendment of
the Second
Schedule to the
principal Act.

56. The Second Schedule to the principal Act shall be amended as follows:

(a) in paragraph (2) of rule (1) thereof the words "an officer of the Postal Department" shall be substituted by the words "an officer in the public service";

(b) in paragraph (3) of rule 4 thereof the words "at the General Post Office, Valletta" and "make available at the General Post Office" shall be substituted respectively by the words "at such address as the Minister may by notice in the Gazette establish", and "make available at such address as the Minister may by notice in the Gazette establish";

(c) in paragraph (5) of rule 4 thereof the words "by or on behalf of both the Postmaster-General and the appellant" shall be substituted by the words "by or on behalf of the Authority, the postal operator concerned as the case may be and the appellant";

(d) in paragraph (6) of rule 4 thereof the words "to the Postmaster-General and to the appellant;" and "the Postmaster-General and addressee" shall respectively be substituted by the words "to the Authority, to the postal operator concerned as the case may be and to the appellant;" and "the Authority, the postal operator as the case may be and addressee";

(e) in paragraph (7) of rule 4 thereof the words "the

- Postmaster-General shall forthwith release" shall be substituted by the words "the Authority shall forthwith order the release of";

(f) in paragraph (1) of rule 6 thereof the words "the Postmaster-General shall not exercise his powers of detaining them" shall be substituted by the words "the Authority shall not exercise its powers in ordering their detention".

57. After the Second Schedule to the principal Act there shall be added the following:

Addition of
Third Schedule
to the principal
Act.

"THIRD SCHEDULE

(Article 23)

Accounting procedures

1. Subject to article 23 of this Act and in accordance with directives laid down by the Authority, the universal service provider shall keep separate accounts within its accounting system, for each of the services within the reserved sector on the one hand and the non-reserved sector on the other. The accounts for the non-reserved sector shall clearly distinguish between services which are part of the universal service and services which are not. Such internal accounting systems shall operate on the basis of consistently applied and objectively justifiable cost accounting principles.

2. The accounting system referred to in paragraph 1 shall, without prejudice to paragraph 3, allocate costs to each of the reserved and to the non-reserved services respectively in the following manner:

(a) costs which can be directly assigned to a particular service shall be so assigned;

(b) common costs, that is costs that cannot be directly assigned to a particular service, shall be allocated as follows:

(i) whenever possible, common costs shall be allocated on the basis of direct analysis of the origin of the costs themselves;

(ii) when direct analysis is not possible, common cost categories shall be allocated on the basis of an indirect linkage to another cost category or group of cost categories for which a direct assignment or allocation is possible; the indirect linkage shall be based on comparable cost

structures;

(iii) when neither direct nor indirect measures of cost allocation can be found, the cost category shall be allocated on the basis of a general allocator computed by using the ratio of all expenses directly or indirectly assigned or allocated, on the one hand, to each of the reserved services and, on the other hand, to the other services.

3. Other cost accounting systems may be applied only if they are compatible with paragraph 1 and have been approved in advance in writing by the Authority.

4. The universal service provider shall comply with one of the cost accounting systems described in paragraphs 1 and 2 which shall be verified by auditors engaged by the provider and the provider shall publish a statement concerning compliance in two daily newspapers at least once every calendar year.

5. The Authority shall keep available, to an adequate level of detail, information on the cost accounting systems applied by the universal service provider.

6. The Authority may request the universal service provider to provide, in confidence, detailed accounting information arising from such cost accounting systems."

Amendment of
the Tele-
communications
(Regulation)
Act,
Cap. 399.

58. The Telecommunications (Regulation) Act, shall be amended as follows:

(a) in the English text the word "it" shall replace the word "him" as follows: in subarticle (1) of article 13, subarticle (1) of article 26 and subarticle (3) of article 27;

(b) in the English text, the word "its" shall replace the word "his" in subarticles (1) and (2) of article 14;

(c) in the English text, the word "it" shall replace the word "he" in subarticle (1) of article 15 and in article 37;

(d) in the Maltese text, in subarticle (2) of article 14 the word "tieghu," shall be substituted by the word "taghha.";

(e) article 34 shall be amended as follows:

(i) subarticle (5) thereof shall be renumbered as subarticle (7);

(ii) after subarticle (4) there shall be added the following new subarticles:

"(5) A member of the Appeals Board may only be removed from office by the Minister on the grounds of gross negligence, conflict of interest, incompetence, or acts or omissions unbecoming a member of the Appeals Board.

(6) A member of the Board shall for a period of one year following the termination of his appointment not engage in any activity which would have been incompatible with the exercise of his functions as a member of the Board.";

(f) immediately after subarticle (2) of article 35 there shall be added the following:

"Provided that in any case, a person in making an appeal to the Appeals Board shall also explain its juridical interest in impugning the decision appealed from.";

(g) in subarticle (5) of article 39 the words "not exceeding one hundred liri" shall be substituted by the words "not exceeding one thousand liri" and the words "not exceeding twenty liri for every day" shall be substituted by the words "not exceeding two hundred liri for every day";

(h) in paragraph (g) of subarticle (2) of article 38 after the words "any regulations made thereunder" there shall be added the words "and provide for the procedure for the imposition and enforcement of such fines which enforcement procedures may include provisions to the effect that any such fines shall constitute an executive title for the effects and purposes of Title VII of Part I of Book Second of the Code of Organisation and Civil Procedure:"; and

(i) subarticle (1) of article 40 shall be substituted by the following:

"(1) No proceedings for any offence under this Act other than offences under paragraph (d) of subarticle (1) of article 39 shall be instituted without the consent of the Authority or at its request."

59. The Electronic Commerce Act shall be amended as follows:

Amendment of
the Electronic
Commerce Act,
Cap. 426.

(a) in article 2 thereof, in the definition of "competent authority", the words "of article 20;" shall be substituted by the words "of article 17;"

(b) subarticle (1) of article 5 shall be amended as follows:

(i) paragraph (c) of subarticle (1) thereof shall be renumbered as paragraph (d);

(ii) after paragraph (b) of subarticle (1) thereof there shall be added the following new paragraph:

"(c) if the information is required to be given to a person who is neither a public body nor to a person acting on behalf of a public body, then the person to whom the information is required or permitted to be given, consents to the information being given by means of an electronic communication;" and

(c) subarticle (1) of article 7 shall be amended as follows:

(i) paragraph (c) of subarticle (1) thereof shall be renumbered as paragraph (d);

(ii) after paragraph (b) of subarticle (1) thereof there shall be added the following new paragraph:

"(c) if the document is required to be produced to a person who is neither a public body nor to a person acting on behalf of a public body, then the person to whom the document is required to be produced, consents to the production by means of an electronic communication of an electronic form of the document;"

SCHEDULE IN TERMS OF ARTICLE 2(2) OF THIS ACT

Re-numbering of articles thereof

As in force on 1st July, 2001	As renumbered by this Act
1	1
2	2
3	3
4	4
-	5
-	6
-	7
-	8
-	9
-	10
-	11
-	12
-	13
-	14
5	(deleted)
5A	(deleted)
5B	(deleted)
5C	15
6	16
-	17
-	18
-	19
-	20
-	21
-	22
-	23
-	24
-	25
-	26
-	27
-	28
7	29
8	(deleted)
9	30
10	31
11	32

12	33
13	34
14	35
15	36
16	37
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-	64
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47	70
48	71
49	72

50	73
51	74
52	75
53	76
54	(deleted)
55	77
56	(deleted)
57	78
58	79
-	80
-	81

Passed by the House of Representatives at Sitting No. 841 of the
17th December, 2002.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives