

L.N. 457 of 2010

**POSTAL SERVICES ACT
(CAP. 254)**

Postal Services (General) (Amendment) Regulations, 2010

IN exercise of the powers conferred by article 81 of the Postal Services Act, the Minister for Infrastructure, Transport and Communications, after consultation with the Malta Communications Authority, has made the following regulations:

- 1.** The title of these regulations is the Postal Services (General) (Amendment) Regulations, 2010 and they shall be read and construed as one with the Postal Services (General) Regulations, 2005, hereinafter referred to as “the principal regulations”.

Title.
L.N. 328 of 2005.
- 2.** Sub-regulation (2) of regulation 2 of the principal regulations shall be amended as follows:

Amends regulation 2 of the principal regulations.

 - (a) immediately before the definition “money order exchange arrangement” there shall be inserted the following new definition:

“ “Member State” means any member state of the European Union;”;
 - (b) the definition “parcel” shall be deleted; and
 - (c) the definition “scheme” shall be deleted.
- 3.** Regulation 5 of the principal regulations shall be amended as follows:

Amends regulation 5 of the principal regulations.

 - (a) the words “article 47 of the Act” shall be substituted with the words “article 66 of the Act”; and
 - (b) paragraph (i) thereof shall be deleted and paragraph (j) shall be renumbered as paragraph (i).
- 4.** Immediately after regulation 7 of the principal regulations there shall be added the following new regulations:

Adds new regulations 7A to 7G to the principal regulations.

“Fictitious or
used postage
stamps.

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.

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:

Provider 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.

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 paragraphs (a) and (b) of sub-regulation (1) 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.

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.

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.

7F. A person shall not enter upon the duties of an officer of a postal operator unless he has first made on oath, the declaration contained in the Second Schedule.

Secrecy.

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.

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 noncompliance 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.”.

5. Regulation 8 of the principal regulations shall be added as follows:

Amends regulation
8 of the principal
regulations.

(a) the words “regulations 9 to 43” shall be substituted with the words “regulations 9 to 43A”;

(b) the words “article 17(6) of the Act.” shall be substituted with the words “article 17(5) of the Act.”.

Amends regulation
9 of the principal
regulations.

6. In regulation 9 of the principal regulations, the words “The universal service provider” shall be substituted with the words “The universal service provider or providers as the case may be”.

Amends regulation
10 of the principal
regulations.

7. In regulation 10 of the principal regulations, the words “the universal service provider” wherever they occur shall be substituted with the words “the universal service provider or providers as the case may be”.

Amends regulation
11 of the principal
regulations.

8. In regulation 11 of the principal regulations, the words “the universal service provider” wherever they occur shall be substituted with the words “the universal service provider or providers as the case may be”.

Amends regulation
12 of the principal
regulations.

9. In regulation 12 of the principal regulations the words “the universal service provider” shall be substituted with the words “the universal service provider or providers as the case may be”.

Amends regulation
13 of the principal
regulations.

10. In regulation 13 of the principal regulations the words “the universal service provider” shall be substituted with the words “the universal service provider or providers as the case may be”.

Amends regulation
14 of the principal
regulations.

11. Regulation 14 of the principal regulations shall be amended as follows:

(a) the words “the universal service provider” shall be substituted with the words “the universal service provider or providers as the case may be”;

(b) the words “articles 33 to 35 of the Act” shall be substituted with the words “articles 33 to 35B of the Act”.

Amends regulation
15 of the principal
regulations.

12. In sub-regulation (2) of regulation 15 of the principal regulations the words “the universal service provider” shall be substituted with the words “the universal service provider or providers as the case may be”.

Amends regulation
16 of the principal
regulations.

13. In regulation 16 of the principal regulations the words “the universal service provider” shall be substituted with the words “the universal service provider or providers as the case may be”.

Substitution of
regulation 17 of the
principal regulations.

14. Regulation 17 of the principal regulations shall be substituted with the following:

“Postal articles addressed to a deceased person.

17. When a postal operator is satisfied that a postal article is addressed to a deceased person, it may, at its discretion, either:

(a) immediately deliver or redirect such postal article upon a legitimate request in writing by –

(i) the executors named in the will of the addressee, or

(ii) the surviving spouse of the addressee, or

(iii) the heirs of the addressee, or

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

(v) any other interested person; or

(b) retain such postal article for a maximum period of three months from the date of a written request by any person entitled at law, to enable such person to produce any evidence as may be required to demonstrate that he has a legitimate interest to request the delivery or redirection of the postal article in question:

Provided that if in terms of paragraph (b) no request in writing is received or if the required evidence is not produced within the aforesaid three month period, the postal article shall be treated as undeliverable 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 paragraph (b) of this regulation and shall be treated as undeliverable and dealt with as provided in these regulations.”.

15. In regulation 18 of the principal regulations the words “satisfies the universal service provider that he has reasonable

Amends regulation 18 of the principal regulations.

grounds for such claim and, gives notice to the universal service provider” shall be substituted with the words “satisfies any universal service provider so designated that he has reasonable grounds for such claim and, gives notice to such universal service provider”.

Amends regulation
20 of the principal
regulations.

16. Regulation 20 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof the words “the universal service provider shall notify in writing” shall be substituted with the words “the universal service provider concerned shall notify in writing”;

(b) paragraphs (a) and (b) of sub-regulation (1) thereof shall be substituted with the following:

“(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.”.

Amends regulation
21 of the principal
regulations.

17. In sub-regulation (3) thereof the words “the universal service provider” wherever they occur shall be substituted with the words “the universal service provider concerned”.

Amends regulation
22 of the principal
regulations.

18. Regulation 22 of the principal regulations shall be amended as follows:

(a) in sub-regulation (2) thereof the words “as the universal service provider may, in the circumstances, deem appropriate:” shall be substituted with the words “as the universal service provider concerned may, in the

circumstances, deem appropriate:”, and the words “as the universal service provider may deem appropriate, unless the sender has requested” shall be substituted with the words “as such universal service provider may deem appropriate, unless the sender has requested”; and

(b) in sub-regulation (3) thereof the words “the universal service provider” wherever they occur shall be substituted with the words “the universal service provider concerned”.

19. In regulation 23 of the principal regulations the words “The postal services that the universal service provider is required to provide shall include the following:” shall be substituted with the words “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:”.

Amends regulation 23 of the principal regulations.

20. In regulation 24 of the principal regulations the words “the universal service provider” shall be substituted with the words “the universal service provider or providers so designated”.

Amends regulation 24 of the principal regulations.

21. Immediately after regulation 24 of the principal regulations there shall be added the following new regulations:

Adds new regulations 24A and 24B to the principal regulations.

“Quality of service standards in relation to the universal service.

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 its powers at law.

Information
on universal
service.

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.”.

Amends regulation
25 of the principal
regulations.

22. In sub-regulation (2) of regulation 25 of the principal regulations the words “the universal service provider” shall be substituted with the words “the universal service provider concerned”.

Amends regulation
27 of the principal
regulations.

23. In paragraph (c) of sub-regulation (1) of regulation 27 of the principal regulations the words “in the opinion of the universal service provider” shall be substituted with the words “in the opinion of the universal service provider so designated”.

Amends regulation
28 of the principal
regulations.

24. Regulation 28 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof the words “by an officer of the universal service provider” shall be substituted with the words “by an officer of the universal service provider concerned”;

(b) in sub-regulation (2) thereof the words “An application to the universal service provider for redirection” shall be substituted with the words “An application for redirection to the universal service provider concerned”; and

(c) in sub-regulation (3) thereof the words “if it is either handed to an officer of the universal service provider or dropped in a letter box of the universal service provider with an indication of the new address:” shall be substituted with the words “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:”.

25. In regulation 29 of the principal regulations the words “The universal service provider” shall be substituted with the words “The universal service provider so designated”. Amends regulation 29 of the principal regulations.

26. In regulation 30 of the principal regulations the words “The universal service provider” shall be substituted with the words “The universal service provider so designated”. Amends regulation 30 of the principal regulations.

27. In regulation 31 of the principal regulations the words “The universal service provider” shall be substituted with the words “The universal service provider so designated”. Amends regulation 31 of the principal regulations.

28. In regulation 32 of the principal regulations the words “The universal service provider” shall be substituted with the words “The universal service provider so designated”. Amends regulation 32 of the principal regulations.

29. In regulation 33 of the principal regulations the words “the universal service provider” shall be substituted with the words “the universal service provider concerned”. Amends regulation 33 of the principal regulations.

30. In regulation 34 of the principal regulations the words “the universal service provider” shall be substituted with the words “the universal service provider concerned”. Amends regulation 34 of the principal regulations.

31. The proviso to regulation 35 of the principal regulations shall be substituted with the following: Amends regulation 35 of the principal regulations.

“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.”.

32. In regulation 36 of the principal regulations the words “the universal service provider” shall be substituted with the words “the universal service provider so designated”. Amends regulation 36 of the principal regulations.

Amends regulation
38 of the principal
regulations.

33. In sub-regulation (2) of regulation 38 of the principal regulations the words “the universal service provider” shall be substituted with the words “the universal service provider so designated”.

Substitution of
regulation 39 of the
principal regulations.

34. Regulation 39 of the principal regulations shall be substituted with the following:

“Application
for private
delivery box.

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.”.

Amends regulation
40 of the principal
regulations.

35. In regulation 40 of the principal regulations the words “The universal service provider shall make available” shall be substituted with the words “The universal service provider so designated shall make available”.

Amends regulation
42 of the principal
regulations.

36. Regulation 42 of the principal regulations shall be amended as follows:

(a) in subsregulation (1) thereof the words “the universal service provider shall, at least once every calendar year, submit” shall be substituted with the words “any universal service provider shall, at least once every calendar year, submit”;

(b) sub-regulation (2) thereof shall be substituted with the following:

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

(c) sub-regulation (3) thereof shall be deleted.

Amends regulation
43 of the principal
regulations.

37. Regulation 43 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof the words “the universal service provider may make schemes in relation to the postal services provided by it:” shall be substituted with the words “any universal service provider may make schemes in relation to the postal services provided by it:”;

(b) in paragraphs (a) and (b) of sub-regulation (1) thereof, the words “the universal service provider” wherever they occur shall be substituted with the words “the universal service provider concerned”;

(c) in sub-regulation (3) thereof, the words “the universal service provider” shall be substituted with the words “the universal service provider concerned”; and

(d) in sub-regulation (5) thereof the words “Any obligations undertaken by the universal service provider” shall be substituted with the words “Any obligation undertaken by a universal service provider”.

38. Immediately after regulation 43 of the principal regulations there shall be added the following new regulation:

Adds new regulation 43A to the principal regulations.

“Burden sharing in relation to the provision of universal services.

43A. (1) Where the Authority determines that the universal service obligations entail a net cost calculated taking into account the Second Schedule of the Act, and represent an unfair financial burden on the universal service provider or providers, it may make a recommendation to the Minister to introduce by notice in the Gazette:

(a) a mechanism to compensate the operator or operators concerned from public funds; or

(b) a mechanism for the sharing of the net cost of the universal service obligations between providers of services and, or users.

(2) Where the net cost is shared in accordance with paragraph (b) of sub-regulation (1), the Minister, in consultation with the Authority, may establish a compensation fund which may be funded by service providers and, or users’ fees, and is administered for this purpose by the Authority.

(3) 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 paragraph (b) of sub-regulation (1):

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

Amends regulation 49 of the principal regulations.

39. In regulation 49 of the principal regulations and in the marginal note thereof, the word “notification” wherever it occurs shall be substituted by the words “notification and application” and the words “regulation 48” wherever they occur shall be substituted by the words “regulations 45 to 48”.

Adds new regulation 49A to the principal regulations.

40. Immediately after regulation 49 of the principal regulations there shall be added the following new regulation:

“Requirements and controls.

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.”.

Adds new regulation 51A to the principal regulations.

41. Immediately after regulation 51 of the principal regulations there shall be added the following new regulation:

“Official mark
to be evidence
of postage
paid.

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.”.

42. Regulation 52 of the principal regulations shall be amended as follows:

Amends regulation 52 of the principal regulations.

(a) the words “sold at their face value.” shall be substituted with the words “sold at their face value:”; and

(b) immediately thereafter there shall be added the following proviso thereto:

“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.”.

43. Regulation 57 of the principal regulations shall be amended as follows:

Amends regulation 57 of the principal regulations.

(a) in sub-regulation (1) thereof, the words “The universal service provider” shall be substituted with the words “The universal service provider so designated”; and

(b) in sub-regulation (2) thereof, the words “The universal service provider” shall be substituted with the words “The universal service provider concerned”.

44. Immediately after regulation 57 of the principal regulations there shall be added the following new regulation:

Adds new regulation 57A to the principal regulations.

“Power of
remitter to
recall money
order or alter
name of
payee.

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.”.

Amends regulation 59 of the principal regulations.

45. In sub-regulation (1) of regulation 59 of the principal regulations, the words “Unless the universal service provider” shall be substituted with the words “Unless the universal service provider so designated”.

Adds new regulation 61 to the principal regulations.

46. Immediately after regulation 61 of the principal regulations there shall be added the following new regulation:

“Money paid in excess or to wrong person.

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.”.

Amends regulation 65 of the principal regulations

47. In regulation 65 of the principal regulations, the words “article17(4)(a)” shall be substituted with the words “article 17(3)”.

Amends regulation 66 of the principal regulations.

48. In regulation 66 of the principal regulations, the words “providing postal services which fall within the scope of the universal services” shall be deleted.

Amends regulation 67 of the principal regulations.

49. In sub-regulation (2) of regulation 67 of the principal regulations, the words “issue directives to the universal service provider” shall be substituted with the words “issue directives to any universal service provider”.

Renumbering of the Schedule to the principal regulations.

50. The Schedule to the principal regulations shall be renumbered as the First Schedule thereof.

51. Immediately after the First Schedule as a renumbered to the principal regulations, there shall be added the following new schedule thereto:

Adds a new Second Schedule to the principal regulations.

“SECOND SCHEDULE

(Regulation 7F)

Declaration

I..... the undersigned, declare on oath/solemnly affirm that:

(a) I will not willingly open or delay or cause or suffer to be opened or delayed, contrary to my duty, any postal article which shall come into my hands or custody by reason of my employment in the postal service, except with the consent of the sender or of the person to whom the same shall be directed, or except in those cases in which I shall be so authorized or directed according to law;

(b) I will not in any way embezzle or steal any postal article;

(c) I will not at any time, and whether I am or not in the postal service, furnish any information respecting postal articles passing through the post, or obtained by me by reason of my employment, except when so authorised or required according to law.

The declaration was sworn solemnly before me at.....

on the (date).....”.

