



Jersey

# **POSTAL SERVICES (JERSEY) LAW 2004**

## **Official Consolidated Version**

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## POSTAL SERVICES (JERSEY) LAW 2004

### Contents

#### Article

<b>PART 1</b>	<b>7</b>
PRELIMINARY	7
1 Interpretation .....	7
2 Transmission of mail .....	10
<b>PART 2</b>	<b>10</b>
REQUIREMENT TO HOLD LICENCE	10
3 Licence needed to convey letters .....	10
4 Enforcement of requirement .....	11
5 Minister or Authority may seek injunction etc. ....	11
6 Suspension of requirement .....	11
7 Exceptions to requirement .....	12
<b>PART 3</b>	<b>14</b>
THE MINISTER AND THE AUTHORITY	14
8 Duties of Minister and Authority .....	14
9 Minister may direct or guide Authority .....	15
10 Authority to survey industry and consider representations .....	16
11 General role of Authority .....	16
12 Publication, advice and assistance .....	16
13 Annual report of Authority .....	17
14 Exclusion of personal material in publications and annual reports .....	17
<b>PART 4</b>	<b>18</b>
LICENCES	18
15 Power to grant licence .....	18
16 Nature of licence .....	18
17 Licence conditions .....	19
18 Licence fees .....	21
19 Modification of licence conditions .....	21

20	Direction to comply with licence conditions .....	22
21	Revocation of licence.....	22
22	Register .....	23
<b>PART 5</b>		<b>23</b>
NOTICE, CONSULTATION AND APPEALS		23
23	Interpretation of this Part.....	23
24	Notice and consultation.....	24
25	Appeals .....	26
26	Delay in implementation .....	27
<b>PART 6</b>		<b>28</b>
THE COMPANY		28
27	Nature of company.....	28
28	States' holding in company.....	29
29	Loans and guarantees.....	29
30	Ceiling on Minister for Treasury and Resources guarantee .....	29
<b>PART 7</b>		<b>30</b>
TRANSFER OF POSTAL ASSETS, LIABILITIES AND STAFF		30
31	Interpretation of this Part.....	30
32	Transfer date.....	31
33	.....	31
34	Transfer of movables .....	31
35	Transfer of immovables .....	32
36	Asset and liability adjustment .....	32
37	Vesting in transferee .....	33
38	Evidence, registration and treatment of transfer .....	34
39	Stamp duty.....	35
40	Transfer of staff .....	35
41	Collective agreements about new staff.....	36
42	Saving of rights under retirement schemes .....	36
<b>PART 8</b>		<b>36</b>
POWERS RELATING TO LAND		36
43	Interpretation of this Part.....	36
44	Minister may acquire land for postal services.....	37
45	Regulations about equipment on land .....	37
46	Installation of equipment on roads .....	38
<b>PART 9</b>		<b>38</b>
IMMUNITY OF MAIL		38
47	Immunity of mail in post.....	38
48	Power to interfere with mail where this Law contravened .....	38
49	.....	39

<b>PART 10</b>	<b>39</b>
<b>LIABILITY OF POSTAL OPERATORS</b>	<b>39</b>
50	Exclusion of liability in tort and certain other liability..... 39
51	Liability for packets where postal scheme so provides ..... 40
52	Liability for packets: parties and values..... 40
53	Liability for money order (or postal order)..... 41
54	Limitation of criminal liability ..... 42
55	Content of postal packets ..... 43
56	Obligations of postal operators ..... 43
<b>PART 11</b>	<b>43</b>
<b>POSTAL SCHEMES</b>	<b>43</b>
57	Public postal operator may make postal scheme..... 43
58	Effect of postal scheme..... 44
59	Procedural requirements applying to postal scheme..... 45
<b>PART 12</b>	<b>45</b>
<b>OFFENCES RELATING TO POSTAL SERVICES</b>	<b>45</b>
60	Certain things must not be posted ..... 45
61	Fictitious or used postage stamps ..... 46
62	Fraud in relation to a money order (or postal order) ..... 47
63	Things affixed to postal facility ..... 47
64	False notice as to postal services..... 48
65	Injunction ..... 49
66	Stealing or receiving mail bag or mail..... 49
67	Unlawful opening of mail..... 49
68	Unlawful detention of mail ..... 49
69	Interference with contents of mail ..... 50
70	Obstructing postal staff ..... 51
71	False information ..... 51
72	General provisions as to offences..... 52
<b>PART 13</b>	<b>53</b>
<b>MISCELLANEOUS</b>	<b>53</b>
73	Orders in interests of security etc..... 53
74	Modifications of Law in interests of security etc..... 53
75	Limit on disclosure in general ..... 54
76	Entry and search of vehicle or premises..... 55
77	Power to require information..... 55
78	Evidence of amount of postage etc. .... 56
79	Evidence that thing is postal packet ..... 57
80	Stopping of mail does not prevent proceedings based on delivery ..... 57
81	Limitation of civil liability for administration of Law ..... 57
82	Service of notices etc. .... 58
83	Orders and Regulations ..... 59
84	Savings, and transitional and consequential provisions..... 60

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85	Citation.....	60
<b>SCHEDULE</b>		<b>61</b>
<b>SAVINGS, AND TRANSITIONAL AND CONSEQUENTIAL PROVISIONS</b>		<b>61</b>
1	No exclusive privilege .....	61
2	Exclusion of liability .....	61
3	Duty to provide official information as to mail .....	61
4	Preservation of scope of welfare funds.....	61
5	Proceedings .....	61
6	References to postal services .....	62
7	Stamps .....	62
8	Postal schemes made before licence in force .....	62
9	General saving .....	62
10	Regulations may make savings or transitional provisions or consequential changes .....	63
<b>ENDNOTES</b>		<b>64</b>
Table of Legislation History .....		64
Table of Renumbered Provisions .....		65
Table of Endnote References .....		65



Jersey

## POSTAL SERVICES (JERSEY) LAW 2004<sup>1</sup>

A LAW to abolish the exclusive privilege of the States in postal services, to make new provision about postal services that concern Jersey, to enable the staff, assets and liabilities of the former Committee for Postal Administration to be transferred to one or more companies and to empower the Jersey Competition Regulatory Authority to license any such company and other operators with respect to postal services that concern Jersey, and for purposes incidental thereto and connected therewith<sup>2</sup>

Commencement [[see endnotes](#)]

### PART 1

#### PRELIMINARY

#### 1 Interpretation

(1) In this Law, unless the context otherwise requires –

“Authority” means the Jersey Competition Regulatory Authority established by Article 2 of the [Competition Regulatory Authority \(Jersey\) Law 2001](#);

“business” includes any trade, profession, or employment, in the course of which goods are supplied or services are provided, and any activity, or undertaking of a body of persons (whether or not incorporated), in the course of which goods are supplied or services are provided;

“class licence” means a licence granted to all members of a class of persons, being a class specified in the licence;

“collect” in respect of a postal packet includes pick it up and receive it;

“Committee for Postal Administration” means the Committee for Postal Administration formerly constituted by Article 4 of the Post Office (Jersey) Law 1969 before the repeal of that Article by Regulation 19(5) of the States of Jersey (Amendments and Construction Provisions No. 4) (Jersey) Regulations 2005;

“company” means –

- (a) in Articles 75 and 82 and in the definitions of “debt securities” and “securities” in this paragraph, any company; or
- (b) in any other provision of this Law, whichever of the companies referred to in Article 27 is or are appropriate in the context;

“Court” means the Royal Court;

“debt securities” means instruments creating or acknowledging indebtedness, being instruments issued by or in respect of any company, and includes debentures, bonds and certificates of deposit;

“delivery” of mail to its addressee is referred to in Article 2(3);

“documents” includes accounts, deeds, writings and information recorded in any form, whether or not legible to the naked eye;

“employee” includes officer and servant;

“function” includes power, authority and duty;

“land” means any corporeal hereditament, including a building, and land covered with water, and also includes any interest in land or water and servitudes or rights in, on or over land or water;

“letter” means a communication in handwriting or in print (or in both) that is to be conveyed and delivered to a person, or to an address, indicated on the communication itself or its envelope or cover, and includes a packet containing such a communication, but excludes –

- (a) a book, catalogue, newspaper or periodical; and
- (b) anything that weighs more than 20 kilograms;

“licence” means a licence granted under Part 4;

“licensee” means a person to whom a licence is granted;

“mail” means postal packets;

“mail bag” means a container in which mail is transmitted whether or not it contains any mail;

“modify” includes add to, amend, alter, replace, revoke and delete;

“to post” has the meaning referred to in Article 2(2);

“post box” means a thing or place used by a postal operator and represented by the operator as a thing or place where the public may post mail for transmission by post, the public’s doing so simply by placing it there without receiving any immediate acknowledgment, or expression of agreement, on the part of the postal operator;

“post office” means any premises occupied by a postal operator, or under the control of a postal operator, being premises where the postal operator performs any function connected with postal services;

“postage” means any charge for postal services;

“postage stamp” means any mark (or recording) recognized or authorized by a postal operator as attesting payment of a charge for a postal service provided by the operator, and includes an adhesive stamp, a mark printed,



embossed, impressed or otherwise indicated, and a recording, on an envelope, card, cover, wrapper or other article;

“postal operator” means a person who provides postal services as the whole or part of that person’s business;

“postal packet” means anything that weighs no more than 20 kilograms, and is for transmission by post or is transmitted by post;

“postal scheme” means a scheme made by a postal operator under Part 11;

“postal service” means the conveyance of postal packets, the incidental services of receiving, collecting, sorting and delivering postal packets, and any other service that relates to any of those services and is provided in conjunction with any of them;

“principal company” means a company referred to in Article 27(2)(a);

“public postal operator” means a person who provides postal services under a licence that contains a condition designating the person as a public postal operator;

“Regulations” means Regulations made by the States;

“road” means a road, bridge, viaduct or subway that is repairable at the expense of the States or of any parish, and includes a carriageway, footpath, verge and any other part of such a road, bridge, viaduct or subway;

“securities”, in relation to any company, includes shares, debt securities and other securities of that company, whether or not constituting a charge on the assets of that company, and the right to subscribe for, or to acquire, such securities and any other rights in connection with such securities;

“service” does not include a service rendered to an employer under a contract of employment;

“subsidiary” has the same meaning as in the [Companies \(Jersey\) Law 1991](#);

“transfer date” means a date prescribed under Article 32;

“transmission” is referred to in Article 2(1).<sup>3</sup>

- (2) For the purposes of this Law, in the case of a class licence where the members of the class are not named in the licence –
  - (a) an activity is carried on under the authority of the licence if the activity would be a contravention of Article 3 if it were not for the fact that the licence is in force; and
  - (b) a person who so carries on an activity holds that licence and is a licensee in respect of that licence.
- (3) For the purposes of this Law, a description or class may be framed by reference to any characteristics or circumstances whatsoever.

## **2 Transmission of mail**

- (1) For the purposes of this Law, mail shall be taken to be in the course of transmission from the time of its being posted to the time when it is delivered to its addressee.
- (2) For the purposes of this Law, mail shall be taken to have been posted when, for the purpose of its being made the object of a postal service provided by a postal operator, it has been put into a post box used by the operator or has otherwise come under the control of the postal operator.
- (3) For the purposes of this Law, delivery of mail to its addressee includes the following –
  - (a) in every case, delivery of the mail to a person whom the postal operator who delivers the mail considers is authorized by the addressee to receive mail on behalf of the addressee;
  - (b) in the case of mail that is addressed or redirected to premises (but is not in any way for collection by or on behalf of its addressee at a post office), delivery of the mail to those premises, or to a letter box (or other receptacle) that the occupier of those premises or the addressee represents is one to which mail may be delivered to the addressee;
  - (c) in the case of mail that is addressed or redirected to a post office box from which the postal operator can at any time withdraw the mail before it has been collected, collection of the mail from the box, whether by the addressee or any other person;
  - (d) in the case of mail that is addressed or redirected to a post office box from which the postal operator cannot withdraw the mail once the mail has been placed in the box, placing of the mail in the box.

## **PART 2**

### **REQUIREMENT TO HOLD LICENCE**

## **3 Licence needed to convey letters**

- (1) A person shall not convey a letter from one place to another unless –
  - (a) the person holds a licence authorizing the person to do so; or
  - (b) in doing so, the person is acting as an employee, agent or sub-contractor of a person who holds a licence authorizing the latter person to do so.
- (2) A contravention of a condition contained in a licence does not constitute a contravention of paragraph (1).
- (3) A person who holds a licence shall comply with the conditions contained in the licence.
- (4) A person who holds a licence shall not provide a postal service that is prohibited under the conditions contained in the licence.

- (5) A person shall not offer to do anything, or represent that the person is able or willing to do anything, that if carried out would be a contravention of paragraph (1).

#### **4 Enforcement of requirement**

- (1) The obligation to comply with Article 3(1) is a duty owed to any person who may be affected by a failure so to comply.
- (2) Where such a duty is owed to any person –
  - (a) any breach of the duty causing loss or damage to that person shall be actionable by that person; or
  - (b) any act that, by inducing a breach of that duty or interfering with its performance, causes loss or damage to that person, and that is done wholly or partly to achieve that end, shall be actionable by that person.
- (3) A person who contravenes Article 3(1), (4) or (5) shall be guilty of an offence and liable to imprisonment for a term of 12 months and to a fine.

#### **5 Minister or Authority may seek injunction etc.**

The Chief Minister or the Authority may bring civil proceedings, for an injunction or other appropriate relief, to compel compliance with Article 3.

#### **6 Suspension of requirement**

- (1) Article 3 is not contravened by an act, or omission, in respect of which the operation of that Article has been suspended by an Order in force under this Article at the time of the act or omission.
- (2) After consultation with the Authority, the Chief Minister, if he or she considers that it is in the public interest to do so in any circumstances, may by Order suspend in whole or in part the operation of Article 3 on such terms and subject to such conditions as he or she sees fit.
- (3) Such a suspension has effect –
  - (a) on and from such day (not being a day earlier than the making of the Order); and
  - (b) for 6 months or, if a shorter period is expressed in the Order, for that period instead.
- (4) If the Chief Minister amends such an Order so as to extend the period of suspension, the aggregate period as extended cannot exceed 6 months.
- (5) The power under paragraph (2) may not be exercised more than once in respect of any set of circumstances, except to revoke or amend the Order made under that paragraph.

## 7 Exceptions to requirement

- (1) The service specified in each of the following paragraphs is not a contravention of Article 3 (whether for the purposes of Article 3 itself or for the purposes of Article 4(1), (2) or (3)) –
  - (a) the conveyance of one or more letters if the consideration for the conveyance and delivery of the letters is the payment of more than £1.30 (per letter) made by or on behalf of the person for whom they are conveyed;
  - (b) the conveyance of one or more letters that each weigh more than 500 grams;
  - (c) the conveyance of one or more letters personally by the sender of the letters, if the sender also delivers each letter to its addressee;
  - (d) the conveyance, without reward or other advantage, of one or more letters by a person on behalf of the sender or addressee of the letters, if the person also delivers each letter to its addressee;
  - (e) the conveyance on any one occasion of a single letter by a messenger sent for the purpose on the occasion by the sender or addressee of the letter, if the messenger also delivers the letter to its addressee;
  - (f) if a method of service of documents other than post is required or authorized by law, a conveyance that, when coupled with a delivery, amounts to service by that method of one or more letters that consist only of those documents;
  - (g) the conveyance of one or more letters from a merchant who is the owner of a merchant ship or commercial aircraft, or of goods carried in a merchant ship or commercial aircraft, by means of the ship or aircraft, if the letters are delivered by a person employed to deliver them by the merchant, so however that no reward or other advantage is given or received for the conveyance or delivery of the letters;
  - (h) the conveyance of one or more letters by a person, being letters concerning, and for delivery with, goods for an addressee and conveyed by the person, so however that –
    - (i) no reward or other advantage is given or received for the conveyance of the letters, and
    - (ii) in the case of each addressee of the letters, the letters and goods for the addressee together weigh more than 500 grams;
  - (i) the conveyance to a licensee of one or more pre-paid letters for further conveyance, and delivery to their addressees, by the licensee;
  - (j) the conveyance of one or more letters by a person who has a business interest in each of those letters, if the person also delivers each letter to the addressee of the letter;
  - (k) the conveyance of one or more letters within premises (being letters received at a central point in the premises after conveyance by post from a place outside the premises or after any conveyance from a place inside the premises) to one or more occupants of the premises;

- 
- (l) the conveyance of one or more letters that are banking instruments from one bank to another, or from a bank to an office of the States, or to a bank from an office of the States;
- (m) the conveyance of one or more letters by telex, or by facsimile, electronic mail or other electronic means.
- (2) For the purposes of paragraph (1)(j), a person has a business interest in a letter only if –
- (a) the person is an employee of one of the letter’s correspondents or an employee of a member of the same group as one of those correspondents and the letter relates to the business affairs of that correspondent; or
- (b) the person and one of the letter’s correspondents are employees of the same person or of different members of the same group, and the letter relates to the business affairs of the employer of that correspondent.
- (3) In this Article –
- “bank” means –
- (a) any person registered under the [Banking Business \(Jersey\) Law 1991](#); or
- (b) any person lawfully carrying on banking business outside Jersey;
- “banking instrument” means –
- (a) a cheque or other bill of exchange;
- (b) any document issued by the States that specifies a sum and is intended to enable a person to obtain payment from the States of the sum;
- (c) any money order or postal order;
- (d) any credit transfer, credit advice or debit advice; or
- (e) any list of items, or any copy of an item, referred to in subparagraphs (a) to (d);
- “correspondent” means a sender or addressee;
- “group” means the subsidiaries of a body corporate taken together with the body corporate itself;
- “sender” in relation to a letter means the person whose communication the letter is.

## PART 3

### THE MINISTER AND THE AUTHORITY

#### 8 Duties of Minister and Authority

- (1) The Chief Minister and the Authority shall each have a primary duty to perform his, her or its functions under this Law in such manner as each considers is best calculated to ensure the following –
  - (a) that (so far as in his, her or its view is reasonably practicable) such postal services are provided, both within Jersey and between Jersey and the rest of the world, as satisfy all current and prospective demands for them, wherever arising;
  - (b) that the company, to the extent that it is or is to be licensed under this Law, has sufficient financial resources to discharge, during the period when this sub-paragraph is in force, its liabilities under securities issued by the company to the States.
- (2) In so far as it is consistent with paragraph (1), the Chief Minister and the Authority shall each have a duty –
  - (a) to perform his, her or its functions under this Law in such manner as each considers is best calculated to protect and further the short-term and long-term interests of users within Jersey of postal services, and to perform them, wherever each considers it appropriate, by promoting competition among persons engaged in commercial activities connected with postal services in Jersey;
  - (b) to perform his, her or its functions under this Law in such manner as each considers is best calculated to promote efficiency, economy and effectiveness in commercial activities connected with postal services in Jersey;
  - (c) to perform his, her or its functions under this Law in such manner as each considers is best calculated to further the economic interests of Jersey;
  - (d) to perform his, her or its functions under this Law in such manner as each considers is best calculated to impose a minimum of restriction on persons engaged in commercial activities connected with postal services in Jersey;
  - (e) in performing his, her or its functions under this Law, to have regard to the need to ensure that persons engaged in commercial activities connected with postal services in Jersey have sufficient financial and other resources to conduct those activities; and
  - (f) in performing his, her or its functions under this Law, to have regard to any special needs of persons who are disabled or have limited financial resources or have particular needs.
- (3) The Chief Minister and the Authority shall, in considering whether the postal services referred to in paragraph (1)(a) satisfy the demands referred to in that sub-paragraph, have regard to –
  - (a) whether the services are rapid, of high quality and reliable;

- (b) whether the services are affordable by and accessible to the highest number practicable of business and domestic users;
  - (c) whether the services are provided at times, at places and in ways, that meet the demands of the highest number practicable of business and domestic users;
  - (d) whether users are able to express their views about the provision of the services; and
  - (e) any objectives that the States prescribe by Regulations, including, but not limited to –
    - (i) the provision of a universal postal service, a social postal service or any form of subsidized postal service, and
    - (ii) the provision of certain services at uniform tariffs or at subsidized tariffs.
- (4) In paragraph (1)(b) –
- “liabilities” means any liabilities, debts or obligations (whether present or future and whether vested or contingent);
- “securities issued by the company to the States” means securities issued by one company to another company, by the company to the States, or by the company to any body corporate wholly owned directly or indirectly by the States.
- (5) Paragraphs (1)(b) and (4), and this paragraph, shall cease to be in force on the tenth anniversary of the date when they come into force.

## **9 Minister may direct or guide Authority**

- (1) The Chief Minister may, if he or she considers that it is desirable in the public interest to do so, give to the Authority written directions in respect of the principles, procedures or policies to be followed by the Authority in relation to –
  - (a) the implementation of any social or environmental policies in respect of postal services; or
  - (b) philatelic services.
- (2) The Chief Minister may, if he or she considers that it is desirable in the public interest to do so, give to the Authority written guidance in respect of the principles, procedures or policies to be followed by the Authority in relation to any other matter relating to the performance by the Authority of its functions under this Law.
- (3) It shall be the duty of the Authority in carrying out any of its functions to comply with any such direction and to consider (without necessarily complying with) any such guidance.
- (4) The Chief Minister shall not give directions or guidance under this Article without first consulting the Authority.
- (5) The Chief Minister shall notify the States of the directions and guidance given by him or her under this Article and of any comments received by him or her from the Authority about the directions and guidance.

- (6) The Chief Minister shall take reasonable steps to bring the purport of that notification to the attention of the public.
- (7) The requirement in paragraph (6) shall be taken to have been satisfied by the publication in the Jersey Gazette of the notification, but this is not the only way in which that requirement may be satisfied.
- (8) A reference in this Article to the public interest includes a reference to the economic interests of Jersey.
- (9) Paragraph (8) is included only for the avoidance of doubt.

## **10 Authority to survey industry and consider representations**

- (1) In order to facilitate the performance of its functions, the Authority shall, so far as it considers it practicable to do so, keep under review, and gather information about, the provision of postal services in Jersey and elsewhere.
- (2) The Authority shall consider any representation made to it (other than one that is, in the opinion of the Authority, frivolous or trivial, or more appropriately dealt with by another person) concerning postal services, being a representation made by a person who, in the opinion of the Authority, has an interest in the matter of the representation.

## **11 General role of Authority**

- (1) In respect of the following matters, the Authority may conduct research, act as facilitator, co-operate with regulators or providers of postal services, provide advice, assistance and services and establish or approve schemes, standards and arrangements –
  - (a) the matters listed in Article 17(4)(a) – (e);
  - (b) such other matters as the States may prescribe by Regulations.
- (2) The Authority may do those things anywhere and with or for any person anywhere, whether in Jersey or elsewhere.
- (3) The Authority may charge for anything it does under this Article.

## **12 Publication, advice and assistance**

- (1) The Authority may publish such information and advice as it considers expedient to –
  - (a) providers of postal services; or
  - (b) users of postal services.
- (2) The Authority may also prepare and publish any report that it considers appropriate with respect to any matter relevant to the functions of the Authority.
- (3) If the Authority considers it expedient to do so or is asked by the Chief Minister to do so, it shall provide information, advice and help to the Minister regarding any matter concerning postal services.



- (4) Publication under this Article (including publication by the provision of something under paragraph (3)) may be in such form and manner as the Authority considers appropriate.

### **13 Annual report of Authority**

- (1) The Authority shall, in addition to the report that it is required to prepare under the [Competition Regulatory Authority \(Jersey\) Law 2001](#) or as part of that report, prepare a report in respect of each of its financial years –
  - (a) generally surveying developments that are relevant to its functions under this Law;
  - (b) reviewing, in the context of the demand for postal services in Jersey, competition in, and restrictions on, the supply of those services in Jersey; and
  - (c) dealing with such other matters as the Chief Minister requires.
- (2) The Authority shall provide the Chief Minister with a report prepared under this Article as soon as practicable after the end of the financial year to which the report relates, but in no case later than 4 months after the end of that year.
- (3) The Chief Minister shall lay a copy of the report so provided before the States as soon as practicable after the Minister receives the report.
- (4) In this Article, “financial year” means the Authority’s financial year (within the meaning of the [Competition Regulatory Authority \(Jersey\) Law 2001](#)) current when this Article comes into force and each subsequent period of 12 months.

### **14 Exclusion of personal material in publications and annual reports**

- (1) So far as practicable the Authority shall ensure the exclusion from anything published under Article 12 (including anything published by being provided under Article 12(3)), and any report prepared under Article 13, of any matter relating to the affairs of a person if the Authority considers that its publication would or might seriously and prejudicially affect the person’s interests.
- (2) Paragraph (1) does not apply if –
  - (a) the person concerned consents to publication of the matter; or
  - (b) the Authority considers that the importance of the public interest in the publication of the matter (whether or not the publication is to a significant portion of the public) would outweigh the effect of the publication on the interests of the person concerned.

## PART 4

### LICENCES

#### 15 Power to grant licence

- (1) The Authority may grant a licence authorizing a person to convey letters.
- (2) The Authority may refuse a licence on such ground as the Authority sees fit.
- (3) The Authority may refuse a licence in respect of a person, or in respect of a class of persons that includes a person, if the person has, within the previous 5 years –
  - (a) failed to comply with a direction under Article 20 in respect of any licence; or
  - (b) committed an offence against Article 71 in relation to any application made by that person under this Law (including an application on behalf of a class that includes that person).
- (4) The Authority may refuse a licence applied for if –
  - (a) such reasonable fee as the Authority determines has not been paid in respect of the application;
  - (b) such information as the Authority requires has not been furnished in respect of the application; and
  - (c) such other requirements as, in the opinion of the Authority, are appropriate (including, if the Authority so requires, satisfying a third person with respect to any matter) have not been met in respect of the application.
- (5) Paragraphs (3) and (4) do not limit the operation of paragraph (2).
- (6) The Authority is not prevented from granting a licence to a person just because the conveyance of letters proposed by the person would not be a contravention of Article 3 if the person conveyed them without being authorized to do so by a licence.
- (7) For the purposes of this Law, a conveyance of letters that would not require the authority of a licence shall, to the extent expressed in the conditions contained in a licence, be taken to be the conveyance of letters under the authority of the licence.

#### 16 Nature of licence

- (1) A licence may be unconditional or subject to such conditions as are contained in it.
- (2) A licence shall be in writing, and shall, unless previously revoked, continue in force for the period specified in the licence.
- (3) A licence may contain a condition that designates the holder of the licence as a public postal operator if a substantial volume of the mail transmitted

by the holder is to involve the use of post boxes to receive the mail for transmission by the licensee.

- (4) A licence containing a condition that designates the holder of the licence as a public postal operator may authorize the holder to exercise any power referred to in Article 46 and specified in the licence.
- (5) A licence may be granted to a person named in the licence, or to persons (whether or not named in the licence) of a class that is specified in the licence, but a licence containing a condition that designates the holder of the licence as a public postal operator may only be granted to a person named in the licence.

## 17 Licence conditions

- (1) A licence may contain conditions –
  - (a) that, in the opinion of the Authority, are necessary or desirable, including (but not limited to) conditions relating to, or imposing requirements for, any one or more of the following –
    - (i) the conveyance of letters under the authority of the licence,
    - (ii) the provision of any postal service, whether or not that service relates to the conveyance of letters under the authority of the licence,
    - (iii) the provision of postal services at uniform tariffs or subsidized tariffs, of any form of subsidized postal service, of a universal postal service or of a social postal service,
    - (iv) standards of performance,
    - (v) mechanisms for receiving and resolving complaints against the licensee by users within Jersey of the services provided under the authority of the licence and complaints against the licensee by persons to whom the licensee has refused to provide services under the authority of the licence,
    - (vi) the exercise, as authorized by the licence, of any power referred to in Article 46 and specified in the licence;
  - (b) that, in the opinion of the Authority, are necessary or desirable, including (but not limited to) conditions prohibiting, regulating, or requiring, the provision of any postal service;
  - (c) regulating the terms and conditions of postal services provided by the licensee, being terms and conditions that, whether by a postal scheme or by contract, apply between the licensee and any, or any class of, user within Jersey of those services;
  - (d) regulating the terms and conditions of postal services, being terms and conditions that by contract apply between the licensee and any, or any class of, provider of those services;
  - (e) requiring a payment to the Authority on the grant of the licence or several payments during the period when the licence is in force (including payment in respect of any consent or determination referred to in this Article);

- (f) requiring a person to notify the Authority if the person intends to convey letters under a class licence for which the person makes no application;
  - (g) requiring the licensee to provide to the Authority, in the form and at the times required by the Authority, such documents, accounts, estimates, returns or other information relating to activities conducted by the licensee under a licence as the Authority may specify;
  - (h) requiring the licensee to make what, in the opinion of the Authority, is a fair contribution to the costs of another licensee incurred because the latter is required to provide a universal postal service, a social postal service or any form of subsidized postal service or services at uniform tariffs or at subsidized tariffs;
  - (i) for the implementation of any direction given to the Authority under Article 9, or of any measures that the Authority is required to take under an Order under Article 73, if, in the opinion of the Authority, the direction or measure needs to be implemented by, or with the participation of, the licensee;
  - (j) for or with respect to the implementation of Regulations made under Article 45; or
  - (k) that shall be satisfied before, during or after the exercise of any power referred to in Article 46.
- (2) Conditions contained in a licence may require the licensee to do any of the following –
- (a) not to do, not to continue to do, or not to cease to do, anything under the licence without the prior consent of the Authority;
  - (b) to show a draft of a postal scheme to the Authority before the scheme is made or not to make a postal scheme without the prior consent of the Authority;
  - (c) to refer for determination by the Authority any specified question or any specified class of questions;
  - (d) to act on such a determination.
- (3) The Authority has power to give, refuse or revoke those consents and to make or revoke those determinations.
- (4) Conditions contained in a licence may relate to, or impose requirements about the following matters –
- (a) competition in postal services;
  - (b) competition in relation to facilities, vehicles, and other equipment, and services, utilized in the provision of postal services or in obtaining postal services;
  - (c) providing postal services for or on behalf of other postal operators;
  - (d) a licensee's allowing the use of an intellectual property right held by the licensee; or

- (e) the co-location and sharing of, and access to, services, and facilities (including immovable property, and vehicles and other equipment) in, in relation to, or for, any postal service.
- (5) A licence may contain conditions –
  - (a) in the interests of national security or in the interests of encouraging or maintaining relations with a country or territory; or
  - (b) in order to facilitate –
    - (i) the discharge of an international obligation, or
    - (ii) the attainment of any other object that the Chief Minister has by Order prescribed under Article 73.

## **18 Licence fees**

- (1) Any payment, or fee, required under this Law to be paid to the Authority in respect of a licence (including any application fee or fee required as a condition of a licence) may be determined by the Authority from time to time.
- (2) The Authority may determine such a payment or fee at such amount as is necessary to enable the Authority to recover its costs in whole or in part, so far as those costs are referable to the performance of the functions of the Authority under this Law.
- (3) Those costs include the costs of the Authority's establishment, its short-term costs, and its long-term costs (whether those costs are actual or projected or direct or apportioned).
- (4) The payment or fee may be fixed as a percentage of the turnover or profit of a licensee or members of a class of licensees, or on the basis of some other formula relating to a licensee or members of a class of licensees, or on any other basis.
- (5) The payment or fee shall be recoverable as a civil debt due to the Authority.

## **19 Modification of licence conditions**

- (1) The Authority may, of its own motion or on the application of any person, modify any condition contained in a licence by virtue of Article 17.
- (2) The Authority may refuse to modify any condition so contained on such ground as the Authority sees fit.
- (3) The power to modify a condition contained in a licence includes the power to insert a new condition or amend or delete an existing condition, but any new condition, or condition as amended –
  - (a) may only be a condition that a licence may contain by virtue of Article 17; and
  - (b) shall be taken, as from the date when the modification takes effect, to be a condition contained in the licence by virtue of that Article.

## **20 Direction to comply with licence conditions**

- (1) Where, in the opinion of the Authority, a licensee is in contravention of a condition contained in a licence, the Authority shall give a direction to the licensee to take steps, or specified steps, to ensure compliance with that condition.
- (2) The Authority shall not give such a direction if it is satisfied that its duties under Article 8 preclude the giving of such a direction, that the contravention of the condition is trivial or that the licensee is taking steps to comply with the condition and to remedy the effects of the contravention.
- (3) A direction shall –
  - (a) specify the licence to which it relates;
  - (b) name the licensee or specify the class of persons to whom the licence has been granted; and
  - (c) specify the condition contravened.
- (4) A direction –
  - (a) shall require the licensee to act or not to act, according to the nature of the condition and the contravention, in a manner specified in the direction;
  - (b) may require the licensee to take steps, or specified steps, to remedy the effects of the contravention; and
  - (c) may be modified at any time by the Authority, but only by giving a new direction in accordance with this Article.
- (5) The obligation to comply with a direction is a duty owed to any person who may be affected by the failure to comply with the direction.
- (6) Where a duty is owed under paragraph (5) to any person –
  - (a) any breach of the duty causing loss or damage to that person shall be actionable by that person; and
  - (b) any act that, by inducing a breach of that duty or interfering with its performance, causes loss or damage to that person and that is done wholly or partly in order to cause the loss or damage to that person shall be actionable by that person.
- (7) In any proceedings brought against any person under paragraph (6)(a) it is a defence for the person to prove that the person took all reasonable steps and exercised all due diligence to ensure compliance with the direction.
- (8) In addition to the right of any person to bring civil proceedings under paragraph (6), the Authority may bring civil proceedings, for an injunction or other appropriate relief, to compel compliance with the direction.

## **21 Revocation of licence**

- (1) The Authority may revoke a licence held by a person, or revoke the operation of a licence in respect of a person who is a member of a class of persons to whom a licence has been granted, if the person has failed to

comply with a direction given under Article 20 in respect of that or any other licence held by the person.

- (2) A licence ceases to be in force in respect of a person when it, or its operation in respect of the person, is revoked under this Article.

## **22 Register**

- (1) The Authority shall keep a register in which it shall enter details of the following –
  - (a) every licence;
  - (b) any designation of a licensee as a public postal operator;
  - (c) every exercise of a specified regulatory function (within the meaning of Part 5) and every notice in respect of that exercise;
  - (d) every direction given under Article 20.
- (2) The register shall be open for inspection by the public during the hours determined by the Authority.
- (3) The Authority shall supply copies or extracts from the register on payment of such fee as the Authority determines.

## **PART 5**

### **NOTICE, CONSULTATION AND APPEALS**

## **23 Interpretation of this Part**

- (1) In this Part –
  - “final notice” means notice under Article 24(4);
  - “initial notice” means notice under Article 24(1);
  - “specified regulatory function” means any of the following functions of the Authority –
    - (a) granting or refusing a licence under Article 15;
    - (b) giving, refusing or revoking consent, or making or revoking a determination, under Article 17(3);
    - (c) modifying, or refusing to modify, a condition under Article 19;
    - (d) giving, or deciding not to give, a direction under Article 20;
    - (e) revoking a licence under Article 21;
    - (f) any other function of the Authority under this Law that the States prescribe by Regulations.
- (2) Nothing in this Part limits or excludes any other avenue of review concerning the exercise of a specified regulatory function.

- (3) The inclusion (otherwise than by virtue of Article 19) of any condition in a licence is taken, for the purposes of this Part, to be part of the grant of the licence.
- (4) Paragraph (3) is included only for the avoidance of doubt.

## 24 Notice and consultation

- (1) Before exercising a specified regulatory function the Authority shall give initial notice –
  - (a) specifying the function that it proposes to exercise and the action proposed in that exercise;
  - (b) stating the reason for the proposed exercise;
  - (c) stating (whether by specification or by formula) the date when the proposed exercise would take effect, not being a date earlier than the 29th day after the day when the notice is given in accordance with this Article;
  - (d) specifying the place where the full text of the document giving effect to the proposed exercise may be inspected; and
  - (e) specifying the period within which written representations or objections in respect of the proposed exercise may be made.
- (2) A document referred to in paragraph (1)(d) shall, where the proposed exercise of the specified regulatory function –
  - (a) would be the grant or making of an instrument, being a licence, consent, determination, direction or other instrument – include a copy of that instrument; or
  - (b) would be the modification of conditions contained in a licence – include a copy of the conditions before modification and a copy in draft form of the conditions as modified.
- (3) Any person may make representations or objections to the Authority about the proposed exercise of a specified regulatory function within the period commencing on the date when initial notice of the proposed exercise is given in accordance with this Article and ending at midnight on the twenty-eighth day after that date.
- (4) If any representations or objections are made within that period, the Authority shall consider them and then give final notice in relation to the proposed exercise of the specified regulatory function.
- (5) The final notice shall –
  - (a) refer to the matters contained in the initial notice;
  - (b) contain a summary of the representations and objections;
  - (c) contain details of the Authority's response to them sufficient in content to enable it to be understood and the reasons for it to be known;
  - (d) specify the place where the full text of the response may be inspected if the full text is not contained in the final notice; and



- (e) state whether or not the Authority now intends to exercise the specified regulatory function, and if it does so intend, the date (expressed by specification or by formula) when the proposed exercise will take effect.
- (6) The Authority shall give initial or final notice in relation to a proposed exercise of a specified regulatory function as follows –
  - (a) in a case where the proposed exercise relates to a licence held by a person named in the licence – by notice served on the person;
  - (b) in a case where the proposed exercise is in response to an application made by a person not referred to in sub-paragraph (a) – by notice served on the applicant;
  - (c) in every case (including the case referred to in sub-paragraph (a) or (b)) – by taking reasonable steps to bring the proposed exercise to the attention of the public, coupled with making available for inspection full details of the proposed exercise in such place as is specified in taking those steps.
- (7) The Authority shall exercise a specified regulatory function as follows –
  - (a) in a case where the exercise relates to a licence held by a person named in the licence – by notice served on the person;
  - (b) in a case where the exercise is in response to an application made by a person not referred to in sub-paragraph (a) – by notice served on the applicant;
  - (c) in a case where the exercise relates to a licence held or to be held by a person not named in the licence – by taking reasonable steps to bring the exercise to the attention of the person, coupled with making available for inspection full details of the exercise in such place as is specified in taking those steps.
- (8) The Authority shall, on demand, make a full text (or full details) referred to in this Article available for inspection by members of the public at reasonable hours and, on demand, supply copies of it to members of the public at reasonable cost.
- (9) The exercise of a specified regulatory function shall have effect only in accordance with such terms of an initial notice as are referred to in paragraph (1)(a) and –
  - (a) if a representation or objection has been made in accordance with paragraph (3) – on a date specified in the relevant final notice, being a date that is later than the twenty-eighth day after the final notice is given in accordance with paragraph (6); or
  - (b) if no representation or objection has been made in accordance with paragraph (3) – on the date stated in the initial notice.
- (10) If, after considering any representations or objections, the Authority wishes to change its proposal as to the exercise (other than the date when it is to take effect), the Authority shall issue a fresh initial notice about the exercise.
- (11) Paragraph (10) is included only for the avoidance of doubt.

- (12) The requirement in paragraph (6)(c) (or (7)(c)) to take reasonable steps to bring the proposed exercise to the attention of the public (or to bring the exercise to the attention of the person) shall be taken to have been satisfied by the publication in the Jersey Gazette of notice of the proposed exercise (or exercise), but this is not the only way in which that requirement may be satisfied.

## 25 Appeals

- (1) An appeal to the Court is available against the exercise of a specified regulatory function, whether or not the exercise has taken effect, as follows –
- (a) if the exercise consists of the refusal of an application – the applicant may appeal against the refusal;
  - (b) if the exercise consists of the grant of a licence – any person may appeal simply against the grant, or may appeal against the exercise so far as it concerns the fact that the licence contains, or does not contain, any condition;
  - (c) if the exercise otherwise concerns a licence (including the giving of, or deciding not to give, a direction under Article 20) – any person may appeal against the exercise.
- (2) An appeal is available under this Part only if notice of the appeal is lodged with the Court after initial notice of the exercise is given and before the twenty-ninth day after –
- (a) in a case where no final notice of the exercise is required to be given – the date when the initial notice is given; or
  - (b) in a case where final notice of the exercise is required to be given – the date when the final notice is given,
- or within such further period as the Court may allow if it considers it desirable to do so in the interests of justice.
- (3) For the purposes of this Article, if the Authority has not given initial notice of the exercise of a specified regulatory function in response to an application within the period specified in paragraph (8), the Authority shall be taken to have given initial notice of a refusal of the application and to have given that notice on the day after the last day of that period.
- (4) In determining an appeal under this Article, the Court is not restricted to a consideration of questions of law or to the facts contained in an application, or in other information, before the Authority.
- (5) When it determines an appeal under this Article, the Court may –
- (a) confirm the exercise (or proposal) appealed against;
  - (b) refer the matter of the exercise back to the Authority for its determination, or other action, in accordance with the law; or
  - (c) exercise a specified regulatory function (and do any incidental thing) in the same way as the Authority could have done.

- (6) The Court may make such orders as it thinks appropriate, including ancillary orders and orders as to costs.
- (7) In this Article, a reference to the giving of notice (though not to the lodging of notice) is a reference to the giving of notice in accordance with Article 24.
- (8) For the purposes of paragraph (3), the period is 56 days (or such longer period as may be agreed in writing between the relevant applicant and the Authority) after the application has been served on the Authority.

## **26 Delay in implementation**

- (1) A person who lodges notice of an appeal in accordance with this Part against the exercise of a specified regulatory function may, if the exercise has not taken effect before the notice is lodged, include in that notice application for an order for a delay in the exercise.
- (2) If a notice of appeal includes such an application, the exercise shall not take effect earlier than the seventh day after the Court determines the application.
- (3) The Court shall consider the application as a matter of urgency.
- (4) The Court may grant the application if it considers that there are, *prima facie*, reasonable grounds for the appeal and that the balance of convenience in the case lies in favour of ordering the delay.
- (5) The Court may order that the delay shall cease to have effect at a time after the date of its order and specified (whether by reference to the date when the Court determines the appeal or to any other date, event or formula) in its order.
- (6) If the Court's determination is to refuse the application, the exercise shall take effect on the later of the following days –
  - (a) the seventh day after the determination;
  - (b) the date on which the exercise was to have taken effect according to the notices given by the Authority about the exercise,unless the Court decides to allow the appeal against the exercise before the later of those days.
- (7) For the purposes of this Article, an appeal against an exercise of a specified regulatory function, so far as it concerns the fact that a licence contains, or does not contain, any condition (as referred to in Article 25(1)(b)), amounts to an appeal against the grant of the licence.

## PART 6

### THE COMPANY

#### 27 Nature of company

- (1) The States may, in Regulations made under Article 34 or 35, prescribe one or more companies to which assets, rights and liabilities shall be transferred as referred to in those Articles.
- (2) The Regulations may prescribe different companies in respect of different assets, rights or liabilities, but they shall not prescribe any company unless it is, at the transfer date for those assets, rights or liabilities –
  - (a) a company limited by shares, incorporated under the [Companies \(Jersey\) Law 1991](#) and having each of its shares held by the States or held by one or more nominees on behalf of the States; or
  - (b) a subsidiary of such a company.
- (3) The Minister for Treasury and Resources may from time to time appoint such nominees, but cannot be such a nominee.
- (4) Such a nominee shall hold and deal with securities in a principal company only on such terms and in such manner as the States direct.
- (5) The Minister for Treasury and Resources may exercise the powers of the States in their capacity as holder of securities in a principal company (or in any other capacity regarding a principal company), but not the following powers (which may be exercised only by the States) –
  - (a) the power to dispose of the shares or share rights in a principal company, or create or dispose of security interests over those shares or share rights or otherwise charge those shares or share rights;
  - (b) the power to authorize the issue of shares or share rights in a principal company to any person other than the States;
  - (c) the power to vote on a resolution to wind up a principal company;
  - (d) such other powers as the States prescribe by Regulations.
- (6) In his or her exercise of powers under paragraph (5), the Minister for Treasury and Resources shall act in the interests of the States as holder of securities in a principal company.
- (7) Nothing in this Article is to be taken to imply that any liability of the States because of their interest in a principal company is greater than they have (or would have) by virtue of being a holder of securities in that company.
- (8) In this Article, “share rights” means, in relation to any shares, rights to subscribe for, or to acquire, the shares and any other rights in connection with the shares.

## 28 States' holding in company

- (1) Where any assets, rights or liabilities (within the meaning of Part 7) of the Committee for Postal Administration are transferred to the company under Part 7, the company –
  - (a) if a principal company – shall issue to the States any securities of the company that the States by Regulations require to be issued; or
  - (b) if a subsidiary of a principal company – shall issue to one or more of the companies any securities of the subsidiary that the States by Regulations require to be issued.
- (2) Such of those securities as are shares shall –
  - (a) be of a nominal value prescribed by Regulations;
  - (b) as prescribed by Regulations, be issued as fully paid up, partly paid up or not paid up; and
  - (c) be treated for the purposes of the [Companies \(Jersey\) Law 1991](#) as if any amount paid on them were constituted by the payment to the issuing company of a corresponding value in cash.
- (3) The States may prescribe by Regulations classes of those securities and the terms and conditions to which those securities are subject.

## 29 Loans and guarantees

- (1) The States may make loans to a principal company or any of its subsidiaries, subject to such conditions as to repayment, security or otherwise (including conditions as to the use to which the loans may be put) as the States think fit.
- (2) The States may guarantee the repayment of loans made to a principal company or any of its subsidiaries and the discharge of the obligations of a principal company or any of its subsidiaries.
- (3) The Minister for Treasury and Resources may, out of the income of the States, make loans to a principal company, subject to such conditions as to repayment, security or otherwise (including conditions as to the use to which the company may put the loans) as the Minister thinks fit.
- (4) That Minister may, against the income of the States, guarantee the repayment of loans made to a principal company and the discharge of the obligations of a principal company.

## 30 Ceiling on Minister for Treasury and Resources guarantee

The Minister for Treasury and Resources shall not exercise the power under Article 29 in respect of a principal company unless he or she believes on reasonable grounds that, at the moment immediately after that exercise, the sum of the following totals would not exceed the sum of the gross revenues of the principal company and its subsidiaries for the year in which that exercise occurs, as estimated at that moment –

- (a) the total amount outstanding at that moment of loans made under this Law to that company and its subsidiaries;

- (b) the total amount outstanding at that moment of such loans to that company and its subsidiaries as are guaranteed (but are not made) under this Law; and
- (c) the total monetary value outstanding at that moment of guarantees given under this Law in respect of the obligations (not being loans) of that company and its subsidiaries.

## PART 7

### TRANSFER OF POSTAL ASSETS, LIABILITIES AND STAFF

#### 31 Interpretation of this Part

- (1) In this Part –
  - “assets” means any interest in immovable property, or in movable property, of any description, and includes securities, choses in action and documents;
  - “employee of the Committee for Postal Administration” is defined in paragraph (5);
  - “liabilities” means any liabilities, debts, or obligations, whether present or future and whether vested or contingent;
  - “representative body” includes a trade union and any other association of employees formed for the purpose of representing those employees in their relationship with their employers;
  - “rights” means any rights, powers, privileges, or immunities, whether present or future and whether vested or contingent;
  - “transfer date” means the day or days prescribed by Regulations under Article 32;
  - “transferee” means the person or persons to whom any assets, rights or liabilities are transferred under this Part;
  - “transferor” means the person or persons from whom any assets, rights or liabilities are transferred under this Part.
- (2) For the purposes of this Part, it makes no difference whether the assets, liabilities and rights to which it refers are situated in Jersey or in the United Kingdom or in any other country or in any territory, or arise or subsist under the law of Jersey or of the United Kingdom or of any other country or in any territory.
- (3) For the purposes of this Part, an asset or right of the Committee for Postal Administration includes an asset or right of the public of Jersey (or of the States), being an asset or right to the use or enjoyment of which the Chief Minister is entitled (in relation to the Minister’s functions transferred from the Committee for Postal Administration by the [States of Jersey \(Transfer of Functions from Committees to Ministers\) \(Jersey\) Regulations 2005](#)).<sup>4</sup>
- (4) For the purposes of this Part, a liability of the Committee for Postal Administration includes a liability to which the public of Jersey (or the

States) is subject (but arising from a benefit or interest to the use or enjoyment of which the Chief Minister is entitled (in relation to the Minister's functions transferred from the Committee for Postal Administration by the [States of Jersey \(Transfer of Functions from Committees to Ministers\) \(Jersey\) Regulations 2005](#))).<sup>5</sup>

- (5) For the purposes of this Part, “employee of the Committee for Postal Administration” means –
- (a) <sup>6</sup>
  - (b) a person employed by the States Employment Board within the meaning of the [Employment of States of Jersey Employees \(Jersey\) Law 2005](#), but engaged in the performance of the functions of the Chief Minister under the Post Office (Jersey) Law 1969; or<sup>7</sup>
  - (c) such other person, or person belonging to such class, as the States may prescribe by Regulations.

### **32 Transfer date**

- (1) The States may by Regulations prescribe one or more transfer dates<sup>8</sup> for the purposes of this Law.
- (2) A date prescribed under this Article shall not be earlier than the day on which the Regulations prescribing the date come into force.

### **33** <sup>9</sup>

### **34 Transfer of movables**

- (1) This Article does not apply to interests in immovable property.
- (2) On the transfer date, the assets, rights and liabilities of the Committee for Postal Administration shall be transferred to the company in accordance with the Regulations.
- (3) Such a transfer may be made on such terms and conditions as are prescribed by the Regulations and may (as prescribed in the Regulations) consist of the transfer of a liability, or transfer of an interest in an asset or right, that is less than the entire liability, or entire interest in the asset or right, of the Committee for Postal Administration (or of the public of Jersey, or of the States).
- (4) The States may, by Regulations, prescribe any asset, right or liability not subject to transfer, and an asset, right or liability that is so prescribed is not transferred under this Article, but this does not prevent its transfer otherwise than under this Article.
- (5) If it appears to the States expedient to do so for the purpose of removing any difficulties or uncertainties arising out of the operation of this Article, they may by Regulations direct that such assets, rights, or liabilities, of the Committee for Postal Administration as may be specified in the Regulations –

- (a) are not transferred under this Article or shall be taken not to have been so transferred; or
  - (b) are transferred under this Article or shall be taken to have been so transferred.
- (6) Regulations made under paragraph (5) shall have effect on a date or on dates specified in the Regulations, but not before the earliest transfer date prescribed for the purposes of this Article nor more than 12 months after that transfer date.
- (7) The States cannot make Regulations under paragraph (5) more than 12 months after that transfer date.

### **35 Transfer of immovables**

- (1) On the transfer date, such assets of the Committee for Postal Administration as are interests in immovable property and are prescribed by Regulations shall be transferred to the company.
- (2) Such a transfer may be made on such terms and conditions as are prescribed in the Regulations and may (as prescribed in the Regulations) consist of the transfer of an interest in property that is less than the entire interest of the Chief Minister (or of the public of Jersey, or of the States) in the property.<sup>10</sup>

### **36 Asset and liability adjustment**

- (1) The States may, for the purposes of ensuring that the financial position of the company (or of the public of Jersey, or of the States, with respect to the company) is optimized at the time when Regulations are made under this Article, by Regulations –
- (a) cause to be transferred to the company specified assets, rights or liabilities of the public of Jersey, or of the States, other than assets, rights, or liabilities, of the Committee for Postal Administration;
  - (b) cause to be transferred from the company to the public of Jersey, or to the States, specified assets, rights, or liabilities, of the company;
  - (c) create, and cause to be transferred to the company, an asset, right, or liability, of the public of Jersey, or of the States; or
  - (d) create, and cause to be transferred to the public of Jersey, or to the States, an asset, right, or liability, of the company.
- (2) A reference in paragraph (1) to a liability includes any liability that relates to all 3 of the following matters –
- (a) the employment of a person by the States (or by a public authority) at any time before the person becomes an employee of the company by virtue of this Part;
  - (b) the person's membership of a scheme under the [Public Employees \(Retirement\) \(Jersey\) Law 1967](#) or of the scheme referred to in Article 42(2)(b); and



- (c) the capital value of any debt relating to the accrual of benefits to the person under that scheme because of that employment.
- (3) A transfer under Regulations made under this Article may be made on such terms and conditions as are prescribed in the Regulations and may (as prescribed in the Regulations) consist of the transfer of a liability, or transfer of an interest in an asset or right, that is less than the entire liability, or entire interest in the asset or right.
- (4) Regulations made under paragraph (1) shall have effect on a date or on dates specified in the Regulations, but not before the earliest transfer date prescribed for the purposes of Article 34 nor more than 12 months after that transfer date.
- (5) The States cannot make such Regulations more than 12 months after that transfer date.

### **37 Vesting in transferee**

- (1) When any assets, rights or liabilities are transferred under this Part (including under Regulations made under Article 36), the following provisions have effect –
  - (a) except to the extent provided in Article 38(3), the assets of the transferor vest in the transferee by virtue of this Article and without the need for any further conveyance, transfer, assignment or assurance;
  - (b) the rights or liabilities of the transferor become by virtue of this Article the rights or liabilities of the transferee;
  - (c) all proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the transferor or a predecessor of the transferor and pending immediately before the transfer are taken to be proceedings pending by or against the transferee;
  - (d) any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the transferor or a predecessor of the transferor is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the transferee;
  - (e) a reference in any enactment, in any instrument made under any enactment or in any document of any kind to the transferor or a predecessor of the transferor is (to the extent to which it relates to those assets, rights or liabilities) taken to include a reference to the transferee.
- (2) The operation of this Article or of Article 34, 35, 36 or 38 (or of any Regulations made under any of those Articles) is not to be regarded –
  - (a) as a breach of contract or confidence or otherwise as a civil wrong;
  - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities;or

- (c) as giving rise to any remedy by a party to a contract or other instrument, or as causing or permitting the termination of any contract or other instrument, or of any obligation or relationship, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (3) The operation of this Article or of Article 34, 35, 36 or 38 (or of any Regulations made under any of those Articles) is not to be regarded as an event of default under any contract or other instrument.
- (4) For the purposes of this Part, to the extent that a contract, or other instrument, that creates or passes an asset, right or liability of the Committee for Postal Administration specifies that the asset, right or liability is incapable of transfer or assignment, the contract or instrument is of no effect.
- (5) No attornment to the transferee by a lessee from the transferor is required.
- (6) A transfer is subject to any terms and conditions that the States prescribe by Regulations.
- (7) No compensation is payable to any person or body in connection with a transfer to which Article 34, 35 or 36 applies except to the extent (if any) to which the Regulations made under that Article so provide.

### **38 Evidence, registration and treatment of transfer**

- (1) The production of a copy of any Regulations made under Article 34 (or Regulations relating to movable property made under Article 36) and signed by the Greffier of the States shall, for all purposes, be conclusive evidence of the transfer to, and vesting in, the transferee of any assets, rights, or liabilities, to which those Regulations apply.
- (2) Nothing in paragraph (1) affects the value of any other evidence of a transfer that may be adduced.
- (3) Regulations made under Article 35 or 36 that specify any interest in immovable property situated in Jersey and are signed by the Greffier of the States shall be registered in the Public Registry of Contracts and that registration shall have the like effect as a contract passed before the Court and the title to any interest in such immovable property specified in those Regulations shall vest in, belong to and be held by the transferee on and after the day of that registration.
- (4) The States may, by Regulations, make provision with respect to the values to be assigned to the assets, rights and liabilities of the Committee for Postal Administration, the values to be assigned to assets, rights and liabilities transferred under this Part, and the treatment of any transfer of assets, rights and liabilities under this Part, for any purposes, including in relation to or for the purposes of –
  - (a) <sup>11</sup>
  - (b) the determination of premiums for the purposes of Article 39 of the [Companies \(Jersey\) Law 1991](#);
  - (c) distributions for the purposes of Article 114 of that Law; or

- (d) any other matter under that Law.
- (5) The States may, by Regulations, make consequential, incidental or ancillary provision with respect to the matters referred to in paragraph (4).
- (6) Regulations may make different provision under paragraphs (4) and (5) for different purposes, even in respect of the same assets, rights or liabilities or the same transfer.

### **39 Stamp duty**

Stamp duty is not chargeable for or in respect of –

- (a) a transfer that is effected under this Part or, if otherwise effected in furtherance of the object of this Law, that is prescribed for the purposes of this Article by Regulations; or
- (b) anything prescribed by Regulations as something done in consequence of such a transfer.

### **40 Transfer of staff**

- (1) If, immediately before the transfer date, a person is an employee of the Committee for Postal Administration, on the transfer date the person shall be transferred to the company<sup>12</sup> and on and from that date –
  - (a) shall be an employee of the company;
  - (b) the person's contract of employment shall have effect as if it had originally been made between the person and the company at the date when it was actually made;
  - (c) all rights, powers, duties and liabilities under or in connection with the contract shall be enforceable or exercisable as if the contract had been originally made between the person and the company;
  - (d) any collective agreement made by the Committee for Postal Administration (or otherwise on behalf of the States) with a representative body recognized by that Committee (or recognized otherwise on behalf of the States), being an agreement that still has effect in respect of the person immediately before the transfer, shall continue to have effect in respect of the person as if it had been originally made by or on behalf of the company with that representative body; and
  - (e) anything done before the transfer date by or in relation to the Committee for Postal Administration (or otherwise on behalf of the States) under or in respect of the contract or the agreement or in respect of the person shall be taken to have been done by or in relation to the company at the time when it was actually done.
- (2) However if, immediately before the transfer date, a person is an employee of the Committee for Postal Administration, and at any time before the transfer date, has served notice in writing on the Chief Minister of refusal to be employed by the company, then, on the transfer date, unless the person has revoked that notice, the person –

- (a) shall not become an employee of the company; and
- (b) shall be taken to have served notice of resignation from employment as an employee of the Committee for Postal Administration on the preceding day, and, on the expiry of the period of notice that applied to that employment on that day, the employment shall terminate.<sup>13</sup>

#### **41 Collective agreements about new staff**

Any collective agreement made by the Committee for Postal Administration (or otherwise on behalf of the States) with a representative body recognized by that Committee (or otherwise on behalf of the States), being an agreement that is expressed to have effect in respect of the employment of persons by the company who were not immediately before the transfer date employees of the Committee for Postal Administration shall have effect on and from the transfer date as if it had been originally made by or on behalf of the company with that representative body.<sup>14</sup>

#### **42 Saving of rights under retirement schemes**

- (1) If a person was a member of any retirement scheme immediately before becoming an employee of the company by virtue of this Part, on so becoming such an employee –
  - (a) except to the extent provided in sub-paragraph (b), the terms of the person's membership of the scheme, and the person's rights and liabilities under that scheme, are unaffected by the person's becoming such an employee; and
  - (b) notwithstanding anything in any enactment or in any other document or under any arrangement, the company shall, by the operation of this Article, become the person's employer for the purposes of that scheme.
- (2) In this Article, "retirement scheme" means –
  - (a) a scheme made under the [Public Employees \(Retirement\) \(Jersey\) Law 1967](#);
  - (b) the retirement scheme applicable to those employees who, with effect from 1st October 1969 and on becoming employees of the States of Jersey on that day, retained the entitlement under that scheme that they had immediately before that day; or
  - (c) any other retirement scheme.

## **PART 8**

### **POWERS RELATING TO LAND**

#### **43 Interpretation of this Part**

In this Part, "postal equipment" means equipment (other than vehicles) for use in, in relation to, or for, the provision of any postal service, and includes equipment

already installed below, on or above land before 1st July 2006 or before any Regulations made under this Part come into force.

#### **44 Minister may acquire land for postal services**

- (1) If it appears to the Chief Minister that any land should be acquired on behalf of the public of Jersey for the purposes of facilitating the provision of postal services, and the Authority supports such an acquisition, it shall be lawful for the States to acquire such land by compulsory purchase on behalf of the public in accordance with the [Compulsory Purchase of Land \(Procedure\) \(Jersey\) Law 1961](#).
- (2) For the purposes of that Law, the Chief Minister shall be the acquiring authority in relation to the acquisition of any land.
- (3) In assessing the amount of compensation payable to any person in relation to such a compulsory purchase, the Board of Arbitrators, in addition to acting in accordance with the rules set out in Article 9 of that Law, shall, if satisfied that the value of the land to be acquired has been or will be enhanced by reason of the expenditure of public money, set off against the value used to assess the compensation any increase in the value attributable to the expenditure.
- (4) The power to acquire land by compulsory purchase referred to in paragraph (1) shall include the power to –
  - (a) acquire any interest in land or a servitude or other right in, on or over land by the creation of a new interest, servitude or right; and
  - (b) extinguish or modify any interest in land or a servitude or other right in, on or over land.
- (5) The States have, in addition to the power under Article 17 of the [Compulsory Purchase of Land \(Procedure\) \(Jersey\) Law 1961](#) to sell any land so acquired, the power to transfer any interest in such land for the purposes of facilitating the provision of postal services.

#### **45 Regulations about equipment on land**

The States may make Regulations –

- (a) prohibiting, regulating or facilitating the installation, removal, or maintenance, of postal equipment below, on or above any land by or for postal operators;
- (b) prohibiting, regulating or facilitating the doing of work on postal equipment below, on or above any land by or for postal operators;
- (c) prohibiting interference with postal equipment below, on or above any land; or
- (d) for or with respect to the resolution of disputes concerning the exercise of powers under Article 46.

#### **46 Installation of equipment on roads**

- (1) A public postal operator may (to the extent that its licence specifies, and subject to the conditions that the licence specifies) install, maintain, do work on, or operate any postal equipment below, on or above any road for the purposes of providing any postal service.
- (2) A public postal operator may (to the extent that its licence specifies, and subject to the conditions that the licence specifies) remove any postal equipment below, on or above any road, if it controls the equipment.
- (3) Nothing in this Article shall relieve a public postal operator from an obligation to obtain any permit, consent, permission or authorization required under the [Road Works and Events \(Jersey\) Law 2016](#) or any other enactment.<sup>15</sup>
- (4) Nothing in this Article confers a right of entry.

### **PART 9**

#### **IMMUNITY OF MAIL**

#### **47 Immunity of mail in post**

- (1) Mail in the course of transmission, including anything that it contains, and any mail bag containing such mail shall have immunity from examination, seizure, and detention, under this Law or any other enactment (whether passed before or after this Law), from seizure under distress or in execution and from retention by virtue of a lien.
- (2) However, nothing in paragraph (1) prevents the exercise of any of the following powers in relation to mail, its contents or any mail bag containing mail –
  - (a) the powers under Articles 48, 76(2) and 77;
  - (aa) a power arising under the [Customs and Excise \(Jersey\) Law 1999](#) or the [Regulation of Investigatory Powers \(Jersey\) Law 2005](#);
  - (ab) a power exercised in a prison arising in rules made pursuant to Article 26 of the [Prison \(Jersey\) Law 1957](#);
  - (ac) a power conferred on an examining officer by paragraph 7 of Schedule 8 to the [Terrorism \(Jersey\) Law 2002](#).
  - (b) a power arising under this Law, under any other enactment, or otherwise under the law, being a power prescribed by Regulations.<sup>16</sup>

#### **48 Power to interfere with mail where this Law contravened**

A postal operator may do any of the following with any mail that is posted for transmission by the operator and that the operator knows, or suspects on reasonable grounds, has been posted in contravention of Article 60 –

- (a) refuse to collect, accept, convey or deliver the mail;
- (b) detain and open any such mail;

- (c) return any such mail to its sender or transmit it to its destination, subject in either case to such additional postage or other charges as may be specified in any postal scheme made by the operator;
- (d) destroy the mail or otherwise dispose of it;
- (e) exercise any power that the postal operator has in relation to the mail by agreement with the sender of the mail or under a postal scheme.

49 17

## PART 10

### LIABILITY OF POSTAL OPERATORS

#### 50 Exclusion of liability in tort and certain other liability

- (1) No proceedings in tort shall lie against a public postal operator in respect of loss or damage suffered by any person because of –
  - (a) anything done, or omitted to be done, in relation to any postal packet in the course of transmission by post by the operator; or
  - (b) any omission to carry out arrangements for the collection of any postal packet to be conveyed by post by the operator.
- (2) No employee, agent, or sub-contractor, of a public postal operator shall be subject, except at the suit or instance of the operator, to any civil liability for –
  - (a) any loss or damage in the case of which liability of the operator is excluded by paragraph (1); or
  - (b) any loss of a postal packet, or damage to a postal packet, being loss or damage to which Article 51 applies.
- (3) No person engaged in or about the conveyance (provided by a public postal operator) of postal packets and no employee, agent, or sub-contractor, of any such person shall be subject, except at the suit or instance of the public postal operator who is providing that conveyance, to any civil liability for –
  - (a) any loss or damage in the case of which liability of the operator is excluded by paragraph (1); or
  - (b) any loss of a postal packet, or damage to a postal packet, being loss or damage to which Article 51 applies.
- (4) A person is not entitled to compensation just because a postal operator has refused under Article 48 to provide any service in relation to any mail that the person posted or caused to be posted or just because the postal operator has, under Article 48, detained, destroyed or otherwise disposed of the mail.
- (5) A person is not entitled to compensation for anything done by a postal operator under the [Customs and Excise \(Jersey\) Law 1999](#).

**51 Liability for packets where postal scheme so provides**

- (1) Proceedings shall lie, in accordance with a postal scheme made by a public postal operator, against the operator in respect of the loss of a postal packet, or damage to a postal packet, being loss, or damage –
  - (a) so far as it is due to any wrongful act of, or any neglect or default by, any person specified in paragraph (2); and
  - (b) in respect of which the operator, by virtue of the postal scheme, accepts liability.
- (2) Those persons are –
  - (a) a person engaged in relation to the receipt, conveyance, delivery, or other dealing, that is provided in relation to the packet by the operator and during which the loss or damage occurs; or
  - (b) a person who performs or purports to perform the person's functions as an employee, agent, or sub-contractor, of the operator in relation to the receipt, conveyance, delivery, or other dealing, that is provided in relation to the packet by the operator and during which the loss or damage occurs.
- (3) For the purposes of the proceedings, it shall be presumed, unless the contrary is shown, that loss of, or damage to, the packet was due to the conduct referred to in paragraph (1)(a).
- (4) No proceedings shall lie, except under this Article, against the operator in respect of a liability accepted by virtue of a postal scheme referred to in paragraph (1)(b).
- (5) No proceedings shall lie under this Article in relation to a postal packet unless they are begun within the period of 12 months starting with the day on which the packet was posted.
- (6) A public postal operator shall not be liable under this Article in respect of a postal packet unless such conditions (if any) as are required by a postal scheme to be complied with in relation to the packet at the time when the packet is posted have been so complied with.

**52 Liability for packets: parties and values**

- (1) A person who is the sender or addressee of a postal packet shall be entitled under Article 51 –
  - (a) to claim any relief or remedy available under Article 51 whether or not the person is the person who has suffered the loss or damage; and
  - (b) to give a good discharge in respect of all claims under Article 51 in respect of the packet concerned.
- (2) No other person shall be so entitled, except in accordance with paragraph (3).
- (3) If a court is satisfied, on an application by a person who is not the sender or addressee of the packet, that the sender and the addressee are unable or unwilling to enforce their relief, or remedy, under Article 51, the court



may, upon such terms as to security, caution, costs, expenses and otherwise as the court considers appropriate, allow that other person to bring proceedings under that Article in the name of the sender or the addressee of the packet.

- (4) If a person recovers any money or property under Article 51 that, except for this Article, would have been recoverable by another person, the money or property so recovered shall be held on trust for that other person.
- (5) The amount recoverable under Article 51 in relation to a postal packet shall not exceed the higher of the following amounts –
  - (a) the market value of the packet at the time when the cause of action arises; or
  - (b) the maximum prescribed by a postal scheme.
- (6) For the purposes of paragraph (5)(a) the market value of a postal packet shall not include the market value of –
  - (a) any message, or information, that it contains or bears; or
  - (b) any item that is excluded from the operation of Article 51 by a postal scheme.
- (7) A postal scheme may prescribe the meaning of “sender” in relation to a postal packet for the purposes of this Article, and, if a postal scheme has done so, “sender” has that meaning in this Article in relation to the packet.
- (8) In this Article, a reference to the sender, or addressee, of a postal packet includes a reference to the personal representative of the sender, or addressee.

### **53 Liability for money order (or postal order)**

- (1) If a money order (or postal order) issued in Jersey is paid outside Jersey, it shall be taken to be discharged in accordance with arrangements made by the party by or on behalf of whom it was issued.
- (2) If a money order (or postal order) is paid by the company or a person prescribed by Regulations to a banker to whom it has been delivered for collection on behalf of a person other than the true owner of the order, the company or prescribed person shall not be liable to the true owner of the order by reason of having paid it to the banker.
- (3) If a relevant uncrossed order is presented to the company or a person prescribed by Regulations for payment otherwise than by a banker to whom it has been delivered for collection or the true owner of the order, payment of the order by the company or prescribed person to the person presenting it shall not make the company or prescribed person liable to the true owner of the order.
- (4) Any person acting as a banker in Jersey who, in collecting in that capacity for any principal, has received payment from the company or a person prescribed by Regulations in respect of a money order (or postal order), or any document purporting to be a money order (or postal order), shall not incur liability to anyone except the principal by reason of having received

the payment or having held or presented the order or document for payment.

- (5) Paragraph (4) does not relieve any principal for whom any such order or document has been so held or presented of any liability in respect of the principal's possession of the order or document or of the proceeds of the order or document.
- (6) When –
- (a) a money order (or postal order) has been delivered for collection to a banker; and
- (b) the company or a person prescribed by Regulations has paid the order to the banker when it should not have done so,

the sum paid may be deducted from sums subsequently falling to be paid by the company or prescribed person to the banker by way of payment of money orders (or postal orders) so issued which have been delivered to the banker for collection.

- (7) No proceedings shall lie against the company or a person prescribed by Regulations for any loss or damage as a result of a reasonable refusal by it to pay out on a money order (or postal order) or a reasonable delay by it in paying out on such an order.

- (8) In this Article –

“banker” includes a body that carries on the business of banking;

“money order (or postal order)” means a money order (or postal order) issued by or on behalf of a postal operator established outside Jersey;

“relevant uncrossed order” means –

- (a) an uncrossed money order (or postal order) that –
- (i) is expressed to be payable to a person specified or described in the order, and
- (ii) is signed by or on behalf of that person or purports to be so signed; or
- (b) an uncrossed money order (or postal order) that is not expressed to be payable to a person specified or described in the order.

## **54 Limitation of criminal liability**

A person shall be immune from prosecution for any offence constituted by the person's –

- (a) possession of anything contained in mail in the course of transmission by a postal service provided by the person (or in the provision of which the person is engaged), so long as it is in possession only because of that transmission; or
- (b) failure to comply, in relation to anything contained in mail that is in the course of transmission by a postal service provided by the person (or in the provision of which the person is engaged), with any condition, restriction

or requirement imposed by any enactment in relation to its possession, conveyance or delivery.

## **55 Content of postal packets**

- (1) If a postal operator is charged with an offence arising out of the handling of a postal packet, it is a defence for the operator to show –
  - (a) that it did not know and had no reasonable grounds to suspect from the information known to it that the handling of the packet would (but for this Article) constitute or give rise to the offence; or
  - (b) that as soon as reasonably practicable after it knew or had reasonable grounds to suspect that the handling of the packet would (but for this Article) give rise to the offence –
    - (i) it took such steps as were reasonable to prevent the handling in the course of postal services provided by it, and
    - (ii) it notified a police officer of any facts in its possession about the packet or the handling.
- (2) A postal operator is not subject to civil liability for action it takes in good faith under paragraph (1)(b).
- (3) Nothing in this Article affects any other defence that a postal operator may have.

## **56 Obligations of postal operators**

- (1) A postal operator is not required to monitor mail handled in the course of postal services provided by it to ascertain whether its handling by it would (but for Article 55) give rise to an offence.
- (2) Except as may be necessary for a postal operator to satisfy the condition in Article 55(1)(b), Article 55 does not relieve the postal operator from –
  - (a) an obligation to comply with an order or direction of a court or other competent authority;
  - (b) an obligation under any other enactment;
  - (c) a contractual obligation; or
  - (d) an obligation under a postal scheme.

# **PART 11**

## **POSTAL SCHEMES**

## **57 Public postal operator may make postal scheme**

- (1) A public postal operator may make postal schemes specifying, or in respect of, any of the charges, and other terms and conditions, that are to apply to postal services provided by the public postal operator.

- (2) Without affecting the generality of paragraph (1), a postal scheme may make provision for or with respect to the following matters –
  - (a) the determination and payment of postage and other charges;
  - (b) manner, time, place and party in respect of the payment of postage and other charges;
  - (c) to the extent to which the public postal operator who makes the scheme may issue postage stamps – their issue, use, expiry and invalidation;
  - (d) the treatment of mail that cannot be delivered or in respect of which any term or condition has not been satisfied by the sender or the addressee of the mail;
  - (e) the payment of compensation for the loss of postal packets, or damage to them, in the course of their transmission by post.
- (3) A postal scheme may –
  - (a) specify scales of charges or formulas or systems for the determination of charges and other conditions;
  - (b) in any or all cases leave the determination of any specified charges, terms and conditions to the public postal operator who makes the scheme, subject to the terms, conditions and limitations (if any) provided for in the postal scheme;
  - (c) make different provision for different descriptions, or classes, of postal packets, determined by, or in accordance with, the postal scheme;
  - (d) in general, make different provision for different cases, or different classes of cases, determined by, or in accordance with, the postal scheme; or
  - (e) modify a postal scheme.

## **58 Effect of postal scheme**

- (1) A postal scheme has, except in so far as it is expressed to do otherwise, the effect of determining such of the charges, and other terms and conditions, as the scheme relates to.
- (2) A postal scheme shall be of no effect to the extent that –
  - (a) an agreement inconsistent with the scheme exists between the operator who made the scheme and a user of a postal service to which the scheme applies;
  - (b) the scheme purports to affect the application of the rules of law with respect to evidence;
  - (c) except for the purposes of Article 52, the scheme purports to limit any liability of a public postal operator for loss or damage; or
  - (d) the scheme is inconsistent with any enactment.
- (3) Nothing in a postal scheme prevents a public postal operator from entering an agreement with a user of a postal service provided by the operator as to

the charges and other terms and conditions that apply to the provision of that service to that user.

- (4) A charge payable under a scheme may be recovered by the public postal operator who made the scheme from the party who under the scheme has the obligation to pay it, and the charge may be recovered as a civil debt due to that operator.

## **59 Procedural requirements applying to postal scheme**

- (1) A public postal operator shall take reasonable steps to bring the purport of a postal scheme made by the operator to the attention of the public.
- (2) The requirement in paragraph (1) shall be taken to have been satisfied by the publication in the Jersey Gazette of notice that –
  - (a) sets out the scheme; or
  - (b) states that the scheme has been made, when it comes into force and where members of the public may view copies of the scheme and where they may obtain them.
- (3) Copies of every postal scheme that is in force shall be available to be viewed by members of the public free of charge during office hours at the main office of the public postal operator that made the scheme and at such other places (if any) as the operator specifies by notice (if any) published as referred to in paragraph (2).
- (4) A postal scheme shall come into force on such day as it specifies, not being earlier than the day after that on which paragraph (1) has been complied with in respect of the scheme.
- (5) Sufficient evidence of the contents of a postal scheme may be given, in any court and in any legal proceedings, by the production of –
  - (a) a copy of the Jersey Gazette (if any) that purports to contain a copy of the scheme; or
  - (b) something certified to be a true copy of the scheme by the chief executive officer of the public postal operator that made the scheme.
- (6) Publication of a notice in accordance with paragraph (2) is not the only way in which the requirement in paragraph (1) may be satisfied.

## **PART 12**

### **OFFENCES RELATING TO POSTAL SERVICES**

## **60 Certain things must not be posted**

- (1) A person who posts or causes to be posted any mail for transmission by a postal operator shall be guilty of an offence if the mail –
  - (a) contains anything that may harm persons or things and that thing is not packed –

- (i) in a case where a postal scheme made by the postal operator is in force in respect of the packing of such a thing for posting – in compliance with the postal scheme or otherwise in such a way as to ensure that it can cause no harm to persons or things, or
    - (ii) in any other case – in such a way as to ensure that it can cause no harm to persons or things;
  - (b) may itself harm persons or things; or
  - (c) is or contains anything indecent, obscene or grossly offensive.
- (2) A person who is guilty of an offence against this Article shall be liable to imprisonment for a term of 12 months and to a fine.

## 61 Fictitious or used postage stamps

- (1) A person shall not –
- (a) make, knowingly utter, deal in or sell a fictitious stamp;
  - (b) have a fictitious stamp in the person’s possession without lawful excuse;
  - (c) make a die, plate, instrument or materials for making a fictitious stamp; or
  - (d) have in the person’s possession, without lawful excuse, a die, plate, instrument or materials for making a fictitious stamp.
- (2) A person shall not, for the purposes of paying postal charges in respect of mail, knowingly use –
- (a) a defaced stamp or fictitious stamp; or
  - (b) a postage stamp that has previously been used to prepay postage on other mail.
- (3) A person who contravenes this Article shall be guilty of an offence and liable –
- (a) in the case of a contravention of paragraph (1)(a) or (c), to imprisonment for a term of 2 years and to a fine; or
  - (b) in the case of a contravention of paragraph (1)(b) or (d) or of paragraph (2), to imprisonment for a term of 6 months and to a fine of level 3 on the standard scale<sup>18, 19</sup>.
- (4) Any fictitious stamp, and any die, plate, instrument or materials for making a fictitious stamp that are found in the possession of any person who contravenes paragraph (1) may be seized by a police officer and, if the person is convicted of such a contravention in relation to those things, shall be forfeited to the States.
- (5) In this Article –
- “defaced stamp” means a postage stamp issued by a public postal operator (for use in a postal service provided by the operator) or by the Committee for Postal Administration and altered in a way that has not been authorized

by the issuer (or, in the case of a stamp issued by the Committee for Postal Administration, by that Committee or the company);

“fictitious stamp” means a representation, whether on paper or otherwise, of any postage stamp issued by a public postal operator (for use in a postal service provided by the operator) or by the Committee for Postal Administration, being a representation that has not been authorized by the issuer of the stamp (or, in the case of a stamp issued by the Committee for Postal Administration, by that Committee or the company).

## **62 Fraud in relation to a money order (or postal order)**

- (1) An employee of the company, or of a person prescribed by Regulations, who with intent to defraud issues or pays a money order (or postal order) shall be guilty of an offence and liable to imprisonment for a term of 7 years and to a fine.
- (2) An employee of the company, or of a person prescribed by the Regulations, who reissues a money order (or postal order) that has previously been paid shall for the purposes of this Article be taken to have issued the order with intent to defraud.
- (3) A person who with intent to defraud obliterates, adds to or alters any such lines or words on a money order (or postal order) as would, in the case of a cheque, be a crossing of that cheque shall be guilty of an offence and liable to the same punishment as if the order were a cheque.
- (4) A person who with intent to defraud offers, utters or disposes of a money order (or postal order) with such fraudulent obliteration, addition or alteration shall be guilty of an offence and liable to the same punishment as if the order were a cheque.
- (5) In this Article, “money order (or postal order)” means a money order (or postal order) issued by or on behalf of a postal operator established outside Jersey.

## **63 Things affixed to postal facility**

- (1) A person shall not, without lawful excuse, affix any advertisement, document, board or other thing in or on any post office, post box, vehicle, or other property or equipment, used by a public postal operator in connection with the provision of a postal service by the operator.
- (2) A person shall not, without lawful excuse, remove, or damage, paint or in any other way disfigure any such office, box, vehicle, or property or equipment.
- (3) A person shall not, without lawful excuse –
  - (a) place in, against or near any such office, box, vehicle, or property or equipment, any fire, or explosive or other substance, likely to damage or interfere with it; or
  - (b) do anything else likely to damage or interfere with any such office, box, vehicle, or property or equipment.

- (4) A person who contravenes this Article shall be guilty of an offence and liable to imprisonment for a term of 6 months and to a fine of level 3 on the standard scale<sup>20, 21</sup>.

#### **64 False notice as to postal services**

- (1) A person shall not, without the authority of a public postal operator, place (or maintain) in any place any words, letters or marks that signify or imply, or may reasonably lead the public to believe –
- (a) that something in that place is a post box used by the operator; or
  - (b) that any house, building, room, vehicle or structure in that place is a post office of the operator.
- (2) A person shall not, without the authority of a public postal operator –
- (a) place (or maintain) in or on any ship, vehicle, aircraft, or premises, belonging to the person or under the person's control; or
  - (b) use in any document that relates to the same person or any other person or to any ship, vehicle, aircraft or premises, any words, letters, or marks, that signify or imply, or may reasonably lead the public to believe –
    - (i) that the person or the other person is authorized by the operator to collect, receive, sort, deliver or convey mail in connection with the operator's provision of a postal service; or
    - (ii) that the ship, vehicle, aircraft or premises are used by the operator for the purpose of collecting, receiving, sorting, delivering or conveying mail in connection with the operator's provision of a postal service.
- (3) A person shall not, without reasonable excuse, fail to comply with a notice given to the person by a public postal operator requiring the person –
- (a) to remove or efface any words, letters or marks referred to in paragraph (1) to the extent that the person has placed (or maintained) them without the authority of the operator;
  - (b) to remove or efface any words, letters or marks referred to in paragraph (2), and placed (or maintained) as referred to in paragraph (2)(a), to the extent that the person has placed (or maintained) them without the authority of the operator;
  - (c) to cease to use any words, letters or marks referred to in paragraph (2), and used as referred to in paragraph (2)(b), to the extent that the person has used them without the authority of the operator; or
  - (d) to remove or close up something that belongs to the person or is under the person's control and that the public may reasonably believe is a post box used by the operator when that thing is not such a post box.



- (4) A person who contravenes this Article shall be guilty of an offence and liable to imprisonment for a term of 3 months and to a fine of level 3 on the standard scale<sup>22</sup>.

## **65 Injunction**

- (1) The Court shall have power to grant an injunction in restraint of a continuing or threatened breach of Article 64.
- (2) The Chief Minister, the Authority, and the public postal operator concerned under Article 64, each has standing to seek an injunction in restraint of a continuing or threatened breach of that Article.

## **66 Stealing or receiving mail bag or mail**

- (1) A person who steals or attempts to steal a mail bag shall be guilty of an offence.
- (2) A person who steals or attempts to steal mail, or the contents of mail, while the mail is in the course of transmission by post shall be guilty of an offence.
- (3) A person who receives a mail bag, mail, or the contents of mail, stolen in contravention of this Law, knowing it to have been so stolen shall be guilty of an offence.
- (4) A person who is guilty of an offence against this Article shall be liable to imprisonment for a term of 7 years and to a fine.

## **67 Unlawful opening of mail**

- (1) A person who, without reasonable excuse, opens mail that is in the course of transmission by post, or a mail bag containing such mail, shall be guilty of an offence.
- (2) A person who, without reasonable excuse, opens mail that has been delivered by post, or a mail bag containing such mail, knowing that it is not intended for the person, shall be guilty of an offence.
- (3) A person who is guilty of an offence against this Article shall be liable to imprisonment for a term of 2 years and to a fine.
- (4) This Article does not prevent the doing of anything in accordance with Part 9, the [Regulation of Investigatory Powers \(Jersey\) Law 2005](#), the [Customs and Excise \(Jersey\) Law 1999](#) or another enactment or in accordance with a postal scheme or, in the case of mail, in accordance with an agreement with the sender or addressee of the mail.<sup>23</sup>

## **68 Unlawful detention of mail**

- (1) A person who, without reasonable excuse, wilfully destroys, damages, keeps, secretes or detains a mail bag shall be guilty of an offence.
- (2) A person who, without reasonable excuse, wilfully destroys, damages, keeps, secretes or detains mail that is in the course of transmission by post,

or was in the course of such transmission when it was so destroyed, damaged, kept, secreted or detained, shall be guilty of an offence.

- (3) A person who, without reasonable excuse, wilfully does anything whereby the due delivery of mail by post to another person is prevented or delayed or does anything whereby the due receipt by the person for whom mail is intended is prevented or delayed, being mail that has been delivered by post, shall be guilty of an offence.
- (4) A person who, without reasonable excuse, fails to deliver to a postal operator on demand by the postal operator any mail bag, mail, or contents of mail, that the person has taken, kept, secreted or detained and that is in the course of transmission by post or was in the course of such transmission when it was so taken, kept, secreted or detained, shall be guilty of an offence.
- (5) A person who, without lawful excuse, fails to deliver to a postal operator on demand by the postal operator any mail bag, mail, or contents of mail, that the person has found after it was taken, kept, secreted or detained by the person or anyone else and that is in the course of transmission by post or was in the course of such transmission when it was so taken, kept, secreted or detained shall be guilty of an offence.
- (6) This Article does not prevent the doing of anything in accordance with Part 9, the [Regulation of Investigatory Powers \(Jersey\) Law 2005](#), the [Customs and Excise \(Jersey\) Law 1999](#) or another enactment or in accordance with a postal scheme or, in the case of mail, in accordance with an agreement with the sender or addressee of the mail.<sup>24</sup>
- (7) Paragraphs (1) to (3) do not apply to any delay that results from industrial action in contemplation or furtherance of a trade dispute.
- (8) A person who is guilty of an offence against this Article shall be liable to imprisonment for a term of 2 years and to a fine.

## **69 Interference with contents of mail**

- (1) Any person engaged in the provision of a postal service who, contrary to the person's duty, and without reasonable excuse –
  - (a) discloses to any person the contents of any mail conveyed by the service (if the latter person is not the intended recipient of the mail);
  - (b) discloses any information concerning the use made of the service to any person other than the person who actually made that use; or
  - (c) modifies, or interferes with, the contents of mail conveyed by the service,shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.
- (2) Paragraph (1)(a) and (b) do not apply to any disclosure made for the prevention or detection of crime or for the purposes of any criminal proceedings or under Article 55.
- (3) Paragraph (1)(a) and (b) do not apply to any disclosure made in obedience to any warrant, authorization or notice issued under Part 2 of the

[Regulation of Investigatory Powers \(Jersey\) Law 2005](#) or required as referred to in Article 44 of that Law.<sup>25</sup>

- (4) <sup>26</sup>
- (5) Paragraph (1)(a) and (b) do not apply to any disclosure made in the interests of national security or in pursuance of the order of a court.
- (6) For the purposes of paragraph (5), a certificate signed by the Attorney General certifying that a disclosure was made in the interests of national security shall be conclusive evidence of that fact, and a document purporting to be such a certificate shall be received in evidence and taken to be such a certificate unless the contrary is proved.

## **70 Obstructing postal staff**

- (1) A person shall be guilty of an offence if, without reasonable excuse, the person –
  - (a) obstructs a person in the performance of a postal service provided by a public postal operator; or
  - (b) while in a post office used by a public postal operator, obstructs the course of business of the operator.
- (2) A person shall be guilty of an offence if, without reasonable excuse, the person fails to leave a post office used by a public postal operator when required so to leave by a person engaged in the provision of a postal service provided by the operator, or a person acting on the operator's behalf.
- (3) A person engaged in the provision of a postal service provided by the operator, or a person acting on the operator's behalf, may remove from that post office a person who fails to leave (as referred to in paragraph (2)), and a police officer shall, on demand by a person so engaged or acting, remove or assist in removing the person who has failed to leave, and reasonable force may be exercised to effect that removal.
- (4) A person who fails to take reasonable steps to prevent an animal under the person's care or control from attacking a person engaged in the provision of a postal service provided by any postal operator shall be guilty of an offence.
- (5) A person who is guilty of an offence against –
  - (a) paragraph (1) or (4), shall be liable to imprisonment for a term of 6 months and to a fine of level 3 on the standard scale; or
  - (b) paragraph (2), shall be liable to imprisonment for a term of 3 months and to a fine of level 2 on the standard scale<sup>27, 28</sup>.

## **71 False information**

- (1) Any person who knowingly or recklessly provides the Authority, or any other person entitled to information under this Law, or under Regulations or an Order made under this Law, with information that is false or misleading in a material particular shall be guilty of an offence if the information is provided –

- (a) in purported compliance with a requirement imposed under this Law or under Regulations or an Order made under this Law; or
  - (b) otherwise than as mentioned in sub-paragraph (a) but in circumstances in which the person providing the information intends, or could reasonably be expected to know, that the information would be used by the Authority for the purpose of carrying out its functions under this Law.
- (2) Any person who knowingly or recklessly provides the Authority, or any other person entitled to information under this Law, with information that is false or misleading in a material particular shall be guilty of an offence if the information is provided in connection with an application under this Law.
- (3) A person who is guilty of an offence against this Article shall be liable to imprisonment for a term of 5 years and to a fine.

## **72 General provisions as to offences**

- (1) Where an offence under this Law, or under Regulations made under this Law, committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
- (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
  - (b) any person purporting to act in any such capacity,
- the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (2) If the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.
- (3) A person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.
- (4) An offence may be committed under this Law whether or not the act that constitutes the offence, or is an ingredient of the offence, causes any interruption to, or prevention of, the provision of a postal service.

**PART 13****MISCELLANEOUS****73 Orders in interests of security etc.**

- (1) The Chief Minister may make Orders with respect to the functions of the Authority under this Law if he or she considers it necessary or expedient to do so –
  - (a) in the interests of national security or in the interests of encouraging or maintaining relations with a country or territory; or
  - (b) in order –
    - (i) to discharge, or facilitate the discharge of, an international obligation,
    - (ii) to attain, or facilitate the attainment of, any other object that the Policy and Resources Committee considers it necessary or expedient to attain in view of Jersey's being a member of an international organization or a party to an international agreement, or
    - (iii) to enable Jersey to become a member of such an organization or a party to such an agreement.
- (2) An Order under this Article may, in particular, require the Authority –
  - (a) to do or not to do a particular thing;
  - (b) to ensure that a particular thing is done or not done; or
  - (c) to recognize persons, or classes of persons, as a postal administration or universal service provider, or anything else, for any purpose in connection with an international norm, international agreement, or membership of an international organization.
- (3) An Order under this Article may provide that a person, or class of persons, is to be taken to be a postal administration or universal service provider, or anything else, for the purposes of the application to Jersey of an international norm or international agreement.
- (4) The Chief Minister shall consult the Authority and the Chief Minister before making an Order under this Article.
- (5) To the extent of any inconsistency between the functions of the Authority under the other provisions of this Law and any requirement of an Order under this Article, the functions are modified so that the Authority shall perform them consistently with the requirement.

**74 Modifications of Law in interests of security etc.**

The States may, by Regulations, modify the provisions of this Law if the States consider it necessary or expedient to do so –

- (a) in the interests of national security or in the interests of encouraging or maintaining relations with a country or territory; or

- (b) in order –
  - (i) to discharge, or facilitate the discharge of, an international obligation,
  - (ii) to attain, or facilitate the attainment of, any other object that the States consider it necessary or expedient to attain in view of Jersey's being a member of an international organization or a party to an international agreement, or
  - (iii) to enable Jersey to become a member of such an organization or a party to such an agreement.

## **75 Limit on disclosure in general**

- (1) A person shall not disclose any information with respect to a person or business during the lifetime of that person or so long as that business continues, without the consent of that person or the person for the time being carrying on that business, if the information –
  - (a) has been obtained under this Law; and
  - (b) relates to the private affairs of the person or to the business.
- (2) Any person who discloses information in contravention of this Article shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.
- (3) Paragraph (1) shall not apply to the disclosure of information –
  - (a) for the purpose of facilitating the performance by the Chief Minister or the Chief Minister of his or her functions under this Law;
  - (b) for the purpose of facilitating the performance by the Authority of its functions under this or any other Law;
  - (c) to enable the holder of a licence who is a public postal operator to comply with the terms and conditions of the licence;
  - (d) in connection with the investigation of any criminal offence or for the purposes of criminal proceedings, or generally in the interests of the prevention or detection of crime, whether in Jersey or elsewhere;
  - (e) in connection with the discharge of an international obligation;
  - (f) to assist any authority that appears to the Authority to exercise, outside Jersey, functions corresponding to some or all of those of the Authority under this or any other Law;
  - (g) for the purposes of civil proceedings arising under this Law;
  - (h) to comply with a direction of the Court;
  - (i) for the purpose of enabling or assisting the Jersey Financial Services Commission or the Chief Minister to exercise any powers relating to companies or financial services of any kind, being powers conferred by any enactment;
  - (j) for the purpose of enabling or assisting an inspector appointed under the [Companies \(Jersey\) Law 1991](#) to carry out any functions that the

- inspector has under any enactment by virtue of being such an inspector;
- (k) for the purpose of enabling or assisting the Viscount to carry out any functions under the [Bankruptcy \(Désastre\) \(Jersey\) Law 1990](#);
  - (l) for the purpose of facilitating the carrying out by any person of functions under the [Health and Safety at Work \(Jersey\) Law 1989](#); or
  - (m) for such other purposes as the States may by Regulations prescribe.
- (4) The States may, by Regulations, modify paragraph (3)(a) to (l).

## **76 Entry and search of vehicle or premises**

- (1) If, on application made by a police officer supported by information on oath, the Bailiff or a Jurat is satisfied that there are reasonable grounds for believing that an offence under Article 4 has been, or is being, committed and that there is evidence of the commission of the offence to be found on or in a ship, vehicle, aircraft, or premises, specified in the application, the Bailiff or Jurat may issue a warrant authorizing a police officer to enter and search the ship, vehicle, aircraft or premises.
- (2) The warrant shall not authorize the seizure or removal of any mail in the course of transmission by post (or anything contained in such mail) or any mail bag containing such mail, or the opening of such mail, but may authorize the officer to open such a mail bag or take copies of the cover, or labels, of such mail (or of such a mail bag) if the officer finds the mail (or mail bag) during the search.
- (3) Any person who obstructs a police officer in the execution of a warrant issued under this Article shall be guilty of an offence and liable to a term of imprisonment of 6 months and to a fine.

## **77 Power to require information**

- (1) The Authority may, for any purpose connected with the investigation of an offence under this Law or under Regulations made under this Law or with proceedings for such an offence, or with the exercise of the functions of the Authority under Article 20 or 21, by notice in writing –
  - (a) require any person to produce to the Authority, or any person appointed by it for that purpose, any documents specified or described in the notice that are in the custody, or under the control, of the first-mentioned person and specify the time, manner and form in which those documents are to be produced;
  - (b) require any person carrying on any business to furnish to the Authority, and have verified, any estimates, returns, or other information, specified or described in the notice and specify the time, manner and form in which those estimates, returns or information are to be furnished and verified; or

- (c) require any person to furnish copies of the cover, or labels, of mail in the course of transmission by post or copies of the cover, or labels, of any mail bag containing such mail.
- (2) The Authority may –
  - (a) keep a document produced under paragraph (1)(a) for a reasonable time; and
  - (b) take copies of such a document.
- (3) Nothing in this Article authorizes the Authority to require the production or furnishing of any mail in the course of transmission by post (or anything contained in such mail) or any mail bag containing such mail, except for any purpose connected with the investigation of an offence against Article 4.
- (4) No person shall be compelled for any purpose referred to in paragraph (1) to produce any document that the person cannot be compelled to produce in proceedings before the Court or, in complying with any requirement to furnish information, to give any information that the person could not be compelled to give in evidence in such proceedings.
- (5) Any person who refuses or, without reasonable excuse, fails to comply with the requirements of a notice under paragraph (1) shall be guilty of an offence and liable to a fine of level 3 on the standard scale<sup>29, 30</sup>.
- (6) A person who intentionally alters, suppresses or destroys a document that is the subject of a notice under paragraph (1) shall be guilty of an offence and liable to imprisonment for a term of 5 years and to a fine.
- (7) Where a person fails to comply with the requirements of a notice under paragraph (1) the Court may, on application by the Authority, make an order requiring compliance, and the order may provide that the costs of, and incidental to, the application shall be paid by the person who failed to comply with the notice.

## **78 Evidence of amount of postage etc.**

- (1) The mark of –
  - (a) a public postal operator in connection with the provision of a postal service by the operator; or
  - (b) a postal operator established outside Jersey,of any sum on any postal packet as due in respect of that packet shall, unless the contrary is shown, be sufficient proof in any legal proceedings of the liability of the packet to the sum so marked.
- (2) Paragraphs (3) to (5) apply in relation to any legal proceedings for the recovery of postage or other sums due in respect of postal packets.
- (3) In any such proceedings, the production of the packet concerned with a stamp (or other endorsement) on it of a public postal operator (and made in connection with the provision of a postal service by the operator), or of a postal operator established outside Jersey, indicating that the packet –
  - (a) has been refused or rejected;



- (b) is unclaimed; or
  - (c) cannot for any other reason be delivered,
- shall, unless the contrary is shown, be sufficient proof of the fact indicated.
- (4) In any such proceedings, a certificate of a public postal operator that any mark, stamp or endorsement is such a mark, stamp or endorsement as is mentioned in paragraph (1) or (3) shall, unless the contrary is shown, be sufficient proof of that fact.
  - (5) In any such proceedings, the person from whom the packet concerned purports to have come shall, unless the contrary is shown, be taken to be the sender of the packet.

### **79 Evidence that thing is postal packet**

On the prosecution of an offence under this Law, evidence that any article is in the course of transmission by post, or has been accepted by a postal operator for transmission by post, shall be sufficient evidence that the article is a postal packet.

### **80 Stopping of mail does not prevent proceedings based on delivery**

The detention, disposal, or other treatment, by a postal operator of a postal packet on the grounds of a contravention of Article 60 or of any terms or conditions that apply to its transmission by post shall not exempt the sender of the packet from any liability or proceedings that might have been incurred or taken if the packet had been delivered in due course of post.

### **81 Limitation of civil liability for administration of Law**

- (1) A person or body to whom this paragraph applies shall not be liable in damages for anything done or omitted in the discharge or purported discharge of any functions under this Law or under Regulations or an Order made under this Law unless it is shown that the act or omission was in bad faith.
- (2) Paragraph (1) applies to –
  - (a) the States;
  - (b) the Chief Minister;
  - (c) the Chief Minister; and
  - (d) any person who is, or is acting as, an officer, employee or agent in an administration of the States for which either of those Ministers is assigned responsibility, or who is performing any duty or exercising any power on behalf of either of those Ministers.
- (3) A person is not entitled to claim or to receive compensation in respect of any change in the value of a licence, or value of any right arising under this Law, being a change resulting from the modification of a condition contained in any licence (whether or not held by the same person), or the revocation of any licence (whether or not held by the same person) or

otherwise resulting directly or indirectly from the exercise of a function under Part 4.

- (4) Paragraph (3) is included for the avoidance of doubt and does not limit the operation of paragraph (1).

## 82 Service of notices etc.

- (1) A notice required by this Law to be given to the Authority shall not be regarded as given until it is in fact received by the Authority.
- (2) A notice or other document required or authorized by or under this Law to be given to or served on the Authority may be given or served by facsimile, or by other electronic transmission, or by any other means, by which the Authority may obtain or recreate the notice or document in a form legible to the naked eye.
- (3) Any notice, direction, or other document, required or authorized by or under this Law to be given to or served on any person other than the Authority may be given or served –
- (a) by delivering it to the person;
  - (b) by leaving it at the person's proper address;
  - (c) by sending it by post to the person at that address; or
  - (d) by sending it to the person at that address by facsimile, or by other electronic transmission, or by any other means, by which the notice, direction or document may be obtained or recreated in a form legible to the naked eye.
- (4) Without limiting the generality of paragraph (3), any such notice, direction or other document may be given to or served on a partnership, company incorporated outside Jersey or unincorporated association by being given to or served on –
- (a) in any case, a person who is, or purports (under whatever description) to act as, its secretary, clerk or other similar officer;
  - (b) in the case of a partnership, the person having the control or management of the partnership business; or
  - (c) in the case of a partnership, or company incorporated outside Jersey, a person who is a principal person in relation to it (within the meaning of the [Financial Services \(Jersey\) Law 1998](#)).
- (5) The notice, direction or other document may also be given to or served on the partnership, company incorporated outside Jersey or unincorporated association by being delivered to the registered or administrative office of the person referred to in paragraph (4)(a), (b) or (c) if the person is a body corporate.
- (6) For the purposes of this Article and of Article 7 of the [Interpretation \(Jersey\) Law 1954](#), the proper address of any person to or on whom a notice, direction or other document is to be given or served by post shall be the person's last known address, except that –

- (a) in the case of a company (or person referred to in paragraph (4) in relation to a company incorporated outside Jersey), it shall be the address of the registered or principal office of the company in Jersey; and
  - (b) in the case of a partnership (or person referred to in paragraph (4) in relation to a partnership), it shall be the address of the principal office of the partnership in Jersey.
- (7) If the person to or on whom any notice, direction, or other document, referred to in paragraph (3) is to be given or served has notified the Authority of an address within Jersey, other than the person's proper address within the meaning of paragraph (6), as the one at which the person or someone on the person's behalf will accept documents of the same description as that notice, direction or other document, that address shall also be treated for the purposes of this Article and Article 7 of the [Interpretation \(Jersey\) Law 1954](#) as the person's proper address.
- (8) If the name or the address of any owner, lessee, or occupier, of premises to or on whom any notice, direction, or other document, referred to in paragraph (3) is to be given or served cannot after reasonable enquiry be ascertained it may be given or served by –
- (a) addressing it to the person by the description of “owner”, “lessee” or “occupier” of the premises;
  - (b) specifying the premises on it; and
  - (c) delivering it to some responsible person resident or appearing to be resident on the premises or, if there is no person to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

### **83 Orders and Regulations**

- (1) The Chief Minister may by Order make provision for the purpose of carrying this Law into effect and, in particular, but without prejudice to the generality of the foregoing, for or with respect to any matter that may be prescribed under this Law by Order of that Minister.
- (2) The States may by Regulations make provision for the purpose of carrying this Law into effect and, in particular, but without prejudice to the generality of the foregoing, for or with respect to any matter that may be prescribed under this Law by Regulations.
- (3) The States may by Regulations modify any of the following provisions –
  - (a) Article 7;
  - (b) Article 8(3)(a) to (d);
  - (c) Part 11;
  - (d) Part 1, so far as it is relevant to the interpretation of any provision referred to in sub-paragraphs (a) – (c).
- (4) An Order or Regulations made under this Law may contain such transitional, consequential, incidental or supplementary provisions as

appear to the maker of the Order or Regulations to be necessary or expedient for the purposes of the Order or Regulations.

- (5) Regulations made under this Law may create an offence punishable by a fine of up to level 3 on the standard scale.<sup>31</sup>

#### **84 Savings, and transitional and consequential provisions**

The Schedule shall have effect.

#### **85 Citation**

This Law may be cited as the Postal Services (Jersey) Law 2004.

## SCHEDULE

(Article 84)

### SAVINGS, AND TRANSITIONAL AND CONSEQUENTIAL PROVISIONS

#### 1 No exclusive privilege

- (1) On and from the commencement of Article 3 of this Law, there shall be no exclusive privilege within the meaning of Article 2 of the Post Office (Jersey) Law 1969.
- (2) Sub-paragraph (1) is included only for the avoidance of doubt.

#### 2 Exclusion of liability

Article 3 of the Post Office (Jersey) Law 1969 continues to have effect, notwithstanding its repeal by this Law, in respect of any act or omission that took place before that repeal, even if the liability for that act or omission arose on or after that repeal.

#### 3 Duty to provide official information as to mail

A reference in section 80 of the Post Office Act 1969 of the United Kingdom, as applied to Jersey, to an officer of the Jersey Post Office shall be taken, with effect from the coming into force of this paragraph, to be a reference to an employee of any postal operator in Jersey.

#### 4 Preservation of scope of welfare funds

A reference in section 133 of the Post Office Act 1969 of the United Kingdom, as applied to Jersey, to employment by the States of Jersey shall be taken, with effect from the coming into force of this paragraph, to be a reference to employment by the company.

#### 5 Proceedings

Any proceedings by or against the Chief Minister in respect of that Minister's functions transferred from the Committee for Postal Administration by the [States of Jersey \(Transfer of Functions from Committees to Ministers\) \(Jersey\) Regulations 2005](#) and which have not been concluded when that Law is repealed may be continued by or against the company.<sup>32</sup>

## **6 References to postal services**

- (1) A reference in any enactment, agreement, or other document, in force immediately before the day when this paragraph comes into force, to a postal service provided by the Committee for Postal Administration or by the Chief Minister shall, on and from that day, become –
  - (a) a reference to the equivalent postal service, whether provided by the company or not; or
  - (b) such other reference as the States may prescribe instead by Regulations.
- (2) This paragraph is subject to any express provision, or implication, to the contrary in that or any other enactment, agreement or other document.

## **7 Stamps**

- (1) A postage stamp issued by the Committee for Postal Administration or the Chief Minister, and still valid immediately before the liability of that Minister in respect of the stamp is transferred to the company, shall be taken to have been issued by the company at the moment of the transfer.
- (2) If a postage stamp is taken because of sub-paragraph (1) to have been issued by the company, but is invalidated by the company before the anniversary of the transfer, the company shall exchange the stamp for another stamp of equivalent face value if the stamp is surrendered to the company within 6 months after the invalidation.

## **8 Postal schemes made before licence in force**

A person who has been granted a licence as a public postal operator may make a postal scheme under Part 11 even though the licence is not yet in force, but, in that case, the scheme does not come into force until the date when the licence comes into force, or, if the scheme specifies a later date or later dates, on the later date or dates.

## **9 General saving**

- (1) Anything done by any person under any provision of the Post Office (Jersey) Law 1969 (being something that still had force or effect immediately before the repeal of that provision by this Law) shall, if there is a provision that gives power to do such a thing under this Law, be taken to have been done under the latter provision and by the person who has, under the latter provision, the function of doing that thing.
- (2) Sub-paragraph (1) is subject to any express provision, or implication, to the contrary in this Law or in the Regulations made under this Law.
- (3) Sub-paragraph (1) does not apply to an order made under Article 2(3) of the Post Office (Jersey) Law 1969 or to any other Order made under that Law.

**10 Regulations may make savings or transitional provisions or consequential changes**

- (1) The States may, by Regulations, make provision of a saving or transitional nature consequent on the enactment of this Law, and (without affecting the generality of the preceding words) on the taking up of functions of (or of services provided by) the Chief Minister under the Post Office (Jersey) Law 1969 by the company, the Authority, a Minister or any administration of the States.
- (2) The States may, by Regulations, modify any enactment in consequence of the enactment of this Law.
- (3) A provision of Regulations made under this paragraph may, if the Regulations so provide, come into force –
  - (a) in the case of a provision that does not concern the taking up of functions by a Minister, on the day on which this Schedule comes into force or on a later day; or
  - (b) in the case of a provision that concerns the taking up of functions by a Minister, on 9th December 2005 or on a later day.
- (4) To the extent to which any such provision comes into force on a date that is earlier than the date when it is made, the provision does not operate so as –
  - (a) to affect, in a manner prejudicial to any person (other than the States or an authority of the States), the rights of that person existing before the date when it is made; or
  - (b) to impose liabilities on any person (other than the States or an authority of the States) in respect of anything done or omitted to be done before the date of its promulgation.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	*Projet No (where applicable)
Postal Services (Jersey) Law 2004	<a href="#">L.26/2004</a>	11 October 2004 as to Parts 1, 3, 4, 5, 6 and 11; Articles 31, 32, 34-42, 71-75, 77, 81-83 and 86, Article 85 to the extent that it relates to paragraphs 8 and 10 of Schedule 2, and paragraphs 8 and 10 of Schedule 2 <a href="#">(R&amp;O.115/2004)</a>  1 July 2006 as to Parts 2, 8, 9 and 10, Articles 60 to 70, 76, 78 to 80 and 84, Article 85 to the extent that it is not already in force, Schedule 1 and paragraphs 1 to 7 and 9 of Schedule 2 <a href="#">(R&amp;O.51/2006)</a>	<a href="#">P.24/2004</a>
States of Jersey (Amendments and Construction Provisions No. 4) (Jersey) Regulations 2005	<a href="#">R&amp;O.44/2005</a>	9 December 2005	<a href="#">P.58/2005</a>
Public Finances (Consequential Amendments) (Jersey) Regulations 2005	<a href="#">R&amp;O.126/2005</a>	9 December 2005	<a href="#">P.203/2005</a>
States of Jersey (Amendments and Construction Provisions No. 12) (Jersey) Regulations 2005	<a href="#">R&amp;O.133/2005</a>	9 December 2005	<a href="#">P.217/2005</a>



Legislation	Year and No	Commencement	*Projet No (where applicable)
Employment of States of Jersey Employees (Consequential, Amendment, Repeal, Transitional and Savings Provisions) (Jersey) Regulations 2005	<a href="#">R&amp;O.155/2005</a>	9 December 2005	<a href="#">P.243/2005</a>
Postal Services (Transfer) (Jersey) Regulations 2006	<a href="#">R&amp;O.50/2006</a>	1 July 2006	<a href="#">P.9/2006</a>
Regulation of Investigatory Powers (Jersey) Law 2005	<a href="#">L.17/2005</a>	10 December 2006	<a href="#">P.196/2004</a>
States of Jersey (Transfer of Functions No. 8) (Miscellaneous Transfers) (Jersey) Regulations 2015	<a href="#">R&amp;O.158/2015</a>	1 January 2016	<a href="#">P.46/2015</a>
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	<a href="#">L.1/2016</a>	20 September 2016 ( <a href="#">R&amp;O.98/2016</a> )	<a href="#">P.87/2015</a>
Road Works and Events (Jersey) Law 2016	<a href="#">L.11/2016</a>	1 January 2017 ( <a href="#">R&amp;O.121/2016</a> ) 1 January 2018 ( <a href="#">R&amp;O.118/2017</a> )	<a href="#">P.152/2015</a>
Counter-Terrorism and Security (Miscellaneous Amendments) (Jersey) Law 2017	<a href="#">L.19/2017</a>	27 October 2017	<a href="#">P.47/2017</a>

\*Projets available at [www.statesassembly.gov.je](http://www.statesassembly.gov.je)

### Table of Renumbered Provisions

Original	Current
84	Spent, omitted
85	84
86(1)	85
86(2) and (3)	Spent, omitted
Schedule 1	Spent, omitted
Schedule 2	Schedule

### Table of Endnote References

<sup>1</sup> This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 4) (Jersey) Regulations 2005 and the States of Jersey (Amendments and Construction Provisions No. 12) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government.

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*This Law has been amended by the States of Jersey (Transfer of Functions No. 8) (Miscellaneous Transfers) (Jersey) Regulations 2015. The amendments replace all references to the Minister for Economic Development with a reference to the Chief Minister.*

- <sup>2</sup> Long title *amended by R&O.50/2006*
- <sup>3</sup> Article 1(1) *amended by R&O.50/2006*
- <sup>4</sup> Article 31(3) *amended by R&O.50/2006*
- <sup>5</sup> Article 31(4) *amended by R&O.50/2006*
- <sup>6</sup> Article 31(5)(a) *repealed by R&O.50/2006*
- <sup>7</sup> Article 31(5)(b) *substituted by R&O.155/2005*
- <sup>8</sup> *The transfer date is 1 July 2006 (R&O.50/2006)*
- <sup>9</sup> Article 33 *repealed by R&O.50/2006*
- <sup>10</sup> Article 35(2) *amended by R&O.50/2006*
- <sup>11</sup> Article 38(4)(a) *repealed by R&O.126/2005*
- <sup>12</sup> *Jersey Post Limited (R&O.50/2006)*
- <sup>13</sup> Article 40(2) *amended by R&O.50/2006*
- <sup>14</sup> Article 41 *amended by R&O.50/2006*
- <sup>15</sup> Article 46(3) *substituted by L.11/2016*
- <sup>16</sup> Article 47(2) *amended by L.17/2005, L.19/2017*
- <sup>17</sup> Article 49 *repealed by L.17/2005*
- <sup>18</sup> *The standard scale is set out in chapter 08.360.*
- <sup>19</sup> Article 61(3) *amended by L.1/2016*
- <sup>20</sup> *The standard scale is set out in chapter 08.360.*
- <sup>21</sup> Article 63(4) *amended by L.1/2016*
- <sup>22</sup> *The standard scale is set out in chapter 08.360*
- <sup>23</sup> Article 67(4) *amended by L.17/2005*
- <sup>24</sup> Article 68(6) *amended by L.17/2005*
- <sup>25</sup> Article 69(3) *substituted by L.17/2005*
- <sup>26</sup> Article 69(4) *repealed by L.17/2005*
- <sup>27</sup> *The standard scale is set out in chapter 08.360.*
- <sup>28</sup> Article 70(5) *amended by L.1/2016*
- <sup>29</sup> *The standard scale is set out in chapter 08.360.*
- <sup>30</sup> Article 77(5) *amended by L.1/2016*
- <sup>31</sup> Article 83(5) *amended by L.1/2016*
- <sup>32</sup> Schedule *paragraph 5 amended by R&O.50/2006*