



Jersey

POSTAL SERVICES (JERSEY) LAW 2004

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POSTAL SERVICES (JERSEY) LAW 2004

Arrangement

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Jersey

POSTAL SERVICES (JERSEY) LAW 2004¹

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 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.

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;²

“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 constituted by Article 4 of the Post Office (Jersey) Law 1969;³

“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 1991⁴;

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

“transmission” is referred to in Article 2(1).

- (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 – NOT IN FORCE ON THE REVISION DATE**REQUIREMENT TO HOLD LICENCE****3-7 NOT IN FORCE ON THE REVISION DATE****PART 3****THE MINISTER AND THE AUTHORITY****8 Duties of Minister and Authority**

- (1) The Minister for Economic Development 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 Minister for Economic Development 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 Minister for Economic Development 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 Minister for Economic Development 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 Minister for Economic Development 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 Minister for Economic Development shall not give directions or guidance under this Article without first consulting the Authority.
- (5) The Minister for Economic Development 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 Minister for Economic Development 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 Minister for Economic Development 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 2001⁵ 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 Minister for Economic Development requires.
- (2) The Authority shall provide the Minister for Economic Development 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 Minister for Economic Development 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;

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- (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;

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- (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 1991⁶ 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 1991⁷ 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 that Committee is entitled.
- (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 that Committee is entitled).
- (5) For the purposes of this Part, “employee of the Committee for Postal Administration” means –
 - (a) a person employed by the Committee for Postal Administration;
 - (b) a person employed by the States Employment Board within the meaning of the Employment of States of Jersey Employees (Jersey) Law 2005⁸, but engaged in the performance of the functions of the Minister for Economic Development under the Post Office (Jersey) Law 1969; or⁹
 - (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 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 *NOT IN FORCE ON THE REVISION DATE***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 Committee for Postal Administration (or of the public of Jersey, or of the States) in the property.

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 1967¹⁰ 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) ¹¹
 - (b) the determination of premiums for the purposes of Article 39 of the Companies (Jersey) Law 1991¹²;
 - (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 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 Minister for Economic Development 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 that Committee 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.

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 that Committee 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.

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;¹³
 - (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 – NOT IN FORCE ON THE REVISION DATE

POWERS RELATING TO LAND

43-46 NOT IN FORCE ON THE REVISION DATE

PART 9 – NOT IN FORCE ON THE REVISION DATE

IMMUNITY OF MAIL

47-49 NOT IN FORCE ON THE REVISION DATE

PART 10 – NOT IN FORCE ON THE REVISION DATE

LIABILITY OF POSTAL OPERATORS

50-56 NOT IN FORCE ON THE REVISION DATE

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

60-70 NOT IN FORCE ON THE REVISION DATE

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 Minister for Economic Development 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 Minister for Economic Development 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 Minister for Economic Development 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 1991¹⁴ to carry out any

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- 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 1990¹⁵;
 - (l) for the purpose of facilitating the carrying out by any person of functions under the Health and Safety at Work (Jersey) Law 1989¹⁶; or
 - (m) for such other purposes as the States may by Regulations prescribe.
- (4) The States may, by Regulations, modify paragraph (3)(a) – (l).

76 NOT IN FORCE ON THE REVISION DATE

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 4 on the standard scale.
- (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.

78-80 NOT IN FORCE ON THE REVISION DATE

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 Minister for Economic Development;
 - (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.

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- (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 1998¹⁷).
 - (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 1954,¹⁸ 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 Minister for Economic Development 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) – (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 level 4 on the standard scale.

84 *NOT IN FORCE ON THE REVISION DATE*

85 Savings, and transitional and consequential provisions

Schedule 2 shall have effect.¹⁹

86 Citation and commencement

- (1) This Law may be cited as the Postal Services (Jersey) Law 2004 and shall, except for Article 33, come into force on such day as the States may by Act appoint and different days may be appointed for different purposes or different provisions (including different provisions of the Schedules) of this Law.
- (2) Different days may be appointed under paragraph (1) in respect of the operation of the repeals contained in Part 2 of Schedule 1 in such a way that the various provisions of the Laws referred to there may be repealed on different days.
- (3) Article 33 shall come into force on such day as the States may by Act appoint, whether in any Act made under paragraph (1) or in a separate Act.

SCHEDULE 1

NOT IN FORCE ON THE REVISION DATE

SCHEDULE 2

(Article 85)

SAVINGS, AND TRANSITIONAL AND CONSEQUENTIAL PROVISIONS**1-7 NOT IN FORCE ON THE REVISION DATE****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 NOT IN FORCE ON THE REVISION DATE**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 Minister for Economic Development under the Post Office (Jersey) Law 1969²⁰ by the company, the Authority, a Minister or any administration of the States.²¹
- (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 the day on which Regulation 38(20) of the States of Jersey (Amendments and Construction Provisions No. 4) (Jersey) Regulations 2005²² comes into force 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
Postal Services (Jersey) Law 2004	L.26/2004	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, in force 11 October 2004 (R&O.115/2004)
States of Jersey (Amendments and Construction Provisions No. 4) (Jersey) Regulations 2005	R&O.44/2005	9 December 2005
Public Finances (Consequential Amendments) (Jersey) Regulations 2005	R&O.126/2005	9 December 2005
States of Jersey (Amendments and Construction Provisions No. 12) (Jersey) Regulations 2005	R&O.133/2005	9 December 2005
Employment of States of Jersey Employees (Consequential, Amendment, Repeal, Transitional and Savings Provisions) (Jersey) Regulations 2005	R&O.155/2005	9 December 2005

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ *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*

- ² *chapter 05.075*
- ³ *chapter 06.144*
- ⁴ *chapter 13.125*
- ⁵ *chapter 05.075*
- ⁶ *chapter 13.125*
- ⁷ *chapter 13.125*
- ⁸ *chapter 16.325*
- ⁹ *Article 31(5)(b)* *substituted by R&O.155/2005*
- ¹⁰ *chapter 16.650*
- ¹¹ *Article 38(4)(a)* *repealed by R&O.126/2005*
- ¹² *chapter 13.125*
- ¹³ *chapter 16.650*
- ¹⁴ *chapter 13.125*
- ¹⁵ *chapter 04.160*
- ¹⁶ *chapter 05.300*
- ¹⁷ *chapter 13.225*
- ¹⁸ *chapter 15.360*
- ¹⁹ *Article 85* *commenced only in so far as it relates to paragraphs 8 and 10 of Schedule 2*
- ²⁰ *chapter 06.144*
- ²¹ *Paragraph 10(1)* *substituted by R&O.133/2005*
- ²² *Paragraph 10(3)* *substituted by R&O.44/2005*