

# Post Office Act

## Principal Act

<b>Act. No. 1961-10</b>	<i>Commencement</i>	30.6.1961
	<i>Assent</i>	29.6.1961

Amending enactment	Relevant current provisions	Commencement date
Act. 1971-19 GN. 1975/0078	ss. 29-31, 34	
Act. 1981-17	s. 5(5)	
1988-01	s. 48A(1)-(2)	4.4.1988
1988-13	ss. 32, 35(1)	23.6.1988
2007-17	ss. 3(1), 5(2)(c), 6(1), (5), 35(2), 48A(1)-(2), 50, 54, 56	14.6.2007
LN. 2012/218	ss. 2-4, 4A-4S, 5-6, 7(1)-(2), 8(1)(a), (c)-(d), (2)-(3), (3A), 9, 10(1)-(5), 11(1)-(3), (3A), (4), 12, 13(2)(a), (c), (3), 14(1), (4), 15, 16(1)-(3), 17(1)-(3), (5), 18(1)-(2), 19(1)-(2), 21-22, 23(2), (5)-(6), 24(1)-(3), 25, 26(1)-(2), 27-28, 30, 32-33, 35(1)-(2), 36(a), 38, 39(1)(a)-(b), 40(2)-(3), (6), 41(1)-(2), 42(1)-(2), 43, 46, 47(1)-(2), 48A, 49(1)-(2), 50-53, 55(1)-(3), 56, 57(1)-(2), 58, Schs. 1-2	13.12.2012
2020/438	ss. 2(1), 3(2), 4(4), 4A(4), (7), 4B(1)-(2), (4), 4C(2), 4D(3)-(4), 4E(2), 4k(1)(a), 4L(5), (7)-(8), 4M, 4N(2), 4O(1)(b), (2), (4), 4S(5), Sch. 2	1.1.2021

## English sources

Post Office Act 1953(1 & 2 Eliz.2 c.36)

## Transposing:

Directive 97/67/EC

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AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO THE POST OFFICE.

**Short title**

1. This Act may be cited as the Post Office Act.

**Interpretation.**

2.(1) In this Act, unless the context otherwise requires—

“access points” means physical facilities, including letter boxes, provided for the public either—

- (a) on the public highway; or
- (b) at the premises of the postal service provider,

where postal items may be deposited with the postal network by senders;

“authorisation” means any permission setting out rights and obligations specific to the postal sector and allowing undertakings to provide postal services which may include the permission to establish or to operate their networks for the provision of such services, in the form of a general authorisation or individual licence;

“Authority” means the Gibraltar Regulatory Authority established under section 3(1) of the Gibraltar Regulatory Authority Act 2000;

“clearance” means the operation of collecting postal items by a postal service provider;

“commander”, in relation to an aircraft, includes the pilot or other person in charge of the aircraft;

“cross-border mail” means mail from or to a member country of the Universal Postal Union or from or to a third country;

“customs duty” means any sum payable in relation to the import or export of anything into or from Gibraltar;

“distribution” means the process from sorting at the distribution centre to delivery of postal items to their addressees or by way of derogation in accordance with section 4A(3)(b)(ii), under conditions at the discretion of the Authority, one delivery to appropriate installations;

“essential requirements” means conditions that may be imposed by the Authority or the Minister on the supply of postal services on the basis of the following non-economic reasons—

- (a) the confidentiality of correspondence;
- (b) the security of the network as regards the transport of dangerous goods;
- (c) respect for the terms and conditions of employment or social security schemes, laid down by law or by collective agreement negotiated between social partners; and
- (d) where justified, data protection (including personal data protection, the confidentiality of information transmitted or stored and protection of privacy), environmental protection and town-planning considerations;

“foreign”, in relation to any postal packet, means either posted in Gibraltar and sent to a place outside Gibraltar, or posted in a place outside Gibraltar and sent to a place within Gibraltar, or in transit through Gibraltar to a place outside Gibraltar;

“general authorisation” means an authorisation, regardless of whether it is regulated by a class licence or under general law and regardless of whether such regulation requires registration or declaration procedures, which does not require the postal service provider concerned to obtain an explicit decision by the Authority before exercising the rights stemming from the authorisation;

“individual licence” means an authorisation which is granted by the Authority and which gives a postal service provider specific rights, or which subjects that undertaking’s operations to specific obligations supplementing the general authorisation where applicable, where the postal service provider is not entitled to exercise the rights concerned until it has received the decision by the Authority;

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

“item of correspondence” means a communication in written form on any kind of physical medium other than books, catalogues, newspapers and periodicals, to be conveyed and delivered at the address indicated by the sender on the item itself or on its wrapping;

“local”, in relation to any postal packet or any description thereof, means posted within Gibraltar and addressed to some place in Gibraltar, and “local postage” means the postage chargeable on a local postal packet;

“mail” includes every conveyance by which postal packets are carried, whether it be a ship, aircraft, vehicle or any other conveyance, and also a person employed in conveying or delivering postal packets;

“mail bag” includes a parcel, an envelope and any form of container or covering in which postal packets in course of transmission by post are conveyed, whether or not it contains any such packets;

“master”, in relation to a ship, includes every person (except a pilot) having command or charge of the ship, whether the ship is a ship of war or other ship;

“Minister” means the Minister with responsibility for postal services;

“officer of a postal service provider” includes any director, employee or agent of the postal service provider;

“parcel” means any postal packet which contains any item, other than a letter, irrespective of whether the item is of commercial value or not;

“post office” includes any house, building, room, vehicle or place used for the purposes of providing postal services, and any post office letter box;

“post office letter box” includes any pillar box, wall box, or other box or receptacle provided by the permission or under the authority of the Minister for the purpose of receiving postal items, or any class of postal packets of appropriate size, for transmission by or under the authority of the universal service provider;

“postage” means the duty chargeable for the transmission of postal packets;

“postal item” means an item addressed in the final form in which it is to be carried by a postal service provider. In addition to items of correspondence, such items also include books, catalogues, newspapers, periodicals and postal parcels containing merchandise with or without commercial value;

“postal network” means the system of organisation and resources of all kinds used by the universal service provider for the purposes in particular of–

- (a) the clearance of postal items covered by a universal service obligation from access points throughout Gibraltar;
- (b) the routing and handling of those items from the postal network access point to the distribution centre; and
- (c) distribution to the addresses shown on items;

- “postal packet” means a letter, postcard, reply postcard, newspaper, printed packet, sample packet, or parcel, and every packet or article transmissible by post;
- “postal services” means services involving the collection, clearance, sorting, transport and distribution of postal items;
- “postal service provider” means an undertaking providing one or more postal services;
- “public service vehicle”, in relation to Gibraltar, means a public service vehicle within the meaning of the Traffic Act 2005;
- “purposes of the postal service provider” includes any purpose relating to or in connection with the execution of any duties for the time being undertaken by a postal service provider or any of its officers;
- “registered item” means a service providing a flat-rate guarantee against risks of loss, theft or damage and supplying the sender, where appropriate upon request, with proof of either or both the handing in of the postal item or of its delivery to the addressee;
- “regulations” means regulations made under this Act;
- “Royal Gibraltar Post Office” means the Government entity which, amongst other things, is engaged in providing postal services;
- “Scheme” means a set of terms and conditions applicable to a postal service provider which is issued by it with the approval of the Authority in compliance with the relevant authorisation and published in the website of the postal service provider or in any other form;
- “sender” means a natural or legal person responsible for originating postal items;
- “services provided at single piece tariff” means postal services for which the tariff is set in the general terms and conditions of universal service providers for individual postal items;
- “ship” includes any boat or vessel whatsoever;
- “terminal dues” means the remuneration of postal service providers for the distribution of incoming cross-border mail comprising postal items from outside Gibraltar, and in relation to outgoing Gibraltar mail the payment to the respective entities who are commissioned to deliver the mail in the respective countries to which the outgoing Gibraltar mail is destined to;
- “universal service provider” means the public or private postal service provider providing a universal postal service or parts thereof within Gibraltar;



“user” means any natural or legal person benefiting from postal service provision as a sender or an addressee;

“valuable security” means any document–

- (a) creating, transferring, surrendering or releasing any right to, in or over property;
  - (b) authorising the payment of money or delivery of any property; or
  - (c) evidencing the creation, transfer, surrender or release of any such right, or the payment of money or delivery of any property, or the satisfaction of any obligation.
- (2) For the purposes of this Act–
- (a) a postal packet shall be deemed to be in course of transmission by post from the time of its being delivered to any post office to the time of it being delivered to the addressee;
  - (b) the delivery of a postal packet of any description to a letter carrier or other person authorized to receive postal packets of that description for the post or to an officer of the Post Office to be dealt with in the course of his duty shall be a delivery to a post office;
  - (c) the delivery of a postal packet at the premises to which it is addressed or redirected, or to the addressee’s servant or agent or to some other person considered to be authorized to receive the packet, shall be a delivery to the addressee.
- (3) Except in so far as the context otherwise requires, any reference in this Act to any other law shall be construed as a reference to that law as amended by or under any other law, including this Act.
- (4) A reference in any law other than this Act to a post letter shall be construed as a reference to a postal packet within the meaning of this Act.

## PART I- POSTAL SERVICES

### **Designation and tasks of the regulatory authority.**

3.(1) For the postal sector in Gibraltar, the Gibraltar Regulatory Authority (Authority) is designated as the competent authority to carry out the functions and duties assigned or conferred on it by this Act or any regulations made hereunder.

(2) *Deleted*

(3) The tasks referred to in subsection (4) shall be published by the Authority in a form which is easily accessible by the public.

(4) The Authority shall have as a particular task ensuring compliance with-

- (a) obligations arising from this Act in particular by establishing monitoring and regulatory procedures to ensure the provision of the universal service; and
- (b) competition rules in the postal sector.

(5) Subject to the provisions of this Act, the Authority may do anything that appears to it to be incidental or conducive to the carrying out of its functions and duties under this Act.

**Provision of information.**

4.(1) The Authority may request information from postal service providers, in particular financial information and information concerning the provision of the universal service—

- (a) to ensure conformity by postal service providers with the provisions of, or decisions made in accordance with, this Act; and
- (b) for such statistical purposes as the Authority shall clearly define.

(2) Any information requested by the Authority under subsection (1) shall be proportionate to the performance of its functions and duties and the Authority shall give the reasons justifying its request for information.

(3) Postal service providers shall provide the information referred to in subsection (1) promptly on request in confidence and, where necessary, within the time scales and to the level of detail required by the Authority.

(4) *Deleted*

(5) Where information is considered confidential by the Authority, every person in receipt of the information, including the Authority, shall preserve such confidentiality.

**Provision of universal service.**

4A.(1) The Authority shall ensure that every user has the right to a universal service involving the permanent provision of a postal service of specified quality at all points in Gibraltar at affordable prices for all users.

(2) The Authority shall, to this end, take whatever steps are necessary to ensure that the density of the points of contact and of the access points take account of the needs of users.

(3) The Authority shall take whatever steps are necessary to ensure that the universal service is guaranteed not less than five working days a week, save in circumstances or geographical conditions deemed exceptional, and that it includes as a minimum—

- (a) one clearance; and
- (b) one delivery—
  - (i) to the home or premises of every natural or legal person, or
  - (ii) by way of derogation, under conditions at the discretion of the Authority, one delivery to appropriate installations.

(4) *Deleted*

(5) The Authority shall ensure that a universal service shall include as a minimum the following requirements—

- (a) the clearance, sorting, transport and distribution of postal items up to two kilograms;
- (b) the clearance, sorting, transport and distribution of postal packages up to 10 kilograms; and
- (c) the provision of services for registered and insured items.

(6) The Authority may—

- (a) increase the weight limit of universal service coverage for postal parcels to any weight not exceeding 20 kilograms; and
- (b) authorise special arrangements for the door-to-door delivery of such parcels

(7) Notwithstanding the weight limits set pursuant to subsections (5)(b) or (6)(a) the Authority shall ensure that posted parcels received from a member country of the Universal Postal Union weighing up to 20 kilogrammes are delivered in Gibraltar.

(8) The minimum and maximum dimensions for the postal items in question shall be those required by the Authority pursuant to the relevant provisions adopted, from time to time, by the Universal Postal Union.

(9) The universal service within the meaning of this Part shall cover both local and cross-border mail.

#### **Guarantee of Universal Service.**

4B.(1) The Authority shall ensure that the provision of the universal service is guaranteed.

(2) The Authority may designate—

- (a) one or more undertakings as universal service providers in order that the whole of Gibraltar is covered; or
- (b) different undertakings to provide different elements of universal service or to cover different parts of Gibraltar or to both,

and where the designation is made under paragraph (b) the Authority shall determine the obligations and rights assigned to them and shall publish such obligations and rights as it deems fit.

(3) The Authority shall take such measures as it considers necessary to ensure that the conditions under which universal services are entrusted are based on the principles of transparency, non-discrimination and proportionality so as to guarantee the continuity of the universal service provision, by taking into account the important role it plays in social and territorial cohesion.

(4) *Deleted*

(5) The designation of a universal service provider shall be subject to a periodic review and be examined against the conditions and principles set out in this section.

(6) The Authority shall ensure that the duration of the designation under this section provides a sufficient period for return on investments.

#### **Requirements for Universal Service.**

4C.(1) The Authority shall include the following conditions in any individual licence for the provision of a universal service—

- (a) the universal service shall offer—
  - (i) a service guaranteeing compliance with the essential requirements, and
  - (ii) an identical service to users under comparable conditions;
- (b) the universal service shall—
  - (i) be made available without any form of discrimination whatsoever, especially without discrimination arising from political, religious or ideological considerations,

- (ii) not be interrupted or stopped except in cases of force majeure, and
- (iii) evolve in response to the technical, economic and social environment and the needs of users.

(2) Nothing in subsection (1) shall prejudice the right of the Government to take such measures in the public interest as it may deem necessary.

(3) For the purposes of subsection (2), “public interest” includes public morality, public security, criminal investigations and public policy.

**Provision of information to users.**

4D.(1) It shall be a condition of any authorisation under this Part for the provision of a universal service, that users are regularly given sufficiently detailed and up-to-date information by the universal service provider regarding the particular features of the universal service offered, with special reference to the general conditions of access to these services as well as to prices and quality standard levels.

(2) The information referred to in subsection (1) shall be published in such manner as the Authority may, from time to time, require.

**Financing of universal services.**

4E.(1) There shall not be any exclusive or special rights for the establishment and provision of postal services in Gibraltar.

(2) The provision of universal services may be financed in accordance with one or more of the means provided for in this section.

(3) The provision of universal services may be procured in accordance with the provisions of the Procurement (Utilities Contract) Regulations 2012.

(4) Where the Minister, after consulting with the Authority, determines that universal service obligations, as provided for in this Part, entail a net cost calculated taking into account the provisions of Schedule 1 and therefore represent an unfair financial burden on universal service providers, the Minister may do either or both of the following—

- (a) compensate the undertaking concerned from public funds;
- (b) make provision by Regulations for a mechanism for the sharing of the net cost of the universal service obligations between providers of services or users.

(5) Regulations made under subsection (4)(b)—

- (a) may provide for the establishment, operation and other matters incidental to the establishment of a compensation fund, funded by service providers' fees, users' fees or fees from both service providers and users, and administered for these purpose by the Authority; and
  - (b) may make the granting of authorisations to service providers under this Part, subject to an obligation to make a financial contribution to the fund referred to in paragraph (a) or to comply with universal service obligations.
- (6) The universal service obligations of the universal service provider under section 4A may be financed in the manner set out in this section.
- (7) The Minister and the Authority shall ensure—
- (a) that the principles of transparency, non-discrimination and proportionality are respected in establishing the compensation fund and when fixing the level of cost sharing under subsection (4)(b) and of the financial contributions referred to in subsection (5); and
  - (b) that any decision taken under subsection (4), (5) or (6) is based on objective and verifiable criteria, and made public.
- (8) Nothing in this section shall prejudice the Minister's right to—
- (a) provide for the siting of letter boxes on the public highway;
  - (b) issue postage stamps; or
  - (c) make Regulations for the provision of a registered mail service used in the course of judicial or administrative procedures.

#### **Conditions Governing the Provision of Postal Services and Access to the Network.**

4F.(1) No person shall provide a universal service without an individual licence issued by the Authority.

(2) No person shall provide a postal service outside the scope of the universal service without complying with the essential requirements and conditions of general authorisation issued from time to time by the Authority pursuant to section 4H(1).

(3) An authorisation to operate or provide postal services may be obtained from the Authority—

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- (a) by individual licence granted in respect of a universal service to the extent necessary in order to guarantee compliance with essential requirements and to safeguard the universal service; and
  - (b) by general authorisation in respect of services which are outside the scope of the universal services to the extent necessary to guarantee compliance with the essential requirements.
- (4) The granting of authorisations by the Authority may—
- (a) be subject to universal service obligations;
  - (b) where necessary and justified, be subject to such requirements concerning the quality, availability and performance of the relevant services as it may see fit to impose;
  - (c) where appropriate, be subject to such obligation to make a financial contribution to the sharing mechanisms referred to in section 4E(5)(b) as the Authority may determine, if the provision of the universal service entails a net cost and represents an unfair burden on the universal service providers designated in accordance with section 4B;
  - (d) where appropriate, be subject to an obligation to make a financial contribution to the Authority's operational costs arising pursuant to this Act; and
  - (e) where necessary and justified, be subject to an obligation to respect the conditions of employment under the Employment Act or any other enactment relating to working conditions.
- (5) Requirements referred to in subsection (4)(a) and in section 4A may only be imposed on designated universal service providers.
- (6) Except in the case of undertakings that have been designated as universal service providers in accordance with section 4B, authorisations granted under this Part may not—
- (a) be limited in number;
  - (b) for the same elements of the universal service or parts of Gibraltar, impose universal service obligations and, at the same time, financial contributions to a sharing mechanism;
  - (c) duplicate conditions which are applicable to undertakings by virtue of other, non-sector-specific legislation; or

- (d) impose technical or operational conditions other than those necessary to fulfil the obligations of this Part.
- (7) The Authority shall ensure that–
- (a) procedures, obligations and requirements referred to in this section are transparent, accessible, non-discriminatory, proportionate, precise, unambiguous, made public in advance and based on objective criteria; and
  - (b) the reasons for refusing or withdrawing an authorisation in whole or in part under this section are communicated to the person concerned.
- (8) Whenever necessary to achieve either or both of the following objectives, namely–
- (a) the protection of the interests of users;
  - (b) the promotion of effective competition,

and, having regard to the conditions prevailing in Gibraltar, the Authority shall ensure that transparent, proportional and non-discriminatory access conditions are available to all elements of postal infrastructure or services provided within the scope of the universal service, such as–

- (i) a postcode system;
  - (ii) an address database;
  - (iii) post office letter boxes;
  - (iv) delivery boxes;
  - (v) information on change of address; and
  - (vi) re-direction and return to sender services.
- (9) Subsection (8) shall be without prejudice to the right of the Minister to adopt measures to ensure access to the postal network under transparent, proportional and non-discriminatory conditions.

**Procedure for individual licences.**

4G.(1) Any person seeking an authorisation by means of an individual licence shall apply to the Authority on such form and in such manner as may be required by the Authority, and shall provide to the Authority all such information as the Authority may require to enable it to assess the application.



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

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

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

(5) The Authority shall complete its investigations within a reasonable time and shall thereupon decide whether or not to grant the licence applied for.

(6) If the Authority decides that a licence is to be granted, the Authority shall approve the application and grant the individual licence in such form as it may prescribe.

(7) The Authority may refuse to grant an individual licence to a person to operate a universal service, if it is of the opinion that the grant of the licence would—

- (a) be against the public interest, or is inconsistent with Government policy;
- (b) be inconsistent with the provisions of this Act or of any other law;
- (c) pose a danger or nuisance to the public or `cause damage to any property; or
- (d) authorise an applicant applying for an individual licence, when he does not demonstrate to the Authority that he fulfils the conditions for the grant of such a licence.

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

(9) The Authority shall—

- (a) inform the applicant of its decision to grant or refuse a licence within 12 weeks from the date when it receives the application;
- (b) communicate in writing to the applicant the decision to refuse an application; and

- (c) set out briefly in writing the reasons for a decision to refuse an application.
- (10) Where the beneficiary of an individual licence does not comply with a condition attached to the licence, the Authority may withdraw, amend or suspend the individual licence or impose such measures as it may consider appropriate to ensure compliance.
- (11) The Authority shall at the same time give the beneficiary concerned a reasonable opportunity to state his views on the application of the condition and to remedy any breaches within one month commencing from the date of the intervention of the Authority, save that in the case of repeated breaches, the Authority may require the beneficiary to immediately take appropriate measures.
- (12) If the beneficiary concerned remedies the breaches, the Authority shall, within two months from its initial intervention, revoke or modify its decision as it deems appropriate and it shall give the reasons for its decision.
- (13) If the beneficiary concerned does not remedy the breaches the Authority shall, within two months from its initial intervention, confirm its decision and give the reasons for its decision. The decision shall be communicated within one week of its adoption to the beneficiary concerned.

**Procedure for general authorisation.**

4H.(1) In order to obtain a general authorisation, the postal service provider shall—

- (a) notify in writing his intention to the Authority that he will comply with the essential requirements and conditions published in the Authority's website which, on request, will be made available in both soft and hard copies on payment of cost as the Authority may prescribe; and
- (b) follow any other procedure as may be prescribed by Regulations by the Minister.
- (2) Upon notifying the intention referred to in subsection (1), the postal service provider may start providing services outside the scope of the universal service without any express permission from the Authority, subject to such requirements, conditions and procedure as may be prescribed by Regulations by the Minister.
- (3) Where a person enjoying a general authorisation does not comply with the essential requirements, any condition published in the Authority's website or any requirements, conditions and procedure as may be prescribed by Regulations by the Minister with regard to a general authorisation, the Authority may cause initial intervention by—
- (a) informing its decision to that person that he is not entitled to avail himself of the general authorisation; and

- (b) imposing on that person such measures as may be necessary to ensure compliance by him with the conditions of the general authorisation.
- (4) The Authority shall at the same time give the person referred to in subsection (3) a reasonable opportunity to—
- (a) state his views on the application of the conditions; and
  - (b) remedy any breaches within one month from the intervention of the Authority.
- (5) If the person referred to in subsection (3)—
- (a) remedies the breaches to the satisfaction of the Authority, the Authority shall, within two months of its initial intervention, revoke or modify its decision as it may consider appropriate and it shall give the reasons for its decision;
  - (b) does not remedy the breaches, the Authority shall, within two months of its initial intervention, confirm the decision by giving reasons for it.
- (6) Where the Authority revokes the decision under subsection (5)(a), the general authorisation to operate or provide a postal service outside the scope of the universal service shall continue to be in force in favour of the person referred to in subsection (3).
- (7) Where the Authority modifies the decision under subsection (5)(a), the general authorisation to operate or provide a postal service outside the scope of the universal service shall continue to be in force in favour of the person referred to in subsection (3) subject to such modification.
- (8) Where the Authority confirms the decision under subsection (5)(b), it shall communicate that decision, within one week of its confirmation, to the person referred to in subsection (3) upon which the right of that person to provide the service in question under the provisions of the general authorisation shall cease forthwith until he satisfies the Authority that conditions have been met.

**Right of appeal.**

4I.(1) A person aggrieved by a decision of the Authority or the Minister under this Act may appeal against that decision on any one or more of the following grounds—

- (a) that a material error as to the facts has been made;
- (b) that there was a material procedural error;
- (c) that a material error of law has been made;

- (d) that there was some other material illegality.
- (2) An appeal of the nature referred to in subsection (1) lies to the Supreme Court.
- (3) The Supreme Court in determining an appeal under this section may-
  - (a) dismiss the appeal; or
  - (b) quash the decision and refer the matter to the Minister or the Authority, as the case may be, with a direction to reconsider it and adopt a decision in accordance with the findings of the Supreme Court.
- (4) No appeal under this section shall be brought unless the leave of the Supreme Court has been obtained in accordance with-
  - (a) Part IV of the Supreme Court Rules 2000; or
  - (b) such Rules as may be made under paragraph (a) of subsection (10).
- (5) An appeal under this section shall be brought as soon as reasonably practicable and in any event not later than three weeks from the date on which the Minister or the Authority, as the case may be, adopted the decision or within such other period as may be specified in such Rules as may be made under paragraph (b) of subsection (10).
- (6) The bringing of an appeal under this section shall not operate to suspend the effect of the decision appealed against unless the Supreme Court grants interim measures.
- (7) Except as provided by this section, the validity of a decision to which this section applies shall not be questioned in any legal proceedings whatsoever.
- (8) If by reason of any default on the part of the person who has instituted an appeal in accordance with this section, the appeal has not been determined by the Supreme Court within three months of the date of the notice of appeal or application by which the appeal was instituted, the Minister or the Authority, as the case may be, may apply to the Supreme Court, by a summons served on the person who has instituted the appeal in accordance with this section, to show cause why the appeal should not be dismissed for want of prosecution; and upon the making of such an application the Supreme Court may dismiss the appeal or make such other order as it considers just.
- (9) A decision of the Supreme Court under this section shall be final as to any question of fact, but an appeal shall lie to the Court of Appeal on any question of law.
- (10) The Chief Justice may make Rules prescribing any one or more of the following-
  - (a) a procedure for obtaining the leave referred to in subsection (4);

- (b) the other period referred to in subsection (5);
- (c) the court fees payable in making an appeal of the nature referred to in subsection (1);
- (d) the forms and the procedure for such appeals.

**Tariff principles.**

4J.(1) Tariffs for each of the services forming part of the universal service shall comply with the following principles—

- (a) prices shall be affordable and must be such that all users, independent of geographical location and, in the light of Gibraltar's specific conditions, have access to the services provided;
- (b) prices shall be cost-oriented and give incentives for an efficient universal service provision;
- (c) the Minister may decide for reasons relating to the public interest that a uniform tariff shall be applied, throughout Gibraltar or cross-border or both, to services provided at single piece tariff and to other postal items;
- (d) the application of a uniform tariff shall not exclude the right of the universal service provider to conclude individual agreements on prices with users; and
- (e) tariffs shall be transparent and non-discriminatory.

(2) Tariffs set pursuant to this Part may make provision for the introduction or the maintenance of a free postal service for the use of blind or partially-sighted persons.

(3) Whenever universal service providers apply special tariffs for services for businesses, bulk mailers or consolidators of mail from different users, they shall apply the principles of transparency and non-discrimination with regard both to the tariffs and to the associated conditions.

(4) The tariffs under subsection (3), together with the associated conditions, shall apply equally both as between different third parties and as between third parties and universal service providers supplying equivalent services.

(5) Every tariff imposed under subsection (2) shall also be available to users, in particular individual users and small and medium-sized enterprises, who post under similar conditions.

**Terminal dues: principles.**

4K.(1) The Authority shall, in order to ensure the cross-border provision of the universal service, encourage universal service providers to arrange that—

- (a) in their agreements on terminal dues for cross-border mail; or
- (b) foreign mail generally,

the following principles are respected—

- (i) terminal dues shall be fixed in relation to the costs of processing and delivering incoming cross-border mail,
- (ii) levels of remuneration shall be related to the quality of service achieved, and
- (iii) terminal dues shall be transparent and non-discriminatory.

(2) The Authority, on the instructions of the Minister, may arrange for the implementation of the principles in subsection (1) in a manner designed to avoid undue disruption on postal markets or unfavourable implications for economic operators, if—

- (a) there is agreement between the operators of origin and receipt; and
- (b) that the arrangements are restricted to the minimum required to achieve these objectives.

**Accounting principles.**

4L.(1) The accounting procedures of universal service providers shall be conducted in accordance with the provisions of this section.

(2) The universal service providers shall—

- (a) keep separate accounts within their internal accounting systems in order to clearly distinguish between each of the services and products which are part of the universal service and those which are not;
- (b) operate such internal accounting systems on the basis of consistently applied and objectively justifiable cost accounting principles.

(3) The accounting separation set out in subsection (2) shall be used as an input when the Authority calculates the net cost of the universal service.

(4) The accounting system referred to in subsection (2) shall, without prejudice to subsection (5), allocate costs in the following manner–

- (a) costs which can be directly assigned to a particular service or product shall be so assigned;
- (b) common costs, that is, costs which cannot be directly assigned to a particular service or product, shall be allocated as follows–
  - (i) whenever possible, common costs shall be allocated on the basis of direct analysis of the origin of the costs themselves;
  - (ii) when direct analysis is not possible, common cost categories shall be allocated on the basis of an indirect linkage to another cost category or group of cost categories for which a direct assignment or allocation is possible and the indirect linkage shall be based on comparable cost structures;
  - (iii) when neither direct or indirect measures of cost allocation can be found, the cost category shall be allocated on the basis of a general allocator computed by using the ratio of all expenses directly or indirectly assigned or allocated, on the one hand, to each of the universal services and, on the other hand, to the other services; and
  - (iv) common costs, which are necessary for the provision of both universal services and non-universal services, shall be allocated appropriately and the same cost drivers must be applied to both universal services and non-universal services.

(5) Other cost accounting systems may be applied only if they are compatible with subsection (2) and have been approved by the Authority.

(6) The Authority shall ensure that–

- (a) compliance with one of the cost accounting systems described in subsection (4) or (5) is verified, at the expense of the universal service provider, by a competent body which is independent of the universal service provider; and
- (b) a statement concerning compliance is published periodically in such manner as it may, from time to time, require.

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

(8) On request, any person holding detailed accounting information arising from such accounting systems shall make the information available in confidence to the Authority.

(9) Where—

- (a) a financing mechanism for the provision of the universal service, as permitted under section 4E, has not been used;
- (b) the Authority is satisfied that none of the designated universal service providers is in receipt of assistance from the Government, whether hidden or otherwise; and
- (c) competition in the market is fully effective,

the Authority may decide not to apply the requirements of this section.

(10) Postal service providers which are obliged under the provisions of this Part to contribute to a compensation fund shall introduce a system ensuring accounting separation approved by the Authority to ensure the functioning of the fund.

#### **Audit requirements.**

4M. The financial accounts of all universal service providers shall be drawn up, submitted to audit by an independent auditor and published in accordance with the relevant laws relating to commercial undertakings.

#### **Quality of Service Standards.**

4N.(1) The Authority shall ensure that quality-of-service standards are set and published in relation to universal service in order to guarantee a postal service of good quality.

(2) The quality-of-service standards for cross-border mail shall be as set out in Schedule 2.

(3) Quality standards shall focus, in particular, on routing times and on the regularity and reliability of services.

(4) Independent performance monitoring shall be—

- (a) carried out at least once a year by external bodies having no links with the universal service providers under standardised conditions; and
- (b) the subject of reports published at least once a year.

#### **Service Standards – Gibraltar mail services.**



4O.(1) After consultation with the Minister in respect of universal service providers' obligations, the Authority shall—

- (a) lay down quality standards for Gibraltar mail services; and
- (b) ensure that those standards are compatible with those laid down for cross-border services.

(2) *Deleted*

(3) The Authority shall ensure that independent performance monitoring is carried out in accordance with section 4N(4), that the results are justified, and that corrective action is taken where necessary.

(4) Where exceptional situations relating to infrastructure or geography so require, the Authority may determine exemptions from the quality standards provided for in Schedule 2.

#### **Dispute resolution.**

4P.(1) Without prejudice to any international obligations relating to compensation schemes and without prejudice to postal users' rights arising otherwise than by this section, transparent, simple and inexpensive procedures shall be made available by all postal service providers for dealing with postal users' complaints, particularly—

- (a) in cases involving loss, theft, damage or non-compliance with service quality standards; and
- (b) procedures for determining where responsibility lies in cases where more than one operator in Gibraltar or elsewhere is involved.

(2) It shall be a condition subject to which an authorisation under this Part is granted that the procedures referred to in subsection (1) enable disputes to be settled fairly and promptly with provision, where warranted, for a system of reimbursement, compensation or both.

(3) The Authority—

- (a) may establish a complaints procedure which shall be published on its website; and
- (b) shall encourage the development of independent out-of-court schemes for the resolution of disputes between postal service providers and users.

(4) Without prejudice to any right of appeal or other means of redress where a user's complaint to an undertaking providing postal services within the scope of the authorisation has not been satisfactorily resolved, the user may file a complaint with the Authority.

(5) Where a complaint is brought to the Authority pursuant to subsection (4), the Authority shall have the power to request from the relevant postal service provider such information and records as the Authority may deem appropriate to enable it to consider the complaint.

(6) In considering a complaint under this section, the Authority may issue a direction to require the postal service provider concerned to—

- (a) amend its operational procedure;
- (b) pay the complainant such level of reimbursement, compensation or both, as it may deem fair and reasonable; or
- (c) do both as referred to in paragraphs (a) and (b).

(7) It shall be a condition subject to which an authorisation under this Part is granted that postal service providers comply with any requirements issued by the Authority pursuant to subsections (4) to (6), and any such postal service providers shall have a single right of appeal on a point of law from any decision of the Authority to the Supreme Court.

(8) For the purposes of section 4N, universal service providers and, wherever appropriate, undertakings providing services within the scope of the universal service, shall publish in such manner as the Authority may require, an annual report on the monitoring of their performance, together with information on the number of complaints and the manner in which they have been dealt with.

### **Offences and penalties.**

4Q.(1) A person who contravenes subsection (1) or (2) of section 4F, commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) A person who—

- (a) continues to operate or provide a universal service after his individual licence has been withdrawn under section 4G(11);
- (b) acts against a decision or measures imposed by the Authority under section 4H(3);  
or
- (c) continues to operate or provide the postal service after his rights under the general authorisation have been removed under section 4H(8),

commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) A person who is convicted of an offence under this section shall, where the offence continues after the conviction—

- (a) be deemed to commit a separate offence in respect of every day on which the offence so continues; and
- (b) be liable on summary conviction to a fine not exceeding level 4 on the standard scale for each such day.

**Directions by the Authority.**

4R.(1) The Authority may issue directions to any person who is subject to the provisions of this Act, whether individually or generally, requiring that person to do or refrain from doing anything which the Authority may consider necessary for that person to comply with any provision of, or any condition, obligation or other requirement applicable to that person under this Act and that person shall give effect to any such direction.

(2) A person who refuses or, without reasonable excuse, fails to do anything duly required of him by a direction issued under subsection (1) commits an offence.

(3) A person who commits an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**Regulations under this Part.**

4S.(1) The Minister may, by Regulations, do anything he is empowered to do and prescribe anything requiring to be prescribed pursuant to the provisions of this Part.

(2) Without prejudice to the generality of subsection (1) the Minister may, by Regulations—

- (a) provide for the procedure for applications for authorisations, fees and forms as he may deem appropriate in order to make better provision for the execution of this Part; and
- (b) make such provision as he deems appropriate in cases where a condition imposed under sections 4C and 4F has been breached, including penalties, withdrawal or suspension of the right to offer a postal service or other sanctions.

(3) Without prejudice to the generality of subsection (1), the Minister shall, by Regulations and in consultation with the Authority, establish monitoring and regulatory procedures to ensure the provision of a universal service.

(4) Regulations made under subsection (2)(b) shall make such provision for fines, penalties, offences and powers of search and seizure as the Minister may deem appropriate.

(5) The Minister may make Regulations for the purposes of giving effect to or implementing other international obligation.

**PART II.—GENERAL PROVISIONS AS TO TRANSMISSION OF POSTAL  
PACKETS.**

**Postage to be charged on postal packets.**

5.(1) Subject to the provisions of this Act, in particular section 4J, and any other law, there shall be charged by the postal service provider in respect of postal packets which are conveyed or delivered for conveyance by post under an authorisation from the Authority such postage and other sums as may be prescribed by a Scheme issued and published by that postal service provider.

(2) The Scheme referred to in subsection (1) may, subject to the provisions of section 4J—

- (a) fix or provide for the determination of the rates of postage and the other sums, if any, to be charged in respect of postal packets and postal facilities under this Act;
- (b) make provision as to the scale of weights and the circumstances according to which those rates and sums are to be charged;
- (c) confer upon the postal service provider power, with or without the consent of the Authority, to remit in whole or in part any postage or other sums chargeable in such cases or classes of cases as he may determine.

**General provisions relating to postage, etc.**

6.(1) The manufacture, sale and issue of Gibraltar postage stamps which bear the Royal Cipher or effigy of Her Majesty the Queen or a previous reigning monarch is the exclusive privilege of the Royal Gibraltar Post Office.

(2) The Royal Gibraltar Post Office may stamp any paper sent to it for the purpose of being stamped as covers or envelopes of postal packets with its stamps denoting the appropriate postage on payment of the amount of the stamps required to be impressed.

(3) The Royal Gibraltar Post Office may make repayments or give other of its stamps in return for any spoiled, unused or misused Gibraltar stamps issued by it either of a value equal to the face value thereof, or, if it thinks fit, of any less value.

(4) The marks used by the Royal Gibraltar Post Office for the purpose of cancelling stamps used for the payment of postage on postal packets may consist of such words or devices as it may in its discretion think proper, including words or devices constituting advertisements in respect of the use of which as postmarks payment is made by any persons to the Royal Gibraltar Post Office.

**Provisions as to postage, etc., not prepaid or insufficiently prepaid.**

7.(1) Where the postage or any other sum chargeable for the transmission of a local postal packet is required to be prepaid and has not been, or has been insufficiently, prepaid by the sender, there shall be payable by the addressee on the delivery of the packet, or, if the packet is refused or cannot for any other reason be delivered, by the sender-

- (a) where the non-payment or deficiency is in respect of postage, an amount equal to double the amount of the postage or, as the case may be, of the deficiency;
- (b) where the non-payment or deficiency is in respect of a sum other than postage, an amount equal to that sum or, as the case may be, to the amount of the deficiency:

Provided that the Scheme may provide that, in the case of any such packets and subject to such conditions, if any, as may be prescribed in the the Scheme, such lesser amount than that specified in paragraph (a) shall be payable as may be so prescribed.

(2) Where, on the delivery to him of a local postal packet, the addressee has paid any amount thereon in accordance with subsection (1) and desires to reject the packet, the postal service provider may, on the application of the addressee, charge to the sender the said amount together with the additional postage and other charges, if any, for returning the packet to him, and the sender shall pay any sum so charged; and on the payment by the sender of that sum the postal service provider shall repay to the addressee the amount paid by him under subsection (1).

**Conditions of transit of postal packets.**

8.(1) The postal service provider may issue and publish Schemes which may include –

- (a) the time and mode of posting and delivery of postal packets and of the payment of postage and other sums payable in respect thereof;
- (b) the registration of, giving of receipts for, or giving or obtaining of certificates of posting or delivery of, any postal packet, and any sums to be paid in addition to postage for that registration, receipt or certificate;
- (c) *Deleted*
- (d) covers for postal packets;
- (e) the form, dimensions and maximum weight of postal packets;
- (f) what may be enclosed in postal packets;

- (g) the use for making communications of postal packets not charged with postage as letters;
- (h) the extent to which written matter may be permitted on the covers of postal packets and the character and position of that written matter;
- (i) what circulars or commercial, legal or other documents shall be charged with postage otherwise than as letters;
- (j) what marks or indications referring to the contents of a newspaper may be written or printed on the newspaper or on the cover thereof without causing the packet to be charged with postage as a letter;
- (k) the postponement of the despatch or delivery from a post office of printed or sample packets or post-cards to avoid delay in the despatch or delivery of letters;
- (l) the re-direction of postal packets and the transmission of postal packets so re-directed either free of charge or subject to such postage or other charges as may be specified in the regulations;
- (m) *Deleted*

and otherwise as to the conditions, prohibitions and restrictions subject to which postal packets may be posted, forwarded, conveyed or delivered; and different Schemes may be made for different cases or different circumstances.

(2) Save as provided in section 7 of the Crown Proceedings Act, the registration of or giving of a receipt for a postal packet, or the giving or obtaining of a certificate of posting or delivery of a postal packet by the Royal Gibraltar Post Office, shall not render the Crown in any manner liable for the loss of the packet or the contents thereof beyond the requirements of the relevant Scheme.

(3) If any postal packet is posted or sent by post in contravention of this Act or of any regulation made thereunder or any Scheme, the transmission thereof may be refused and the packet may, if necessary, be detained and opened by the relevant postal service provider in the post office and may be returned to the sender thereof or forwarded to its destination, subject in either case to any regulations as to additional postage or other charges, or may be destroyed or otherwise disposed of or dealt with as the Authority may direct.

(3A) Any Regulations made under this Act may make special conditions in respect of the transmission by post of postal packets consisting of books or paper (including letters to or from blind persons) impressed or otherwise prepared for the use of the blind, or of papers posted to any person for the purpose of being so impressed or prepared, or of any article specially adapted for the use of the blind.

**Decision as to postal packets.**

9. If any question arises whether any postal packet is a letter or any other description of postal packet within the meaning of this Act or of any regulations made thereunder, the decision of the Authority thereon shall be final.

**Cash on delivery service.**

10.(1) A postal service provider may conduct, in accordance with such provisions as may be contained in a Scheme, a cash on delivery service in respect of—

- (a) local postal packets;
- (b) postal packets transmitted between Gibraltar and any other country or place the postal administration of which has made an arrangement with a postal service provider for the purposes of this section.

(2) Schemes made for the purposes of this section may prescribe the terms on which and the conditions subject to which a cash on delivery packet may be posted, conveyed and delivered, and in particular may—

- (a) authorize a postal service provider to withhold delivery of such a packet until the sums payable in respect thereof have been paid; and
- (b) provide for the remission to the senders of such packets by means of money orders of the sums payable to them in respect of the packets.

(3) Where a cash on delivery packet is delivered in Gibraltar without the sums payable in respect thereof having been paid, a postal service provider may by notice in writing require the addressee within the time specified in the notice either to pay those sums or to re-deliver the packet intact to a postal service provider, and if the addressee fails to comply with the notice a postal service provider shall be entitled to recover such sums as a debt due to him from the addressee.

(4) The provisions of this Act as to the recovery of postage or other sums payable in respect of a postal packet shall apply in relation to any sums payable in respect of a cash on delivery packet, and a certificate of the amount of any sum payable under the Scheme, in any legal proceedings for the recovery of any such sums, be sufficient proof of the facts stated therein unless the contrary is shown.

(5) In this section, the expression “cash on delivery service” means a service whereby a postal service provider or other postal administration undertakes at the request of the sender of a postal packet to collect, or secure the collection of, a sum of money on his behalf from the addressee as a condition of delivery; and the expression “cash on delivery packet” means a postal packet in respect of which such an undertaking is given.

**Prohibition on sending by post of certain articles.**

11.(1) A person shall not send or attempt to send or procure to be sent a postal packet which—

- (a) except as a postal service provider may either generally or in any particular case, with prior express consent of the Authority and every single possible handler and carrier of the postal packet in question, allow, encloses any explosive, dangerous, noxious or deleterious substance, any filth, any sharp instrument not properly protected, any noxious living creature, or any creature, article or thing whatsoever which is likely to injure either other postal packets in course of conveyance or an officer of the postal service provider;
- (b) encloses any indecent or obscene print, painting, photograph, lithograph, engraving, cinematograph film, book, card or written communication, or any indecent or obscene article whether similar to the above or not; or
- (c) has on the packet, or on the cover thereof, any words, marks or designs which are grossly offensive or of an indecent or obscene character.

(2) A person who acts in contravention of subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale or on conviction on indictment to imprisonment for twelve months.

(3) If a postal service provider finds a postal packet to contain any such articles as are mentioned in paragraph (b) or (c) of subsection (1) or of any postal packet having thereon, or on the cover thereof, any words, marks or designs of a libellous character, the postal service provider may refuse to accept or deliver the same and will consult with the Authority as to action to be taken.

(3A) The postal service provider shall not be liable for the contents in the transmission or delivery of any such articles as are mentioned in paragraph (b) or (c) of subsection (1) or of any postal packet having thereon, or on the cover thereof, any words, marks or designs of a libellous character.

(4) The detention in the post office of any postal packet on the grounds of a contravention of this section shall not exempt the sender thereof from any proceedings which might have been taken if the packet had been delivered in due course of post.

**Power of the Postal Service Provider to carry into effect postal arrangements with other countries.**

12. Where an arrangement has, either before or after the commencement of this Act, been made by the postal service provider with the postal administration of any other country with respect to the conveyance by post of any postal packets between Gibraltar and places outside



Gibraltar, or whether through Gibraltar or not, between places outside Gibraltar, a contract may be entered into may be made for carrying the arrangement into effect, and may make provision as to the charges for the transit of postal packets, single or in bulk, the scale of weights to be adopted, and the accounting for and paying over to any other postal administration of any money received by the postal service provider.

**Application of customs laws to postal packets.**

13.(1) Subject to the provisions of this section, the provisions of the Imports and Exports Act and any other law for the time being in force relating to customs or to import and export duties and control shall apply in relation to goods contained in postal packets to which this section applies brought into Gibraltar by post or sent out of Gibraltar by post to any place outside Gibraltar as they apply in relation to goods otherwise imported, exported or removed into or out of Gibraltar from or to any such place.

(2) Regulations may be made—

- (a) *Deleted*
- (b) for making modifications or exceptions in the application of the said law to such packets;
- (c) for enabling officers of the postal service provider to perform for the purposes of the said law and otherwise all or any of the duties of the importer, exporter or person removing the goods;
- (d) for carrying into effect any arrangement with the postal administration of any other country with respect to foreign postal packets;
- (e) for securing the observance of the said law and, without prejudice to any liability of any person under such law, for punishing any contravention of the regulations;

and different regulations may be made for foreign and local postal packets.

(3) The provisions of this Act as to the recovery of postage or other sums payable in respect of a postal packet shall apply in relation to any customs duty or other charges payable in respect of a postal packet to which this section applies, whether payable to the Government or to the government of any country outside Her Majesty's dominions, and a certificate of the amount of any such duty or other charges purporting to be signed by the postal service provider shall in any legal proceedings for the recovery of the duty or charges be sufficient evidence of the facts stated therein unless the contrary is shown.

**Power to detain postal packets containing contraband.**

14.(1) Without prejudice to section 13, a postal service provider may detain any postal packet suspected to contain any goods chargeable with any customs duty which has not been paid or secured or any goods in the course of importation, exportation or removal into or out of Gibraltar contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any law and may forward the packet to the Collector of Customs.

(2) Where any postal packet has been forwarded to the Collector of Revenue under this section he may—

- (a) in the presence of the person to whom the packet is addressed; or
- (b) if, after notice in writing from them requiring his attendance left at or forwarded by post to the address on the packet, the addressee fails to attend, or if the address on the packet is outside Gibraltar, then in his absence,

open and examine the packet.

(3) Where the Collector of Revenue opens and examines a postal packet under this section, then—

- (a) if he finds any such goods as aforesaid he may detain the packet and its contents for the purpose of taking proceedings with respect thereto;
- (b) if he finds no such goods, he shall either deliver the packet to the addressee upon his paying any postage and other sums chargeable thereon or, if he is absent, forward the packet to him by post.

(4) If a postal service provider suspects that a postal packet may contain any item or information which is a threat to the security of Gibraltar, he may, after notifying the Authority and consulting with the police—

- (a) detain and open the postal packet;
- (b) destroy it completely;
- (c) deliver it to the police to keep it for further action, if necessary; or
- (d) reseal and return it to the postal system.

#### **Recovery of postage, etc.**

15. All postage and other sums payable under any Scheme in respect of postal packets may be recovered as a civil debt due to the postal service provider in question.

#### **Post Office mark evidence of amount of postage, etc.**

16.(1) The official mark of any sum on any postal packet as due in respect of that packet, whether the mark is the mark of the postal service provider in question or of any other postal administration and whether the sum is marked as being due to the postal service provider in question or otherwise, shall in every court in Gibraltar be sufficient proof of the liability of the packet to the sum so marked unless the contrary is shown, and the sum shall be recoverable in any such court as postage due to the postal service provider in question.

(2) In any proceedings for the recovery of postage or other sums due in respect of postal packets, the production of the packet in respect of which any such postage or sum is sought to be recovered, having thereon a stamp or other endorsement of the postal service provider in question or any other postal administration indicating that the packet has been refused or rejected or is unclaimed or cannot for any other reason be delivered, shall be sufficient proof of the fact indicated unless the contrary is shown.

(3) In any such proceedings as aforesaid, a certificate purporting to be signed by an officer of the postal service provider of a rank of position approved by the Authority that any mark, stamp or endorsement is such a mark, stamp or endorsement as is mentioned in the foregoing provisions of this section shall be sufficient proof thereof unless the contrary is shown.

(4) In any such proceedings as aforesaid, the person from whom any postal packet in respect of which any postage or sum is sought to be recovered purports to have come shall, until the contrary is proved, be deemed to be the sender of the packet.

### **PART III.—MONEY ORDERS.**

#### **Money orders.**

17.(1) The postal service provider may provide for the remission of small sums of money, through post offices established by him, by means of money orders, and may demand and receive for the use of the Government in respect of those money orders such rates of poundage as may be fixed by Schemes.

(2) Such Schemes may make provision with respect to money orders, and to the payment thereof, and to the persons by or to whom they are to be paid, and the times and places at which and otherwise as to the mode in which they are to be paid.

(3) Subject to such Schemes, the postal service provider in question may repay the amount of any money order to the person to whom the order is issued, or his executors or administrators, whether the order remains in the possession of that person or not, and upon that repayment all liability on the part of any officer of the postal service provider, in respect of the money order shall, as against the payee of the money order and the holder thereof and every other person whomsoever, cease.

(4) No interest shall be payable in respect of any money order.

(5) No action or other legal proceeding shall be instituted against the Government or against any officer of the Royal Gibraltar Post Office or any person whomsoever in respect of any compliance with a Scheme referred to in subsection (3), or otherwise in relation thereto, or in respect of the payment of any such money orders being refused or delayed by or on account of any accidental neglect, omission or mistake by or on the part of any officer of the Royal Gibraltar Post Office, or for any other cause whatsoever, without fraud or wilful misbehaviour on the part of any officer of the Royal Gibraltar Post Office.

**Special provisions as to postal orders.**

18.(1) The Royal Gibraltar Post Office may authorise any of its officers to issue money orders in such form as may be directed from time to time by the Royal Gibraltar Post Office according to a Scheme, and those money orders (in this Act referred to as “postal orders”) shall be paid in the manner and subject to the conditions prescribed by the Scheme and the amounts for which they may be issued and the poundage payable in respect thereof shall be such as may be so prescribed:

Provided that after the expiration of such period after the date of the issue of a postal order as may be prescribed by the Scheme, the order shall be payable only on payment in manner prescribed by the Scheme of a commission equal to the amount of the original poundage.

(2) If any Scheme so provides the Royal Gibraltar Post Office may authorize any person holding office under the Government to issue postal orders, and a person so authorized shall, for the purpose of the issue and payment of postal orders, be deemed to be an officer of the Royal Gibraltar Post Office within the meaning of this Act.

(3) Any person acting as a banker in Gibraltar who, in collecting in that capacity for any principal, has received payment or been allowed by the Director in account in respect of any postal order, or of any document purporting to be a postal order, shall not incur liability to anyone except that principal by reason of having received the payment or allowance or having held or presented the order or document for payment; but this subsection shall not relieve any principal for whom any such order or document has been so held or presented of any liability in respect of his possession of the order or document or of the proceeds thereof.

(4) The law relating to the punishment of offences connected with stamp duties (including the law relating to the punishment of fraud) shall apply in like manner as if any poundage or commission chargeable for a postal order were stamp duty.

**Issuing money orders with fraudulent intent.**

19.(1) An officer of the a postal service provider who grants or issues any money order with a fraudulent intent is guilty of an offence and is liable on conviction to imprisonment for seven years.

(2) If any officer of the a postal service provider re-issues a money order previously paid, he shall be deemed to have issued the order with a fraudulent intent for the purposes of this section.

#### **Forgery and stealing of money orders.**

20.(1) A money order shall be deemed to be an order for the payment of money and a valuable security within the meaning of this Act and of the Criminal Offences Act, and of any other law relating to forgery or stealing.

(2) A person who, with intent to defraud, obliterates, adds to or alters any such lines or words on a money order as would, in the case of a cheque, be a crossing of that cheque, or knowingly offers, utters or disposes of any money order with such fraudulent obliteration, addition or alteration, is guilty of an offence and is liable to the like punishment as if the order were a cheque.

#### **Arrangements with other countries as to money orders.**

21. Where an arrangement is made with the postal administration of any other country for the transmission of small sums through post offices under the charge of the postal service provider in question and the postal administration of the other country by means of money orders, sections 17, 18, 19 and 20 shall, so far as is consistent with the tenor thereof, and subject to any modifications prescribed by regulations, apply to the postal service provider as they apply to the Royal Gibraltar Post Office in like manner as if an order issued in pursuance of the arrangement, whether by an officer of the Royal Gibraltar Post Office or other postal service provider in question, as the case may be, or by an officer of the other postal administration, were a money order within the meaning of those sections:

Provided that—

- (a) any regulations relating to any money orders issued in pursuance of any such arrangement may differ from the regulations relating to any other money orders; and
- (b) any money orders issued in pursuance of any such arrangements may be of such amount and in such form and subject to such conditions respecting poundage, commission, the periods during which they are payable, and other matters, as may be prescribed by regulations.

#### **PART IV.—CONVEYANCE OF MAIL BAGS BY SHIPS AND AIRCRAFT.**

##### **Outward bound ships.**

22.(1) Every master of a ship outward bound shall receive on board his ship every mail bag tendered to him by an officer of the postal service provider in question for conveyance, and

having received it shall deliver it, on arriving at the port or place of his destination, without delay.

(2) The master of any such ship who fails to comply with this section is guilty of an offence and is liable on summary conviction to a fine of £200.

#### **Inward bound ships and aircraft.**

23.(1) Subsections (2), (3) and (4) shall apply in relation to a ship or aircraft inward bound carrying any postal packets to a postal service provider in Gibraltar, not being packets to which section 24 applies.

(2) The master of the ship or commander of the aircraft shall collect all such postal packets on board his ship or aircraft and enclose them in some bag or other covering sealed with his seal and addressed to the postal service provider and shall without delay deliver them to the proper officer of the postal service provider demanding them or, if no demand is made by that officer, then at the post office with which he can first communicate.

(3) The master of the ship or the commander of the aircraft who does not duly comply with the provisions of subsection (2) is guilty of an offence and is liable on summary conviction to a fine of £200.

(4) The master of the ship or commander of the aircraft shall not break bulk on board his ship or aircraft in any port or place before he has complied with the provisions of subsection (2) and if he does so he is guilty of an offence and is liable on summary conviction to a fine of £25.

(5) Any customs officer may refuse to permit bulk to be broken on board any inward bound ship or aircraft until he is satisfied that any postal packets brought in that ship or aircraft which are required to be delivered under subsection (2) have been so delivered.

(6) Any customs officer may search any inward bound ship or aircraft for, and seize, any postal packets which are to be remitted to a postal service provider in Gibraltar and forward any such packets seized to the nearest post office of such postal service provider; and section 8(3) shall apply in relation to any packet so forwarded.

#### **Owners' letters.**

24.(1) Subsections (2) and (3) shall apply to any letter addressed to the owner, charterer or consignee of a ship or aircraft inward bound or to the owner, consignee or shipper of any goods carried in such a ship or aircraft, being a letter which, not being excepted from the requirements of authorisation under Part I, complies with the following conditions, that is to say—

- (a) that the addressee is described in the address or superscription on the letter as such owner, charterer, consignee or shipper; and
- (b) in the case of a letter addressed to an owner, consignee or shipper of goods, that it also appears by the ship's manifest or by the manifest and declaration of the aircraft that the addressee has goods on board the ship or aircraft.

(2) Any such letter required to be delivered to a person at the place of arrival of the ship or aircraft shall be delivered to that person by the master of the ship or the commander of the aircraft free of local postage and that person shall be entitled to the delivery thereof before the delivery of any other postal packets to the relevant universal service provider.

(3) Any such letter required to be delivered to a person at any other place in Gibraltar shall be delivered by the relevant universal service provider on payment of local postage only.

(4) A person who with intent to evade any postage falsely superscribes any letter as being for the owner, charterer or consignee of the ship or aircraft conveying the letter or for the owner, consignee or shipper of goods carried in that ship or aircraft, is guilty of an offence and is liable on summary conviction to a fine of £25.

#### **Retention of postal packets after delivery of part thereof to Post Office.**

25. If any person, being the master or commander, one of the officers or crew, or a passenger, of a ship or aircraft inward bound, knowingly has in his baggage or in his possession or custody any postal packet, except a postal packet not within the requirements of authorisation under Part I, after the master of the ship or commander of the aircraft has sent any part of the postal packets on board the ship or aircraft to the relevant universal service provider, he is guilty of an offence and is liable on summary conviction to a fine of £5 for every such packet; and if he detains any such packet after demand made either by a revenue officer or by any person authorized by the relevant universal service provider to demand the postal packet on board the ship or aircraft, he is liable on summary conviction to a fine of £25 for every postal packet so detained.

#### **Carriage of parcels by coasting ships.**

26.(1) In the case of any mechanically-propelled ship which is a home-trade ship within the meaning of the Merchant Shipping Act a universal service provider may require the person by whom that ship is owned or worked to carry parcels in that ship.

(2) The remuneration for any services rendered by a ship under this section shall be determined by agreement between a universal service provider and the person owning or working the ship or, in default of agreement, by the Magistrates' Court; and any remuneration so determined shall be paid direct to that person.

#### **Remuneration of owners and masters or commanders of ships or aircraft.**

27. Without prejudice to section 26, regulations may provide for the allowance to owners or masters of ships or owners or commanders of aircraft in respect of postal packets or any description thereof conveyed by them on behalf of the universal service provider, and also to pilots, crew and others in respect of postal packets or any description thereof brought by them to any post office from any ship or aircraft, of such gratuities under such conditions and restrictions as may be so provided.

**Penalty for opening of mail bag by master or commander of ship or aircraft.**

28.(1) The master of a ship or the commander of an aircraft who—

- (a) opens a sealed mail bag with which he is entrusted for conveyance; or
- (b) takes out of a mail bag with which he is entrusted for conveyance any postal packet or other thing,

is guilty of an offence and is liable on summary conviction to a fine of £200.

(2) A person to whom postal packets have been entrusted by the master of a ship or the commander of an aircraft to deliver to the universal service provider, who breaks the seal, or in any manner wilfully opens them, is guilty of an offence and is liable on summary conviction to a fine of £25.

**PART V.—GENERAL OFFENCES.**

**Stealing mail bag or postal packet.**

29. A person who—

- (a) steals a mail bag;
- (b) steals any postal packet in course of transmission by post;
- (c) steals any chattel, money or valuable security out of a postal packet in course of transmission by post; or
- (d) stops a mail with intent to rob or search the mail,

is guilty of an offence and is liable on conviction to imprisonment for ten years.

**Unlawfully taking away or opening mail bag.**

30. A person who unlawfully takes away or opens a mail bag sent by any ship, vehicle or aircraft employed by or under the universal service provider for the transmission of postal



packets under contract, or unlawfully takes a postal packet in course of transmission by post out of a mail bag so sent, is guilty of an offence and is liable on conviction to imprisonment for five years.

**Receiver of stolen mail bag or postal packet.**

31. A person who receives any mail bag, or any postal packet or any chattel or money or valuable security, the stealing, or secreting of which amounts to an offence against this Act, knowing it to have been so stolen, or secreted, and to have been sent, or to have been intended to be sent, by post, is guilty of an offence and is liable to the same punishment as if he had himself stolen, or secreted it, and may be proceeded against and convicted whether the principal offender has or has not been previously convicted or is or is not amenable to justice.

**Fraudulent retention of mail bag or postal packet.**

32. A person who fraudulently retains, or wilfully secretes or keeps, or detains, or who, when required by an officer of the relevant postal service provider, neglects or refuses to deliver up—

- (a) any postal packet which is in course of transmission by post and which ought to have been delivered to any other person; or
- (b) any postal packet in course of transmission by post or any mail bag which has been found by him or by any other person,

is guilty of an offence and is liable on conviction to imprisonment for two years and to a fine of £200.

Provided that it shall not be an offence of a person in the employment of a postal service provider to detain or refuse to deliver up a postal package as aforesaid if that is done in contemplation or furtherance of a trade dispute within the meaning assigned to that term by the Trade Unions and Trade Disputes Act.

**Criminal diversion of letters from addressee.**

33.(1) A person not in the employment of the Post Office who, wilfully and maliciously, with intent to injure any other person, either opens or causes to be opened any postal packet which ought to have been delivered to that other person, or does any act or thing whereby the due delivery of the packet to that other person is prevented or impeded, is guilty of an offence and is liable on summary conviction to imprisonment for six months or to a fine of £50.

(2) Nothing in this section shall apply to a person who does any act to which this section applies where he is parent, or in the position of parent or guardian, of the person to whom the postal packet is addressed.

(3) A prosecution shall not be instituted in pursuance of this section except by the direction or with the consent of the postal service provider in questions or the Authority.

(4) In this section the expression “postal packet” means a postal packet which is in course of transmission by post or which has been delivered by post.

**Secreting or destroying postal packets.**

34. An officer of the postal service provider who secretes or destroys a postal packet in course of transmission by post, is guilty of an offence and is liable on conviction to imprisonment for seven years.

**Opening or delaying of postal packets by officers of the Post Office.**

35. (1) Subject to subsection (2) an officer of the postal service provider who, contrary to his duty, opens, or procures or suffers to be opened, any postal packet in course of transmission by post, or wilfully detains or delays, or procures or suffers to be detained or delayed, any such postal packet, is guilty of an offence and is liable on conviction to imprisonment for two years and to a fine of £200:

(2) It shall not be an offence for an officer of the postal service provider to detain or delay, or procure or suffer to be detained or delayed any postal packet as mentioned in subsection (1) if that is done in contemplation or furtherance of a trade dispute within the meaning assigned to that term by the Trade Unions and Trade Disputes Act.

Provided that nothing in this section shall extend to the opening, detaining or delaying of a postal packet returned for want of a true direction, or returned by reason that the person to whom it is directed has refused it, or has refused or neglected to pay the postage thereof, or that the packet cannot for any other reason be delivered, or to the opening, detaining or delaying of a postal packet under the authority of this Act or in obedience to an express warrant in writing under the hand of the Government.

**Carelessness, negligence or misconduct of persons employed in carrying or delivering mail bags, postal packets etc.**

36. A person employed to convey or deliver a mail bag, or a postal packet in course of transmission by post, or to perform any other duty in respect of a mail bag or such a postal packet who—

- (a) without authority whilst so employed, or whilst the mail bag or postal packet is in his custody or possession, leaves it, or suffers any person, not being the person in charge thereof, to ride in the place appointed for the person in charge thereof in or upon any vehicle used for the conveyance thereof, or to ride in or upon a vehicle so used and not licensed to carry passengers;

- (b) is guilty of any act of drunkenness whilst so employed;
- (c) is guilty of carelessness, negligence or other misconduct whereby the safety of the mail bag or postal packet is endangered;
- (d) without authority collects, receives, conveys or delivers a postal packet otherwise than in the ordinary course of post;
- (e) gives any false information of an assault or attempt at robbery upon him; or
- (f) loiters on the road or passage, or wilfully misspends his time so as to retard the progress or delay the arrival of a mail bag or postal packet in the course of transmission by post, or does not use due care and diligence safely to convey a mail bag or postal packet at the due rate of speed,

is guilty of an offence and is liable on summary conviction to a fine of £20.

**Prohibition of placing injurious substances in or against post office letter boxes.**

37.(1) No person shall place or attempt to place in or against any post office letter box any fire, match, light, explosive substance, dangerous substance, filth, noxious or deleterious substance, or fluid or commit a nuisance in or against any post office letter box or do or attempt to do anything likely to injure the box or its appurtenances or contents.

(2) A person who acts in contravention of this section, is guilty of an offence and is liable on conviction on indictment to imprisonment for twelve months or on summary conviction to a fine of £25.

**Prohibition of affixing placards, etc., on post office letter boxes, etc.**

38.(1) No person shall without due authority affix or attempt to affix any placard, advertisement, notice, list, document, board or thing in or on, or paint or tar, any post office, post office letter box or other property belonging to or used by or on behalf of a postal service provider, or in any way disfigure any such office, box or property.

(2) A person who acts in contravention of this section, is guilty of an offence and is liable on summary conviction to a fine of £10.

**Prohibition of imitation of post office stamps, envelopes, forms and marks.**

39.(1) No person shall, without due authority—

- (a) make, issue, or send by post or otherwise any envelope, wrapper, card, form or paper in imitation of one issued by or under the authority of a postal service provider or of any other postal administration, or having thereon any words, letters

or marks which signify or imply or may reasonably lead the recipient thereof to believe that a postal packet bearing them is sent on Her Majesty's service;

- (b) make on any envelope, wrapper, card, form or paper for the purpose of being issued or sent by post or otherwise, or otherwise used, any mark in imitation of or similar to or purporting to be any stamp or mark of a postal service provider or under any other postal administration, or any words, letters or marks which signify or imply or may reasonably lead the recipient thereof to believe that a postal packet bearing them is sent on Her Majesty's service; or
- (c) issue or send by post or otherwise any envelope, wrapper, card, form or paper so marked.

(2) A person who acts in contravention of this section is guilty of an offence and is liable on summary conviction to a fine of £10.

**Prohibition of fictitious stamps.**

40.(1) No person shall except for such purposes and subject to such conditions as may be prescribed by regulations-

- (a) make, knowingly utter, deal in or sell any fictitious stamp;
- (b) have in his possession, unless he shows a lawful excuse, any fictitious stamp; or
- (c) make or, unless he shows a lawful excuse, have in his possession any die, plate, instrument or materials for making any fictitious stamp.

(2) No person shall knowingly use for the purposes of any postal service provider any fictitious stamp.

(3) A person who acts in contravention of the provisions of this section is guilty of an offence and is liable on summary conviction to a fine of £25:

Provided that a prosecution shall not be instituted under this subsection except with permission of the postal service provider in question or the Authority.

(4) Any stamp, die, plate, instrument or materials found in the possession of any person in contravention of subsection (1) may be seized and shall be forfeited.

(5) The importation into Gibraltar-

- (a) of any facsimile, imitation or representation, whether on paper or otherwise, of any stamp for denoting any rate of postage;

- (b) of any die, plate, instrument or materials for making such a facsimile, imitation or representation,

is hereby prohibited.

(6) In this section the expression “fictitious stamp” means any facsimile, imitation or representation, whether on paper or otherwise, of any stamp for the time being authorized or required to be used for the purposes of the postal services or of any stamp for denoting a current rate of postage of any country outside Gibraltar.

**Prohibition of false notice as to reception of letters, etc.**

41.(1) A person shall not without the authority of the Authority place or maintain in or on any house, wall, door, window, box, post, pillar or other place belonging to him or under his control, any of the following words, letters or marks, that is to say—

- (a) the words “post office”;
- (b) the words “letter box” accompanied with words, letters or marks which signify or imply or may reasonably lead the public to believe that it is a post office letter box; or
- (c) any words, letters or marks which signify or imply or may reasonably lead the public to believe that any house or place is a post office or that any box is a post office letter box,

and every person, when required by a notice given by the Authority to remove or efface any such words, letters or marks, or to remove or effectually close up any letter box belonging to him or under his control which has been a post office letter box, shall comply with the requirement.

- (2) A person shall not without the authority of the Authority –
  - (a) place or maintain in or on any ship, vehicle, aircraft or premises belonging to him or under his control; or
  - (b) use in any document in relation to himself or any other person or in relation to any ship, vehicle, aircraft or premises,

the words “Royal Mail” or “Royal Air Mail” or any words, letters or marks which signify or imply or may reasonably lead the public to believe that the ship, vehicle, aircraft, or premises is or are used by a postal service provider or with his authority for the purpose of collecting or conveying postal packets or that he or that other person is authorized by the Authority to collect or convey such packets; and every person when required by a notice given by the Authority to

remove or efface or cease to use any such words, letters or marks as aforesaid shall comply with the requirement.

(3) A person who acts in contravention of this section is guilty of an offence and is liable on summary conviction to a fine of £10, and, if the offence is continued after a previous conviction, to a fine of £1 for every day during which the offence so continues.

**Obstruction and molestation of officers of a Postal Service Provider.**

42.(1) A person who wilfully obstructs or molests, or incites anyone to obstruct or molest, an officer of a postal service provider in the execution of his duty, or whilst in any post office or within any premises belonging to any post office or used therewith obstructs the course of business of a postal service provider, is guilty of an offence and is liable on summary conviction to imprisonment for one month and to a fine of £10.

(2) Any officer of the postal service provider may require any person guilty of any offence against this section to leave a post office or any such premises as aforesaid and, if the person so required refuses or fails to comply with the requirement, he is guilty of an offence and liable on summary conviction to a further fine of £5 in the case of a universal service provider, and may be removed by any officer of the universal service provider, and any police officer shall on demand remove or assist in removing any such person.

**Provision against hawking opposite Main Office of the Universal Service Provider.**

43. A hawker, newsvendor, or idle or disorderly person who stops or loiters on the flagway or pavement opposite the main offices of the universal service provider in Gibraltar, or in any part thereof, is guilty of an offence and is liable on summary conviction to a fine of £5.

**Endeavouring to procure the commission of offences.**

44. A person who solicits or endeavours to procure any other person to commit an offence punishable on indictment under this Act is guilty of an offence and is liable on summary conviction to imprisonment for two years.

**PART VI.—LEGAL PROCEEDINGS.**

**Summary proceedings.**

45. Proceedings for any offence against this Act punishable on summary conviction may be commenced at any time within one year next after the commission of the offence.

**Provisions as to form of proceedings.**

46.(1) Without prejudice to the provisions of the Criminal Procedure Act, in any legal proceedings for any offence committed or attempted to be committed, or any malicious,

injurious or fraudulent act or thing done in, upon or with respect to the postal service provider or the postal service revenue, or any mail bag, postal packet or money order, or any chattel, money or valuable security sent by post, or in any way concerning any property under the management or control of the universal service provider, it shall be sufficient to allege the property to belong to the universal service provider and to allege any such act or thing to have been done with intent to injure or defraud the universal service provider without in either case naming the person who is universal service provider, and it shall not be necessary to allege or to prove upon the trial or otherwise that the mail bag, postal packet, money order, chattel, money, security or property was of any value.

(2) Without prejudice to subsection (1) in any legal proceedings against any officer of the postal service provider for any offence committed against this Act, it shall be sufficient to allege that the alleged offender was an officer of the postal service provider at the time of the commission of the offence, without stating further the nature or particulars of his employment.

**Evidence of thing being postal packet, and of consent to prosecution.**

47.(1) On the prosecution of any offence against this Act, whether summarily or on indictment, evidence that any article is in the course of transmission by post, or has been accepted on behalf of the postal service provider in question for transmission by post, shall be sufficient evidence that the article is a postal packet.

(2) Where the consent or order of the postal service provider is required to or for any prosecution, an instrument purporting to be executed by him or on his behalf by an officer of the postal service provider duly authorised by and stating that the prosecution has been consented to by the postal service provider or ordered or consented to by the universal service provider shall be sufficient proof of that fact, unless the contrary is shown.

**Offences also punishable at common law or under some other law.**

48. Where proceedings are taken before any court against a person in respect of an offence against this Act which is also an offence punishable under any other law, the court may direct that, instead of those proceedings being continued, proceedings shall be taken for punishing that person under that other law.

**PART VII.—MISCELLANEOUS AND GENERAL.**

**Sale of stamps.**

48A.(1) All Stamps including stamps bearing the Royal Cipher or effigy of Her Majesty the Queen shall be sold to the members of the public at the post offices of the Royal Gibraltar Post Office and may be sold at such other Government offices and between such hours as the Royal Gibraltar Post Office with the prior approval of, or on request from the Minister may appoint.

(2) The Royal Gibraltar Post Office may, with the prior approval of the Minister, appoint stamp vendors who shall be authorised to sell stamps to the members of the public and may allow such stamp vendors such commission as may be prescribed on every purchase of stamps made by them for not less than £25 at any one time.

**Provision as to post office letter boxes.**

49.(1) Where it appears to a universal service provider that any post office letter box, by reason of being on the premises of any private person or otherwise, is so situated as not to afford the same security against the improper removal of postal packets therefrom or other fraud as exists in the case of other post office letter boxes, he may declare that that post office letter box shall be a private posting box, and shall affix upon or near the box a notice of its being and of the effect of its being a private posting box, and a postal packet put into that box shall not, for the purpose of any law or contract whereby the due posting of a postal packet is evidence of the receipt thereof by the addressee, be deemed to have been duly posted.

(2) A certificate purporting to be signed by a universal service provider or on his behalf by an officer of the universal service provider duly authorized by or under section 55 to the effect that any box or receptacle is or was provided by the permission or under the authority of a universal service provider for the purpose of receiving postal packets or any class of postal packets, shall in any legal proceedings be sufficient proof of the facts stated in the certificate unless the contrary is shown.

**Appointment of person in charge of, and officers of the Post Office.**

50. The Government shall appoint a person to be in charge of the Royal Gibraltar Post Office, who shall be in charge of the administration of the Royal Gibraltar Post Office, and such officers of the Royal Gibraltar Post Office as the Government may think fit.

**Officers to make declaration.**

51. All officials of the Royal Gibraltar Post Office shall upon appointment or employment make a declaration before a justice of the peace in such form as may be prescribed by Regulations.

**Surrender of clothing by officer of Royal Gibraltar Post Office on ceasing to be officer.**

52.(1) Where an officer of the Royal Gibraltar Post Office vacates his office (whether by reason of dismissal, resignation, death or otherwise) he, or if he is dead his personal representative or the person acting as his personal representative, shall deliver to the Royal Gibraltar Post Office all articles (whether uniform, accoutrements, appointments or other necessaries) which have been issued to the officer vacating his office for the execution of his duty and are not the property of that officer, and shall deliver the articles in good order and condition, fair wear and tear only excepted.



(2) A person who fails to comply with the provisions of this section is guilty of an offence and is liable on summary conviction to a fine of, and also to pay such further sum not exceeding £5 as the court may determine to be the value of the articles not delivered, or, if the articles have been delivered but not in good order and condition, of the damage done to the articles.

(3) Any magistrate may issue a warrant by virtue of which a police officer may search for and seize any articles not delivered as required by this section, in like manner as if they were stolen goods and the warrant were a warrant to search for stolen goods.

#### **Royal Gibraltar Post Office expenses.**

53. All expenses incurred by the Royal Gibraltar Post Office in the execution of this Act or otherwise in the management of the Royal Gibraltar Post Office, but not otherwise provided for by any other law, shall, subject to the financial provisions in section 4E, be paid out of the Consolidated Fund.

#### **Regulations.**

54. The Government may make regulations with respect to any matter which is authorized or required by this Act to be effected by regulations and generally for the better carrying out of the provisions and objects of this Act.

#### **Exercise of powers on behalf of Royal Gibraltar Post Office.**

55.(1) Any instrument or document required or authorised to be executed or signed by the person appointed under section 50 may be executed or signed on his behalf by such other officers of the Royal Gibraltar Post Office (whether described by name or by reference to their rank or office or class of office) as may be prescribed, either generally or as respects any class of instruments or documents, or in respect of any particular instrument or document.

(2) Any instrument or document purporting to be executed or signed by a duly authorised officer of the Royal Gibraltar Post Office in that behalf by or under this section shall, until the contrary is proved, be deemed to have been duly executed or signed, without proof of the authority or official character of the person purporting to have executed or signed it.

(3) Subject to subsection (1), any act authorized or required to be done by, to or before the person appointed under section 50 of this Act may be done by, to or before any officer, deputy, servant or agent appointed by him in that behalf.

#### **Exemption of Universal Service Provider from stamp duty.**

56. Every deed, instrument, money order, bill, cheque, receipt or other document, made or executed for the purposes of the universal service, by the universal service provider to, or with the Government shall be exempt from any stamp duty imposed by any law, except where that

duty is declared by the document, or by some memorandum endorsed thereon, to be payable by some person other than the universal service provider.

**Police may search vessels.**

57.(1) Any police officer or customs officer may, by direction in writing of the Commissioner of Police or Captain of the Port, search any vessel or aircraft for any letters which may be suspected to be on board contrary to this Act, and he may seize all such letters and forward them to the relevant postal service provider.

(2) The master or other person in charge of any vessel or aircraft who prevents or hinders any police officer or customs officer from making such search is guilty of an offence and is liable on summary conviction to a fine of £20.

**Savings and transitional provisions.**

58.(1) Nothing in this Act shall make unlawful—

- (a) the conveyance and delivery of a letter personally by the sender thereof;
- (b) the sending, conveyance and delivery of a letter by means of a private friend who himself delivers that letter to the addressee;
- (c) the sending, conveyance and delivery of a letter concerning the private affairs of the sender or addressee thereof by means of a messenger sent for the purpose by the sender of the letter;
- (d) the sending, conveyance and delivery otherwise than by post of any document issuing out of a court of justice or of any return or answers thereto;
- (e) the sending and conveyance of letters from merchants who are the owners of a merchant ship or commercial aircraft, or of goods carried in such a ship or aircraft, by means of that ship or aircraft and the delivery thereof to the addressee by any person employed for the purpose by those merchants, so, however, that no payment or reward, profit or advantage whatsoever is given or received for the conveyance or delivery of those letters; and
- (f) the sending, conveyance and delivery of letters by land by means of a common carrier, being letters concerning and for delivery with goods carried by him, so, however, that no payment or reward, profit or advantage whatsoever is given or received for the conveyance or delivery of those letters:

(2) Nothing in subsection (1) shall authorise any person to make a collection of letters for the purpose of their being sent or conveyed in any manner authorised by that subsection.

(3) Notwithstanding anything in subsection (1) the following persons are expressly forbidden to carry a letter or to receive, collect or deliver a letter, even if they receive no payment or reward for doing so—

- (a) except for such letters as are mentioned in paragraph (e) of subsection (1) owners of, or any person on board, any ship or aircraft on a voyage or flight between, to or from places in Gibraltar;
- (b) except for such letters as are mentioned in paragraph (f) of subsection (1) common carriers by land or their employees or agents;
- (c) owners, drivers or conductors of public service vehicles.

(4) Subsection (3) shall not make unlawful the receipt, carriage or delivery of letters between places in Gibraltar by any person which would otherwise be lawful by virtue of paragraph (a) or, if that person is a passenger, paragraph (b) or (c) of subsection (1).

(5) For the purposes of this section, the expression “letter” includes a postal packet, so, however, as not to include a newspaper unless a communication not forming part of a newspaper is contained therein or a parcel.

(6) Notwithstanding the provisions of section 4F, upon the coming into operation of the Post Office Act (Amendment) Regulations 2012, the Royal Gibraltar Post Office shall be deemed to have been authorised by the Authority to provide a universal service until such time as an individual licence is issued.

(7) Any service provided by the Royal Gibraltar Post Office pursuant to Regulations made under the Post Office Act and existing prior to the coming into operation of the Post Office Act (Amendment) Regulations 2012 shall be valid for a period of 6 months from the date of the coming into operation of the Post Office Act (Amendment) Regulations 2012 unless, before then, they are made under the relevant section of this Act as amended by the Post Office Act (Amendment) Regulations 2012.

**SCHEDULE 1**

Section 4E

**GUIDANCE ON CALCULATING THE NET COST, IF ANY,  
OF UNIVERSAL SERVICE****PART A****DEFINITION OF THE UNIVERSAL SERVICE OBLIGATIONS**

Universal service obligations are the obligations referred to in section 4B placed upon a postal service provider under Part I which concern the provision of a postal service throughout Gibraltar including, where required, uniform prices for the provision of that service or provision of certain free services for blind and partially-sighted persons.

Those obligations may include, among others, the following—

- (a) a number of days of delivery, superior to those set in Part I;
- (b) accessibility to access points, in order to satisfy the universal service obligations;
- (c) the tariffs affordability of the universal service;
- (d) uniform prices for universal service;
- (e) the provision of certain free services for blind and partially-sighted persons.

**PART B****CALCULATION OF NET COST**

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

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

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

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

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

- (a) elements of the identified services which can only be provided at a loss or provided under cost conditions falling outside normal commercial standards. This category may include service elements such as the services defined in Part A;
- (b) specific users or groups of users who, taking into account the cost of providing the specified service, the revenue generated and any uniform prices imposed by the Minister, can only be served at a loss or under cost conditions falling outside normal commercial standards.

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

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

## **PART C**

### **RECOVERY OF ANY NET COSTS OF UNIVERSAL SERVICE OBLIGATIONS**

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

A sharing mechanism based on a fund referred to in section 4F(4) should use a transparent and neutral mechanism for collecting contributions that avoids a double imposition of contributions falling on both outputs and inputs of undertakings.

The fund administrator is to be responsible for collecting contributions from undertakings, which are assessed as liable to contribute to the net cost of universal service obligations in

Gibraltar and is to oversee the transfer of sums due to the undertakings entitled to receive payments from the fund.

## SCHEDULE 2

Sections 4N and 4O

**QUALITY STANDARDS FOR CROSS-BORDER MAIL**

The quality standards for cross-border mail in each country are to be established in relation to the time limit for routing measured from end to end (\*) for postal items of the fastest standard category according to the formula  $D + n$ , where D represents the date of deposit (\*\*) and n the number of working days which elapse between that date and that deliver to the addressee.

**Quality standards for Cross Border Mail**

Time Limit	Objective
D+3	85% of items
D+5	97% of items

The standards must be achieved not only for the entirety of cross-border traffic but also for each of the bilateral flows between two countries.

(\*) End-to-end routing is measured from the access point to the network to the point of delivery to the addressee.

(\*\*) The date of deposit to be taken into account shall be the same day as that on which the item is deposited, provided that deposit occurs before the last collection time notified from the access point to the network in question. When deposit takes place after this time limit, the date of deposit to be taken into consideration will be that of the following day of collection.