

# **STATES OF JERSEY**

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## **DRAFT POSTAL SERVICES (JERSEY) LAW 200**

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**Lodged au Greffe on 10th February 2004  
by the Economic Development Committee**

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**STATES GREFFE**





Jersey

## **DRAFT POSTAL SERVICES (JERSEY) LAW 200**

### **European Convention on Human Rights**

The President of the Economic Development Committee has made the following statement –

In the view of the Economic Development Committee the provisions of the Draft Postal Services (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Deputy F.G. Voisin of St. Lawrence**

# REPORT

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## Introduction

1. In July 2000, the States agreed a revised approach to the incorporation of the businesses of both Jersey Post and Jersey Telecoms, the vesting of their assets and liabilities in new companies and the transfer of their staff under appropriate terms and conditions of employment. The revised approach also involved the creation of a new, independent regulatory and licensing body – the Jersey Competition Regulatory Authority (the ‘Authority’) – to license the new companies and other entities operating within the postal and telecommunication industries. This revised approach was set out in two Reports and their accompanying Propositions – P.90/2000 and P.101/2000.
2. The Authority was created in 2001 and, in 2002, by virtue of the provisions of the Telecommunications (Jersey) Law 2002 (‘TL’) it became the telecommunications industry regulator. Under that Law also, the businesses and assets of the Telecommunications Board were vested into a group of companies with effect from 1st January 2003.
3. The next legislative step is the subject of this Report and is the Draft Postal Services (Jersey) Law 200-. Importantly, the greater part of this draft Law follows the principles and details within TL. The draft Law, as stated in its short title – page 27 – seeks to –
  - abolish the exclusive privilege of the States in postal services;
  - make new provision about postal services that concern Jersey;
  - enable the staff, assets and liabilities of the Committee for Postal Administration (‘CPA’) to be transferred to one or more companies;
  - empower the Authority to license such a company and other operators with respect to postal services that concern Jersey; and for
  - purposes incidental thereto and connected therewith.
4. This Report deals at policy level with each of the above matters in turn. In doing this, however, it will seek to avoid duplicating the information contained in the useful Explanatory Note prepared by the Law Draftsman.

## Abolition of the exclusive privilege of the States in postal services

5. In the late sixties, the States, through the Post Office (Jersey) Law 1969, carved out for itself an ‘exclusive privilege’ with regard to the conveyance of mail and charged the CPA with the exploitation of that monopoly in the interests of the public. Since then, the CPA has been the only significant postal services provider.
6. Draft Article 85 and Paragraph 1 of Schedule 2 removes that exclusive privilege from Jersey Law, whilst draft Article 84 and Schedule 1, Part 2 repeals the whole of the 1969 Law. Draft Article 3 creates, in place of the exclusive privilege, a defined area of activity within which it will be illegal to operate without a licence from the Authority. That defined area is, in non-legal terms, the conveyance of a letter in Jersey if the letter weighs less than 500 grams and if the postage charge on it is £1.30 or less. This area is, of course, smaller than that defined by the 1969 Law for the operation of the exclusive privilege.
7. Whilst the area defined for licensing purposes is being reduced in that way, the scope of the draft Law (and of the postal services to be provided to the public) remains wide. The postal services that are covered by the draft Law include the conveyance of postal packets that weigh up to 20 kilograms, together with all incidental services that relate to such items. Thus, although the Authority will license only those operators who participate in the defined area, it will be doing so in accordance with duties placed upon it that refer to the future provision of much broader postal services.
8. The Authority will be able, subject to and in accordance with its duties under the Law, to license any person to convey letters in the defined area. Licensees will include the new companies in which the postal businesses of the CPA will be vested. The Authority will regulate these licensees in accordance with those duties – draft Article 8. Paragraphs 43 to 47 below address this important Article.
9. The defined area is set out in Part 2 of the draft Law. That Part prohibits the conveyance in Jersey of a letter that weighs less than 500 grams and that costs £1.30 or less in postage. This defined area is greater than the

similar area reserved in the United Kingdom (350 grams and £1.00) and greater than the maximum permitted reserved area in Europe under the latest Postal Services Directive (350 grams before 31st December 2002 100 grams from 1st January 2003; 50 grams from 1st January 2006 with corresponding figures for postage in U.K. terms of £1.00, £0.80 and £0.65 respectively). There are two reasons for this.

10. First, in setting the defined area at this level, the draft Law will liberalise a significant part of Jersey's postal services industry without more ado. Any person will be able to convey mail in Jersey that falls above those limits, whereas, at present, no person is permitted to convey any letter irrespective of weight or postage. That liberalisation will arise without any further consideration by any independent authority or expert body about the effect of the liberalisation on the continuing viability of the existing postal services provider. Further liberalisation will be in the hands of the Authority – without reference to the States – and it seems entirely appropriate that an expert body make such a decision, no doubt after thorough evaluation of its likely effect.
11. Second, the first European reserved area was set through the Postal Services Directive 97/67/EC dated 15th December 1997. Since that time there has been enormous upheaval in the provision of postal services throughout Europe. That industry has been able to restructure and change in the past 6 years and this has opened the way for the further liberalisation in future years through the latest European Postal Services Directive 2002/39/EC adopted on 10th June 2002. Jersey is now about to start the process and should proceed in a similar, incremental, way.

#### **New provision about postal services that concern Jersey**

12. Various new provisions about postal services are contained in Parts 9, 10, 11 and 12 of the Law.
13. Part 9 provides for the essential immunity of mail, in the hands of any postal operator, from examination and seizure – subject to important but limited exceptions, principally in relation to customs matters but also where mail may contain harmful substances or items.
14. Parts 10 and 11 principally assist those licensees that will be designated as public postal operators. Such operators will wish to continue the present system under which letters may be placed into public post boxes. That gives rise to a need for them to be given a measure of exclusion from liability in tort (civil wrongs) that would otherwise arise (Article 50). Such public postal operators will be able to make postal schemes (Part 11 and Articles 51 and 52) that will determine the terms and conditions applicable to the postal services provided as well as the compensation that may be payable in respect of loss of mail or other service failures.
15. Part 12 seeks to create – or, in some cases, continue from the 1969 Law – certain offences with regard to postal services. The draft Articles within the Part will assist licensees and users in various ways. Persons intending to use forged postage stamps, to interfere with postal facilities or to obstruct postal employees will be dissuaded by criminal penalties, and, in certain cases, the possibility of civil proceedings (Articles 61, 63, 64, 65 and 70). Further draft Articles in Part 12 create – or continue – criminal offences if persons steal mail, open or detain it unlawfully, or disclose its contents.

#### **Transfer of the staff, assets and liabilities of the Committee for Postal Administration to one or more companies**

16. Parts 6 and 7 – draft Articles 27 to 42 – contain the provisions that will enable the States, by Regulations, to effect the transfer of the existing businesses of CPA into a new corporate structure. All the Articles have been drafted in such a way as to give the States the necessary flexibility to achieve the desirable end result of a new group of commercially-oriented companies so structured as to provide maximum benefit to its owner – the States. In this Report the word 'company' in the singular is used for convenience but the draft Law has the facility for more than one company to be used, including, as was the case when the telecommunications businesses were transferred, vesting into various separate companies that comprise a group.
17. The draft Law is almost identical to TL in this area, TL having been used successfully in 2002. Certain of the key policy matters about the transfer provisions in the draft are described in the following paragraphs.
18. Draft Articles 27 to 30 require the new company to be Jersey incorporated (draft Article 27(2)) and to have all its shares held by nominees on behalf of the States (in which case the draft Law calls it a principal company) or to be subsidiaries of such a company.
19. The States is empowered in the future to lend to the company and to guarantee its indebtedness (draft Articles 29 and 30) and a limited power so to lend and guarantee is placed in the hands of the Finance and Economics Committee ('FEC').
20. As was the case under TL, with three specific exceptions, FEC is given – draft Article 27(5) – the ability to

exercise all the powers of the States as owner of the company, including the appointment of directors, corporate governance arrangements, voting at general meetings and, in general, ensuring that the company performs as it should and provides excellent returns to its owner. FEC, however, is unable to act in any way that would alter the ownership of the equity of the company – the States itself must make such decisions – and it is the States that would have to vote on any resolution to wind up the company.

21. Draft Articles 31 to 42 deal with all matters relating to the transfer of the existing businesses to the new company. These Articles will only take effect if and when the States later make Regulations.
22. The transfer of assets and liabilities is covered by draft Article 32 (which sets the date), draft Article 3 (which deals with movable property like money, furniture and rights under contracts) and draft Article 35 (which deals with the transfer of immovable property like land, buildings and contract leases). Movable property will be transferred on a date set by the States without the need to list those assets and liabilities. Immovable property, on the other hand, will only be transferred by the Regulations to the extent that the States specifies each property and so resolves.
23. Draft Articles 37 to 39 contain most of the provisions that give legal certainty to the transfers or that, in other ways, assist the transfer processes.
24. Draft Article 36 is, again, a repeat of a similar Article in TL. It gives the States certain powers, exercisable by the making of Regulations, over assets and liabilities that do not, at the time of vesting, fall within the definitions of assets and liabilities of the CPA in the other Articles.
25. The provisions effecting transfer of staff to the company – vital as those employees are to the success of the business in the future – and the provisions for dealing with their pension entitlements are contained in draft Articles 40 to 42. Each is best explained in that order. All are virtually identical to Articles in TL – with one exception that is explained below.
26. Because of Article 40, on a date the States will be able to specify by Regulations all the existing staff of CPA will be transferred seamlessly into the employment of the new company. Every term and condition of their contracts of employment (paragraph (1)(c)), every collective agreement (paragraph (1)(d)), and everything done in the past (paragraph (1)(e)) will be as effective as it was on the day immediately before the transfer – save in one respect. That one respect is that the employer will, on transfer day, become the company instead of the States – paragraph (1)(a). An employee who is unwilling to transfer is given the right to give notice to that effect and that notice would have the effect of terminating his contract instead of transferring it – paragraph (2).
27. Draft Article 41 enables the CPA to give further effective assurances to bodies representing employees. Under general law, a company is not able to enter into any agreements before it has been incorporated. Because of this Article, however, the CPA will be able, before the transfer date, to enter into agreements with such bodies about new staff and their terms and conditions of employment in the certain knowledge that those agreements will have effect as if the company had made them subsequent to its incorporation.
28. Draft Article 42 seeks to deal with the retirement scheme aspects of employee benefits. Certain present employees of CPA are entitled, under their contracts of service, to receive retirement benefits based on the U.K. Civil Service pension scheme, as it existed in 1969 when the States took over their employment from the British Government. Through this draft Article, those entitlements are preserved for them and, through draft Article 40(1)(a), the company will become the other party to these contracts. Funds in respect of this scheme are held at the States Treasury and the scheme is called the Jersey Post Office Pension Fund ('JPOPF').
29. Most present employees of CPA, however, derive their pension rights from their membership of the Public Employees Contributory Retirement Scheme ('PECRS'). PECRS is a scheme established by enactment, by Regulations made by the States under the Public Employees (Retirement) (Jersey) Law 1967 ('the 1967 Law'). This draft Article 42 will bring about the full continuation, save for the change of employer (to the company from the States as provided by paragraph (1)(b)), of all pension entitlements of these employees. The new company will become, through this Article and also through compliance with all the admission requirements and procedures set out in PECRS Regulations, a participant within PECRS as a separate employer – an admitted body.
30. When the transfer of employees took place under TL, arrangements satisfactory to PECRS (including the Committee of Management of PECRS ('COM'), the Scheme Actuary and the Principal Employer under the Scheme – the Policy and Resources Committee ('PRC')) and to FEC and the new corporate group were

entered into that gave that new group an appropriate measure of commercial freedom in connection with its obligations towards PECRS, consistent, of course, with its obligations to its staff. Similar arrangements are envisaged in the case of the company that will replace CPA. Those arrangements will, therefore, include the signing by the company of a legally binding document committing it to pay into PECRS all employer contributions (in respect of these employees) that the Actuary may specify at any time as well as to pay an immediate initial lump sum contribution. The new company will not be under an obligation to PECRS to introduce any of its future employees as members, but will have certain obligations in that regard towards the postal employee representative bodies – see below. The arrangements also envisage the creation of a notional Employers Sub Fund within PECRS, as has taken place in connection with TL. The sufficiency of the Employers Sub Fund will become the responsibility of the new company. The company's contributions will vary in accordance with variations in benefit levels or in employee contributions under PECRS as a whole.

31. The change of employer of the present postal employees for the purposes of PECRS has a consequential effect that has been discussed on several occasions between CPA and its employee representative bodies – the Communication Workers Union and the Communication Managers' Association ('CWU/CMA'). That change of employer and its consequential effect has also been the subject of considerable discussion with the Committee of Management of PECRS.
32. This change of employer, specified as it is in draft Articles 40(1)(a) and 42(1)(b), is of concern to COM because it has a fiduciary duty towards the postal employee members as a group as well as to PECRS members as a whole. Under the PECRS Regulations, a group of employees in a department of the States (like the postal employees) cannot be removed from membership of PECRS without an alteration to one or more PECRS Regulations. Such an alteration to Regulations, of course, requires a States debate and States approval. When these same employees will have been transferred to the new company, it will be possible for that same group to be required to exit PECRS either through a decision made by the new company or through a decision made by PRC as Principal Employer, subject to the agreement of COM. COM has therefore been seeking, on behalf of this group of employees to which it owes a fiduciary duty, an Article within this draft Law (similar to one in TL) that would ensure that, if, at a later date, the new company's employees were to be required to exit PECRS through either of those decisions, a States debate would take place beforehand around that time of exit.
33. For its part, the Economic Development Committee ('EDC') believes that the break with the States in respect of pension provision for employees of the new company should come about at the date of transfer and that there should not be any involvement of the States at a later date, save for the involvement, as now envisaged, of FEC acting on behalf of the States as owner of the company. CWU/CMA have agreed this position through a collective agreement on behalf of those they represent – an agreement that gives them a clear right of access to FEC in these circumstances. For its part and given its own fiduciary duties, COM wishes to ensure that this change, brought about by this draft Law, is fully reported to the States.
34. COM's fiduciary duty extends slightly further because of the fact that, once the transfer of employees has taken place, those postal employees who are members of PECRS will no longer be looking towards the whole of the PECRS fund as the source of funding for their pension benefits but, instead, to the Employers' Sub Fund mentioned above. Again, CWU/CMA have accepted this position through a collective agreement on behalf of those they represent – an agreement under which there will be a contractual duty on the part of the company towards the CWU/CMA to pay any employer contribution that the Actuary may specify before the exit of the group of employees actually takes place, so as to place the Sub Fund in a fully funded position. As mentioned in paragraph 30 above, the company will, separately, be legally bound to pay into PECRS whatever employer contributions the Actuary may certify as required in this connection. However, COM, again having regard to its fiduciary duty, wishes to ensure that this change is fully reported to the States.
35. Mention is made above of the fact that TL contained an Article that would require a States debate before a group exit from PECRS whereas this draft Law does not. There are 4 principal reasons that have persuaded EDC that this change is correct. First, the desirability of giving the new company real "commercial freedom" given that it will become a true trading entity of like nature to many other trading groups in Jersey. Second, the role of the Authority in placing significant efficiency and other pressures on these businesses is now better understood and the view is that the company should readily be able to respond to those pressures in all areas of its operations. Third, it is seen as seriously flawed for such a company to be made subject to political uncertainties before it could proceed with any alteration in pension provision, even though the proposed alteration would have been fully negotiated with employees and with the CWU/CMA. Fourth, there is now a

better understanding that the new company within PECRS has to abide by, and cannot alter for its own employees (not even for new employees), the benefits within PECRS and the rate of employee contributions specified for all employees within PECRS. The new company must accept for its staff whatever benefits or employee contributions others may decide for PECRS as a whole. This may well indicate a need for the board of directors of the new company to examine soon after transfer the desirability of formulating new pension provision with its staff, particularly for new employees.

36. Finally in Parts 6 and 7, draft Article 36 has been included so that the States will be empowered to achieve all necessary contractual arrangements and liability and asset transfers to resolve the matter of JPOPF to the satisfaction of all parties. Paragraph (2) relates, in particular to that fund as well as to PECRS. Its equivalent in TL was not in fact required in connection with PECRS – but it will be available if needed.
37. Because of the close similarity of this draft Law with TL in the business, asset and liability transfer area, the draft Law will be able to accommodate, if deemed appropriate at the time, similar financial arrangements for the transfer of the postal businesses of the States as were made in respect of its telecommunications businesses and that were effective from 1st January 2003.

### **The empowering of the Authority to license postal services operators**

#### The regulatory structure in general

38. The regulatory and licensing structures, together with the duties and other functions of the Authority, are set out in Parts 3, 4 and 5. Before looking at these in turn from a policy viewpoint, there are four matters to report by way of background.
39. First, the draft Law recognises the fact that the Authority is, and will be, independent from the States in discharging its duties under the Law. Clearly the Authority cannot license and regulate businesses that, for instance, would be competing with the new States owned company if the States had any ability to influence the Authority's decisions in favour of that company.
40. Second, in future, therefore, the States, as owner of the new licensed company and acting through FEC, will be separate from the persons charged with looking after the interests of users of postal services – the Authority. Directors appointed to the board of the company will be required to focus only on the interests of the company and its owners but will, of course, be obliged to follow the license terms.
41. Third, because the Authority is and will remain independent of the States, it is vital that it has a clear mandate from the States. The draft Law seeks to provide this, in particular, by placing clear duties on the Authority through draft Article 8. However, future flexibility must be available to the States with regard to input into Jersey's postal services needs as the elected States members may perceive them from time to time. The draft Law therefore seeks to achieve this at 2 levels. Certain higher-level matters will be able to be determined by the States acting by Regulations. Examples are draft Article 7 (under which the States may prescribe certain activities that may be undertaken without a licence) and draft Article 8 (under which the States may prescribe postal services objectives). With regard to lower level political matters, the EDC will also have delegated powers – an example being draft Article 9 (the right to give enforceable directions to the Authority on social and environmental matters that refer to postal services, or on philately). The duties set out in draft Article 8 will apply to the EDC when it performs any of its functions under the Law.
42. Fourth, States members will be aware of the role of PRC in connection with constitutional matters and external relations, including international treaties and agreements. Certain powers have been placed in the hands of that Committee by draft Article 73, whilst more significant similar issues will be able to be dealt with by the States by Regulations – draft Article 74 – no doubt after a proposition from PRC. The States will therefore be able to ensure that Jersey participates and cooperates fully in external matters that relate to postal services.

#### The powers and duties of the Authority

43. Turning to the detailed provisions about the powers and duties of the Authority, Part 3 sets out its duties. In many ways draft Article 8 is the most important Article in the Law because it gives the Authority the precise criteria on which it must base all its actions and decisions. It merits very careful attention.
44. The primary duty is in paragraph (1) of Article 8 and the 6 secondary duties, all of which are subject to the primary duty, are in paragraph (2).
45. States members will note that the Article does not contain a mandate on the Authority to introduce competition in the provision of postal services. In fact, it imposes on the Authority a primary duty at a higher



level than that – the level of ensuring the provision of postal services that meet all reasonable demands for them.

46. Exceptionally, for a maximum period of 10 years from the transfer of the CPA's existing businesses to the new company, the primary duty will have a second aspect to it that relates to the obligations that the company may have towards the States with regard to securities (like preference shares and debentures) issued by it. The new company is expected to have only a small initial net equity because it will need to meet the shortfall within PECRS that relates to CPA employees. It will be necessary for medium term equity and loan funds to be injected and then returned to the States over a number of years. This Article will assist in ensuring that the securities obligations of the new company that relate to that funding by the States will be met.
47. The Authority's 6 secondary duties are contained in paragraph (2) of Article 8. They are not ranked in a particular order and the Authority will be able to balance these (some may be in conflict with others from time to time) as it sees fit subject to the fact that the duties must be discharged, if at all, only in so far as such discharge would be consistent with the primary duty in Article 8(1).

#### Consultation by the Authority and appeals against its decisions

48. Part 5 requires the Authority to engage in public consultation about all its licensing decisions– draft Article 24. Draft Article 25 provides the necessary appeal mechanism against decisions that, although the subject of extensive consultation, may still be perceived to be unreasonable, to be outside the powers of the Authority or to have been taken without proper respect for the procedural requirements in the Law.

#### Licensing and other functions of the Authority

49. Part 4 details the regulatory functions of the Authority– the power to grant licences, to attach conditions to licences, to modify those conditions and to enforce compliance with them by giving directions. In certain circumstances, other affected persons may enforce compliance with the directions and underlying conditions by seeking damages in the courts. The Authority will be able to play its part in a variety of postal services related matters through draft Articles 10, 11 and 12. The Authority's power to require information – in particular from licensees – is set out in draft Article 77.
50. As part of the licensing system the Authority will be able to bring certain of the provisions of Parts 10 and 11 into play for the benefit of those licensees that have a need for them. The main provision here is that contained in draft Article 57 under which a public postal operator will be able to make postal schemes that determine the terms and conditions under which it will provide public postal services to customers – see paragraph 14 of this Report. Of lesser importance are the provisions in Part 8 under which operators specified by the Authority may be granted the ability to place post boxes near roads. Licensees, in appropriate circumstances, will be able to request the support of the Authority and then of the EDC in the use of powers given to the States under the existing Compulsory Purchase of Land (Procedure) (Jersey) Law 1961 – draft Article 44.
51. Draft Article 13 contains specific requirements about the matters to be covered in the Annual Report of the Authority with regard to postal services. In particular, it requires the Authority to review competition in and any restrictions on supply of postal services in Jersey. Draft Article 12 gives the lead to the Authority to be as open as possible in its communication with users and providers of postal services. Necessary provisions to protect the privacy of a person's private and business affairs – with certain specific 'windows' for disclosure despite this – are contained in draft Article 14.

#### **Other incidental and connected matters**

52. There are provisions to enable a police officer to enter and search premises so as to enforce the prohibition on conveying letters without a licence – draft Article 76. Those postal operators– initially only the new company – providing money order and postal services will be assisted through provisions in Article 53 (and Article 62). These provisions are similar to existing Law in Jersey about banks and cheques.
53. Articles 78, 79, 80, and 83 are essentially legal provisions that will assist when proceedings are brought before the Court or where legal notices are being given. Article 75 sets out a general duty on any person not to disclose private, personal or business information obtained under the Law and provides numerous exceptions from that duty.
54. Among many less important alterations to other Jersey laws listed in Part 1 of Schedule 1– supported by draft Article 84– are alterations to the Emergency Powers and Planning (Jersey) Law 1990. At present the CPA, being a part of the States and virtually the sole postal services operator in Jersey was able to take any necessary action in the emergency situations envisaged under that Law. Now that postal service provision

will no longer take place in that way, the EDC considers it appropriate that the Emergencies Council should be given power to designate a competent authority (being a Committee of the States) to deal with postal services matters in such circumstances. That competent authority will, by virtue of the alterations listed, have similar powers to those of its counterparts so designated by that Council to deal with fuel, water, food, electricity, telecommunications, and so on.

### **Conclusion**

55. The direct forerunner to this draft Law was the Telecommunications (Jersey) Law 2002. When presenting that Law to the States the comment was made that it was a groundbreaking enactment for Jersey. This draft Law, for the second time in Jersey's history, seeks to achieve 2 far-reaching objectives: the transfer of a States owned business into a limited company and the introduction of a completely new arrangement for an entire industry with an independent Authority empowered to use various significant powers solely in the interests of the public as users.
56. A major part of this draft Law is new, however. In particular, the drawing together of a sound up-to-date Law about all aspects of postal services in Jersey has involved much work and consultation with many different parties. The EDC is grateful, in particular, to the Authority, CPA, COM, CWU/CMA, FEC and PRC.
57. The postal services industry in Jersey is not enormous and the Committee has been concerned to ensure that the continuing costs of the new arrangements to be put in place by this Law will be proportionate to the size of the industry and of Jersey in general. The Committee undertook a Cost/Benefit evaluation of the implementation of the Law during 2003 and concluded that there would be positive net benefits for the Island provided that all parties approached their tasks with a spirit of co-operation and economy, as well as enterprise and integrity. The Committee has certain powers both under the Competition Regulatory Authority (Jersey) Law 2001 and this draft Law, and intends to use them to ensure that the Authority's regulatory activity and the obligations placed by it on the industry remain proportionate to Jersey. The other key party will be the board of the new company over which FEC will have strong corporate governance powers through the draft Law – powers that can similarly be used to ensure key co-operation and economy in the regulatory arena as well as more generally within the company.
58. The postal services industry, in global terms, has seen and is seeing a great deal of upheaval arising from a move from traditional governmentally-protected and governmentally-undertaken mail delivery towards the open provision of postal services by the private sector. Jersey will now enter this environment with a sound legal infrastructure for the success of an industry that remains of vital importance to it in social as well as in economic terms.
59. The Economic Development Committee commends the draft Law to the States and the wider public.

## **European Convention on Human Rights**

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Committee in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 4th February 2004 the Economic Development Committee made the following statement before Second Reading of this projet in the States Assembly –

In the view of the Economic Development Committee the provisions of the Draft Postal Services (Jersey) Law 200- are compatible with the Convention Rights.

### **NOTES:**

1. The Finance and Economics Committee makes the following comments on the financial implications of the draft Postal Services (Jersey) Law 200- –

The Finance and Economics Committee is aware that the Economic Development Committee has researched and evaluated the likely costs and benefits that might arise to Jersey from the implementation of the whole of this Law. That Committee has concluded that the benefits arising from regulation and the introduction of competition would outweigh the costs of regulation of the postal market in Jersey. The Finance and Economics Committee has no reason to disagree with that conclusion, providing that the costs of the Jersey Competition Regulatory Authority (JCRA) are at the predicted level, and fully supports the proposed new arrangements for the Island's postal services market and the incorporation of the businesses of the Committee for Postal Administration.

Because the assets and liabilities of the Committee for Postal Administration, when transferred to the new corporate postal services group in due course, are likely to fall short of the optimum equity needed by the group if it is to thrive in the private sector, it will be necessary for additional States funds, bearing a return similar to a bank deposit, to be invested in the group at the outset and to remain there for a number of years until repaid in full to the States out of profit retentions and cash flows. This should not materially alter the expectations of the Finance and Economics Committee that the new corporate group should thrive in the new circumstances envisaged – and become a valuable asset for the Island.

Whilst Jersey's postal services industry is extremely small on the world stage, the services it provides are vital to the economic and social well-being of its people. The desirability that such services are provided by the private sector within this up-to-date legal framework has been clear for some time. The need for the regulatory and licensing activities to be and remain proportionate to the small size of the industry is also obvious and the Finance and Economics Committee welcomes the attention that has been given by the Economic Development Committee to this matter – and welcomes also the testing of the existing Jersey Competition Regulatory Authority with this role, rather than the creation of a separate licensing body.

2. The Finance and Economics Committee makes the following comments on the manpower implications of the Draft Postal Services (Jersey) Law 200- –

There are no implications for increased States manpower contained in the draft Law itself. However, when the provisions of the draft Law regarding the transfer of the existing staff, assets and businesses of the Committee for Postal Administration to the new companies are implemented, the employees of that Committee will no longer be employed by the States but will instead be employed by the new company.

## Explanatory Note

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This draft Law would abolish the exclusive privilege of the States in postal services, make new provision about postal services that concern Jersey, enable the staff, assets and liabilities of the Committee for Postal Administration to be transferred to one or more companies and empower the Jersey Competition Regulatory Authority to license any such company and other operators with respect to postal services that concern Jersey.

The draft Law has 13 Parts and 2 Schedules.

### *Part 1 – Preliminary*

*Article 1* defines certain expressions (like “Authority”, “company”, “letter”, “postal packet”) used in the proposed Law. *Article 2* defines the concepts of posting, transmission and delivery for the purposes of the proposed Law.

### *Part 2 – Requirement to hold licence*

*Article 3* requires a person to hold a licence in order to convey letters.

*Article 4* details the various avenues of enforcement of the requirement in *Article 3*. In certain cases, an offence is committed if the requirement is not complied with. In addition, in certain cases, a person may take civil proceedings for enforcement.

*Article 5* allows the Economic Development Committee or the Authority to take civil action to compel compliance with *Article 3*. Other means of enforcement may be found in *Articles 20* and *21*.

*Article 6* allows the Economic Development Committee to suspend by Order the requirement in *Article 3*.

*Article 7* details a number of exceptions to the requirement in *Article 3*.

### *Part 3 – The Committee and the Authority*

*Article 8* sets out the principal duties of the Authority and the Economic Development Committee in the administration of the proposed Law.

*Article 9* allows the Economic Development Committee to give (mandatory) directions and (advisory) guidance to the Authority in relation to the latter’s functions under the proposed Law.

*Article 10* requires the Authority to carry out surveys about postal services and to consider representations made about them.

The Authority has a wide range of complementary functions, for example functions concerning research, advice, co-operation and standards (*Article 11*) and reports and publications (*Article 12*). It must also prepare an annual report about its functions under the proposed Law (*Article 13*). In general, the Authority must avoid including in reports any material about a person if the inclusion may seriously and prejudicially affect the person’s interests (*Article 14*).

### *Part 4 – Licences*

*Article 15* is the main licensing provision in the Law, allowing the Authority to grant or refuse licences to convey letters.

*Article 16* describes the nature of a licence and specifies 3 types of licences: a licence granted to a particular named licensee, class licences granted to named licensees and class licences granted to unnamed licensees (and so sometimes amounting to exemptions from *Article 3*). A person may be designated as a public postal operator only in a licence that names the person. Designation as a public postal operator has repercussions in *Parts 8, 10, 11, 12* and *13*.

*Article 17* outlines the wide range of conditions that licences may contain.

*Article 18* allows the Authority to impose fees in respect of licences, including substantial fees that may relate to the turnover of licensees and other factors and may reflect the real costs of the Authority in the long or short term.

*Article 19* allows the Authority to modify licence conditions.

*Article 20* requires the Authority to direct a licensee who fails to comply with licence conditions to comply with them, except in certain cases.

*Article 21* allows the Authority to revoke a licence if the licensee does not comply with a direction to comply with the conditions contained in the licence.

*Article 22* requires the Authority to maintain a register about licences for scrutiny by the public.

#### *Part 5 – Notice, consultation and appeals*

*Article 23* sets out certain definitions for the interpretation of the Part, including a list of “specified regulatory functions” of the Authority, that is, functions of granting or refusing licences and other functions relating to licences.

*Article 24* requires the Authority to give notice before it exercises any of those functions and to consider any representations and objections properly made in response. The Article also specifies when and how any such exercise may take effect.

*Article 25* provides for appeals to the Royal Court in relation to the exercise of those functions.

*Article 26* stays the effect of such an exercise if the appellant so requests – broadly speaking until the Court decides otherwise or until the appeal is disposed of.

#### *Part 6 – The company*

*Article 27* specifies the nature of the proposed company, or companies, to which the Committee for Postal Administration’s assets, rights, liabilities and staff may be transferred under the proposed Law and the relationship of the proposed company or companies with the States.

*Article 28* specifies the nature of the States’ interest in the proposed company or companies.

*Articles 29 and 30* provide for public loans and guarantees concerning the proposed company or companies.

#### *Part 7 – Transfer of postal assets, liabilities and staff*

*Article 31* sets out certain definitions for the interpretation of the Part.

*Article 32* allows the States to make Regulations specifying one or more dates for the transfer from the Committee for Postal Administration of its assets, rights, liabilities and staff.

*Article 33* dissolves that Committee.

*Article 34* provides for the transfer of the movables (including assets, rights and liabilities) of that Committee, and *Article 35* for the transfer of its immovables. During a period of 12 months, Regulations may be made to adjust those transfers of movables where doubt arises or it is necessary or expedient to do so (*Article 34*).

*Article 36* allows, during a period of 12 months, the making of Regulations that create and transfer (or simply transfer) any assets, rights and liabilities (other than those of the Committee for Postal Administration) from the company to the public domain or the reverse.

*Article 37* provides for the vesting of transferred assets, rights and liabilities in the transferees.

*Article 38* is a technical provision specifying exactly how interests transfer, at what point and at what value, and by what instrument that is regarded as being done.

*Article 39* ensures that no stamp duty is payable on transfers or the instruments by which they are effected.

*Article 40* provides for the transfer of staff from the Committee for Postal Administration to the company or companies and for the protection of certain rights of employees.

*Article 41* continues certain collective agreements as to new staff (that is, non-transferring staff) taken on by the company or companies. The agreements are ones made between the Committee for Postal Administration and any trade union or other body representing its staff.

*Article 42* saves staff rights accrued under retirement schemes (especially, but not only, schemes under the Public Employees (Retirement) (Jersey) Law 1967 and the scheme that applies to postal employees transferred to Jersey

administration on 1st October 1969).

#### *Part 8 – Powers relating to land*

*Article 43* defines “postal equipment” for the purposes of the Part.

*Article 44* allows the Committee to acquire land, in accordance with the procedure of the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961, for use in the provision of postal services.

*Article 45* confers a limited power on the States to make Regulations about the doing of things concerning postal equipment on land and about disputes about the powers under *Article 46*.

*Article 46* relates to the powers of public postal operators concerning postal equipment below, on and above roads.

#### *Part 9 – Immunity of mail*

*Article 47* provides for the immunity of mail from seizure and certain other acts. This does not prevent certain acts authorized by Law, for example acts authorized by *Article 48* (power to interfere with mail where this Law contravened), the Interception of Communications (Jersey) Law 1993 and the Customs and Excise (Jersey) Law 1999 (*Article 49*).

#### *Part 10 – Liability of postal operators*

*Article 50* prevents proceedings in tort and other civil proceedings against a public postal operator, and its agents and employees, concerning mail in certain cases, but this does not rule out limited compensation where a postal scheme under Part 11 provides for that (*Articles 51 and 52*).

Specific provision is made about liability for money orders and postal orders (*Article 53*).

The innocent handling of mail in transmission by post does not attract criminal liability (*Articles 54 and 55*).

A postal operator is not expected to monitor, for example, the contents of mail in the absence of any express obligation to do so (*Article 56*).

#### *Part 11 – Postal schemes*

A public postal operator may make postal schemes about charges and other conditions (*Article 57*), but this power is quite limited (*Article 58*) and is conditional on the giving of proper public notice (*Article 59*).

#### *Part 12 – Offences relating to postal services*

Certain things must not be posted (*Article 60*), and a person must not re-use a public postal operator’s postage stamps or make or have fake ones (*Article 61*). This provision extends to stamps issued by the Committee for Postal Administration.

*Article 62* deals with fraud concerning money orders and postal orders.

A person must not harm a public postal operator’s postal property or put signs etc. on it (*Article 63*), or display unofficial notices about a public postal operator’s postal services (*Article 64*). *Article 65* makes it clear that injunctions may be sought to restrain breaches of *Article 64*.

Stealing or receiving stolen mail (*Article 66*), unofficially opening mail (*Article 67*) and unofficially detaining mail (*Article 68*) are offences.

Postal staff must not, with certain exceptions under the law, interfere with the transmission of postal communications or reveal them (*Article 69*).

It is an offence to obstruct staff of a public postal operator in the course of their duties, to refuse without excuse to leave a public postal operator’s postal premises and not to stop one’s animal from attacking any postal operator’s staff (*Article 70*).

*Article 71* prohibits the giving of false information to the Authority and other functionaries.

*Article 72* is a standard provision about the liability of officers of corporations for offences by their corporations

and on aiding the commission of an offence, or abetting, counselling, or procuring it.

### *Part 13 – Miscellaneous*

*Article 73* allows the Policy and Resources Committee to make certain Orders in the interests of national security or international relations or for meeting international obligations in relation to postal services. Likewise, *Article 74* allows certain modifications of the proposed Law to be carried out by Regulations made by the States for similar purposes.

*Article 75* generally limits disclosures of information obtained under the Law.

*Article 76* is a power for police to enter and search vehicles or premises, but only for the investigation of an offence under Article 4, and only under the authority of a warrant.

*Article 77* allows the Authority to compel the production of documents and information when it is investigating an offence or exercising powers under Article 20 or 21.

*Article 78* provides that, unless the contrary is shown, certain stamps and certain other marks are sufficient proof of certain matters and *Article 79* provides that evidence of transmission by post or acceptance for transmission by post is sufficient evidence of an article's being a postal packet.

*Article 80* makes it clear that if a postal packet is stopped by a postal operator before delivery a person can still be subject to proceedings concerning it just as if it had in fact been delivered.

*Article 81* confers certain immunities in respect of the performance of functions under the proposed Law.

*Article 82* provides for the manner of serving notices under the proposed Law.

*Article 83* provides that Regulations and Orders may be made in aid of the proposed Law.

*Article 84* provides for the amendments and repeals set out in *Schedule 1* to have effect.

*Article 85* and *Schedule 2* set out savings and transitional provisions and allow Regulations to be made for saving and transitional and consequential purposes.

*Article 86* sets out the citation for the proposed Law and provides for the Law's commencement.

*Schedule 1* contains details of the amendments and repeals to be effected by the proposed Law.

*Schedule 2* contains detailed savings, and transitional and consequential provisions.

*Note* – By virtue of the Interpretation (Jersey) Law 1954 –

- (a) where a penalty is specified for an offence, the offence is punishable by a penalty not exceeding the penalty specified;
- (b) where the penalties for an offence are stated to be a term of imprisonment and a fine, either or both of the penalties may be imposed.

*Note* – Where a penalty is expressed in the proposed Law as a fine of a specified level “on the standard scale”, this is a reference to the scale set out in the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993. The maximum penalties for each level in that scale are, currently –

Level 1	£50
Level 2	£500
Level 3	£2,000
Level 4	£5,000.







Jersey

# DRAFT POSTAL SERVICES (JERSEY) LAW 200

## Arrangement

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### Article

#### **PART 1**

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##### PRELIMINARY

- 1      Interpretation
- 2      Transmission of mail

#### **PART 2**

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##### REQUIREMENT TO HOLD LICENCE

- 3      Licence needed to convey letters
- 4      Enforcement of requirement
- 5      Committee or Authority may seek injunction etc.
- 6      Suspension of requirement
- 7      Exceptions to requirement

#### **PART 3**

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##### THE COMMITTEE AND THE AUTHORITY

- 8      Duties of Committee and Authority
- 9      Committee may direct or guide Authority
- 10     Authority to survey industry and consider representations
- 11     General role of Authority
- 12     Publication, advice and assistance
- 13     Annual report of Authority
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#### **PART 4**

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##### LICENCES

- 15     Power to grant licence
- 16     Nature of licence
- 17     Licence conditions
- 18     Licence fees
- 19     Modification of licence conditions
- 20     Direction to comply with licence conditions
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- 22     Register

## **PART 5**

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### NOTICE, CONSULTATION AND APPEALS

- 23      Interpretation of this Part
- 24      Notice and consultation
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## **PART 6**

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### THE COMPANY

- 27      Nature of company
- 28      States' holding in company
- 29      Loans and guarantees
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## **PART 7**

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### TRANSFER OF POSTAL ASSETS, LIABILITIES AND STAFF

- 31      Interpretation of this Part
- 32      Transfer date
- 33      Dissolution of Committee for Postal Administration
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- 36      Asset and liability adjustment
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## **PART 8**

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### POWERS RELATING TO LAND

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- 44      Committee may acquire land for postal services
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### IMMUNITY OF MAIL

- 47      Immunity of mail in post
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### LIABILITY OF POSTAL OPERATORS

<u>50</u>	<u>Exclusion of liability in tort and certain other liability</u>
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<u>52</u>	<u>Liability for packets: parties and values</u>
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<u>55</u>	<u>Content of postal packets</u>
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## **PART 11**

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### POSTAL SCHEMES

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## **PART 12**

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### OFFENCES RELATING TO POSTAL SERVICES

<u>60</u>	<u>Certain things must not be posted</u>
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<u>66</u>	<u>Stealing or receiving mail bag or mail</u>
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<u>69</u>	<u>Interference with contents of mail</u>
<u>70</u>	<u>Obstructing postal staff</u>
<u>71</u>	<u>False information</u>
<u>72</u>	<u>General provisions as to offences</u>

## **PART 13**

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### MISCELLANEOUS

<u>73</u>	<u>Orders in interests of security etc.</u>
<u>74</u>	<u>Modifications of Law in interests of security etc.</u>
<u>75</u>	<u>Limit on disclosure in general</u>
<u>76</u>	<u>Entry and search of vehicle or premises</u>
<u>77</u>	<u>Power to require information</u>
<u>78</u>	<u>Evidence of amount of postage etc.</u>
<u>79</u>	<u>Evidence that thing is postal packet</u>
<u>80</u>	<u>Stopping of mail does not prevent proceedings based on delivery</u>
<u>81</u>	<u>Limitation of civil liability for administration of Law</u>
<u>82</u>	<u>Service of notices etc.</u>
<u>83</u>	<u>Orders and Regulations</u>
<u>84</u>	<u>Amendments and repeals</u>
<u>85</u>	<u>Savings, and transitional and consequential provisions</u>
<u>86</u>	<u>Citation and commencement</u>

## **SCHEDULE 1**

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## AMENDMENTS AND REPEALS

### PART 1

#### AMENDMENTS

- 1 Recorded Delivery Service (Jersey) Law 1963 amended
- 2 Emergency Powers and Planning (Jersey) Law 1990 amended
- 3 Interception of Communications (Jersey) Law 1993 amended
- 4 Customs and Excise (Jersey) Law 1999 amended

### PART 2

#### REPEALS

## **SCHEDULE 2**

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### SAVINGS, AND TRANSITIONAL AND CONSEQUENTIAL PROVISIONS

- 1 No exclusive privilege
- 2 Exclusion of liability
- 3 Duty to provide official information as to mail
- 4 Preservation of scope of welfare funds
- 5 References to Committee for Postal Administration
- 6 References to infrastructure
- 7 Stamps issued by the Committee for Postal Administration
- 8 Postal schemes made before licence in force
- 9 General saving
- 10 Regulations may make savings or transitional provisions or consequential changes





Jersey

## DRAFT POSTAL SERVICES (JERSEY) LAW 200

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

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*Adopted by the States* [date to be inserted]

*Sanctioned by Order of Her Majesty in Council* [date to be inserted]

*Registered by the Royal Court* [date to be inserted]

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

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### PART 1

#### PRELIMINARY

##### 1 Interpretation

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

“Authority” means the Jersey Competition Regulatory Authority established by Article 2 of the Competition Regulatory Authority (Jersey) Law 2001;<sup>[1]</sup>

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

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

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

“Committee for Postal Administration” means the Committee for Postal Administration constituted by Article 4 of the Post Office (Jersey) Law 1969;<sup>[2]</sup>

“company” means –

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

“Court” means the Royal Court;

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

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

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

“employee” includes officer and servant;

“function” includes power, authority and duty;

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

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

(a) a book, catalogue, newspaper or periodical; and

(b) anything that weighs more than 20 kilograms;

“licence” means a licence granted under Part 4;

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

“mail” means postal packets;

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

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

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

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

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

“postage” means any charge for postal services;

“postage stamp” means any mark (or recording) recognized or authorized by a postal operator as attesting payment of a charge for a postal service provided by the operator, and includes an adhesive stamp, a mark printed, embossed, impressed or otherwise indicated, and a recording, on an envelope, card, cover, wrapper or other article;

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

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

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

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

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

“public postal operator” means a person who provides postal services under a licence that contains a



condition designating the person as a public postal operator;

“Regulations” means Regulations made by the States;

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

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

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

“subsidiary” has the same meaning as in the Companies (Jersey) Law 1991;<sup>[3]</sup>

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

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

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

## **2 Transmission of mail**

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

## **PART 2**

### **REQUIREMENT TO HOLD LICENCE**

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

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

### **4 Enforcement of requirement**

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

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

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

### **6 Suspension of requirement**

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

## 7 Exceptions to requirement

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

“bank” means –

- (a) any person registered under the Banking Business (Jersey) Law 1991;<sup>[4]</sup> or
- (b) any person lawfully carrying on banking business outside Jersey;

“banking instrument” means –

- (a) a cheque or other bill of exchange;
- (b) any document issued by the States that specifies a sum and is intended to enable a person to obtain payment from the States of the sum;
- (c) any money order or postal order;
- (d) any credit transfer, credit advice or debit advice; or
- (e) any list of items, or any copy of an item, referred to in sub-paragraphs (a)– (d);

“correspondent” means a sender or addressee;

“group” means the subsidiaries of a body corporate taken together with the body corporate itself;

“sender” in relation to a letter means the person whose communication the letter is.

## **PART 3**

### **THE COMMITTEE AND THE AUTHORITY**

#### **8 Duties of Committee and Authority**

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

- (f) in performing its functions under this Law, to have regard to any special needs of persons who are disabled or have limited financial resources or have particular needs.
- (3) The Economic Development Committee and the Authority shall, in considering whether the postal services referred to in paragraph (1)(a) satisfy the demands referred to in that subparagraph, have regard to –
  - (a) whether the services are rapid, of high quality and reliable;
  - (b) whether the services are affordable by and accessible to the highest number practicable of business and domestic users;
  - (c) whether the services are provided at times, at places and in ways, that meet the demands of the highest number practicable of business and domestic users;
  - (d) whether users are able to express their views about the provision of the services; and
  - (e) any objectives that the States prescribe by Regulations, including, but not limited to –
    - (i) the provision of a universal postal service, a social postal service or any form of subsidized postal service, and
    - (ii) the provision of certain services at uniform tariffs or at subsidized tariffs.
- (4) In paragraph (1)(b)–
  - “liabilities” means any liabilities, debts or obligations (whether present or future and whether vested or contingent);
  - “securities issued by the company to the States” means securities issued by one company to another company, by the company to the States, or by the company to any body corporate wholly owned directly or indirectly by the States.
- (5) Paragraphs (1)(b) and (4), and this paragraph, shall cease to be in force on the tenth anniversary of the date when they come into force.

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

- (1) The Economic Development Committee may, if it considers that it is desirable in the public interest to do so, give to the Authority written directions in respect of the principles, procedures or policies to be followed by the Authority in relation to –
  - (a) the implementation of any social or environmental policies in respect of postal services; or
  - (b) philatelic services.
- (2) The Economic Development Committee may, if it considers that it is desirable in the public interest to do so, give to the Authority written guidance in respect of the principles, procedures or policies to be followed by the Authority in relation to any other matter relating to the performance by the Authority of its functions under this Law.
- (3) It shall be the duty of the Authority in carrying out any of its functions to comply with any such direction and to consider (without necessarily complying with) any such guidance.
- (4) The Economic Development Committee shall not give directions or guidance under this Article without first consulting the Authority.
- (5) The Economic Development Committee shall notify the States of the directions and guidance given by it under this Article and of any comments received by it from the Authority about the directions and guidance.
- (6) The Economic Development Committee shall take reasonable steps to bring the purport of that notification to the attention of the public.
- (7) The requirement in paragraph (6) shall be taken to have been satisfied by the publication in the Jersey Gazette of the notification, but this is not the only way in which that requirement may be satisfied.

- (8) A reference in this Article to the public interest includes a reference to the economic interests of Jersey.
- (9) Paragraph (8) is included only for the avoidance of doubt.

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

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

## **11 General role of Authority**

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

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

- (1) The Authority may publish such information and advice as it considers expedient to –
  - (a) providers of postal services; or
  - (b) users of postal services.
- (2) The Authority may also prepare and publish any report that it considers appropriate with respect to any matter relevant to the functions of the Authority.
- (3) If the Authority considers it expedient to do so or is asked by the Economic Development Committee to do so, it shall provide information, advice and help to that Committee regarding any matter concerning postal services.
- (4) Publication under this Article (including publication by the provision of something under paragraph (3)) may be in such form and manner as the Authority considers appropriate.

## **13 Annual report of Authority**

- (1) The Authority shall, in addition to the report that it is required to prepare under the Competition Regulatory Authority (Jersey) Law 2001<sup>[5]</sup> or as part of that report, prepare a report in respect of each of its financial years –
  - (a) generally surveying developments that are relevant to its functions under this Law;
  - (b) reviewing, in the context of the demand for postal services in Jersey, competition in, and restrictions on, the supply of those services in Jersey; and
  - (c) dealing with such other matters as the Economic Development Committee requires.

- (2) The Authority shall provide the Economic Development Committee with a report prepared under this Article as soon as practicable after the end of the financial year to which the report relates, but in no case later than 4 months after the end of that year.
- (3) The Economic Development Committee shall lay a copy of the report so provided before the States as soon as practicable after the Committee receives the report.
- (4) In this Article, “financial year” means the Authority’s financial year (within the meaning of the Competition Regulatory Authority (Jersey) Law 2001<sup>[6]</sup>) current when this Article comes into force and each subsequent period of 12 months.

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

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

## **PART 4**

### **LICENCES**

#### **15 Power to grant licence**

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

shall, to the extent expressed in the conditions contained in a licence, be taken to be the conveyance of letters under the authority of the licence.

## **16 Nature of licence**

- (1) A licence may be unconditional or subject to such conditions as are contained in it.
- (2) A licence shall be in writing, and shall, unless previously revoked, continue in force for the period specified in the licence.
- (3) A licence may contain a condition that designates the holder of the licence as a public postal operator if a substantial volume of the mail transmitted by the holder is to involve the use of post boxes to receive the mail for transmission by the licensee.
- (4) A licence containing a condition that designates the holder of the licence as a public postal operator may authorize the holder to exercise any power referred to in Article 46 and specified in the licence.
- (5) A licence may be granted to a person named in the licence, or to persons (whether or not named in the licence) of a class that is specified in the licence, but a licence containing a condition that designates the holder of the licence as a public postal operator may only be granted to a person named in the licence.

## **17 Licence conditions**

- (1) A licence may contain conditions –
  - (a) that, in the opinion of the Authority, are necessary or desirable, including (but not limited to) conditions relating to, or imposing requirements for, any one or more of the following –
    - (i) the conveyance of letters under the authority of the licence,
    - (ii) the provision of any postal service, whether or not that service relates to the conveyance of letters under the authority of the licence,
    - (iii) the provision of postal services at uniform tariffs or subsidized tariffs, of any form of subsidized postal service, of a universal postal service or of a social postal service,
    - (iv) standards of performance,
    - (v) mechanisms for receiving and resolving complaints against the licensee by users within Jersey of the services provided under the authority of the licence and complaints against the licensee by persons to whom the licensee has refused to provide services under the authority of the licence,
    - (vi) the exercise, as authorized by the licence, of any power referred to in Article 46 and specified in the licence;
  - (b) that, in the opinion of the Authority, are necessary or desirable, including (but not limited to) conditions prohibiting, regulating, or requiring, the provision of any postal service;
  - (c) regulating the terms and conditions of postal services provided by the licensee, being terms and conditions that, whether by a postal scheme or by contract, apply between the licensee and any, or any class of, user within Jersey of those services;
  - (d) regulating the terms and conditions of postal services, being terms and conditions that by contract apply between the licensee and any, or any class of, provider of those services;
  - (e) requiring a payment to the Authority on the grant of the licence or several payments during the period when the licence is in force (including payment in respect of any consent or determination referred to in this Article);
  - (f) requiring a person to notify the Authority if the person intends to convey letters under a class licence for which the person makes no application;
  - (g) requiring the licensee to provide to the Authority, in the form and at the times required by the Authority, such documents, accounts, estimates, returns or other information relating to



activities conducted by the licensee under a licence as the Authority may specify;

- (h) requiring the licensee to make what, in the opinion of the Authority, is a fair contribution to the costs of another licensee incurred because the latter is required to provide a universal postal service, a social postal service or any form of subsidized postal service or services at uniform tariffs or at subsidized tariffs;
  - (i) for the implementation of any direction given to the Authority under Article 9, or of any measures that the Authority is required to take under an Order under Article 73, if, in the opinion of the Authority, the direction or measure needs to be implemented by, or with the participation of, the licensee;
  - (j) for or with respect to the implementation of Regulations made under Article 45; or
  - (k) that shall be satisfied before, during or after the exercise of any power referred to in Article 46.
- (2) Conditions contained in a licence may require the licensee to do any of the following –
- (a) not to do, not to continue to do, or not to cease to do, anything under the licence without the prior consent of the Authority;
  - (b) to show a draft of a postal scheme to the Authority before the scheme is made or not to make a postal scheme without the prior consent of the Authority;
  - (c) to refer for determination by the Authority any specified question or any specified class of questions;
  - (d) to act on such a determination.
- (3) The Authority has power to give, refuse or revoke those consents and to make or revoke those determinations.
- (4) Conditions contained in a licence may relate to, or impose requirements about the following matters –
- (a) competition in postal services;
  - (b) competition in relation to facilities, vehicles, and other equipment, and services, utilized in the provision of postal services or in obtaining postal services;
  - (c) providing postal services for or on behalf of other postal operators;
  - (d) a licensee's allowing the use of an intellectual property right held by the licensee; or
  - (e) the co-location and sharing of, and access to, services, and facilities (including immovable property, and vehicles and other equipment) in, in relation to, or for, any postal service.
- (5) A licence may contain conditions –
- (a) in the interests of national security or in the interests of encouraging or maintaining relations with a country or territory; or
  - (b) in order to facilitate –
    - (i) the discharge of an international obligation, or
    - (ii) the attainment of any other object that the Policy and Resources Committee has by Order prescribed under Article 73.

## **18 Licence fees**

- (1) Any payment, or fee, required under this Law to be paid to the Authority in respect of a licence (including any application fee or fee required as a condition of a licence) may be determined by the Authority from time to time.
- (2) The Authority may determine such a payment or fee at such amount as is necessary to enable the Authority to recover its costs in whole or in part, so far as those costs are referable to the performance of the functions of the Authority under this Law.
- (3) Those costs include the costs of the Authority's establishment, its short-term costs, and its long-term costs (whether those costs are actual or projected or direct or apportioned).

- (4) The payment or fee may be fixed as a percentage of the turnover or profit of a licensee or members of a class of licensees, or on the basis of some other formula relating to a licensee or members of a class of licensees, or on any other basis.
- (5) The payment or fee shall be recoverable as a civil debt due to the Authority.

## **19 Modification of licence conditions**

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

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

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

- (8) In addition to the right of any person to bring civil proceedings under paragraph (6), the Authority may bring civil proceedings, for an injunction or other appropriate relief, to compel compliance with the direction.

## **21 Revocation of licence**

- (1) The Authority may revoke a licence held by a person, or revoke the operation of a licence in respect of a person who is a member of a class of persons to whom a licence has been granted, if the person has failed to comply with a direction given under Article 20 in respect of that or any other licence held by the person.
- (2) A licence ceases to be in force in respect of a person when it, or its operation in respect of the person, is revoked under this Article.

## **22 Register**

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

# **PART 5**

## **NOTICE, CONSULTATION AND APPEALS**

## **23 Interpretation of this Part**

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

- (4) Paragraph (3) is included only for the avoidance of doubt.

## **24 Notice and consultation**

- (1) Before exercising a specified regulatory function the Authority shall give initial notice –
  - (a) specifying the function that it proposes to exercise and the action proposed in that exercise;
  - (b) stating the reason for the proposed exercise;
  - (c) stating (whether by specification or by formula) the date when the proposed exercise would take effect, not being a date earlier than the twenty-ninth day after the day when the notice is given in accordance with this Article;
  - (d) specifying the place where the full text of the document giving effect to the proposed exercise may be inspected; and
  - (e) specifying the period within which written representations or objections in respect of the proposed exercise may be made.
- (2) A document referred to in paragraph (1)(d) shall, where the proposed exercise of the specified regulatory function –
  - (a) would be the grant or making of an instrument, being a licence, consent, determination, direction or other instrument – include a copy of that instrument; or
  - (b) would be the modification of conditions contained in a licence – include a copy of the conditions before modification and a copy in draft form of the conditions as modified.
- (3) Any person may make representations or objections to the Authority about the proposed exercise of a specified regulatory function within the period commencing on the date when initial notice of the proposed exercise is given in accordance with this Article and ending at midnight on the twenty-eighth day after that date.
- (4) If any representations or objections are made within that period, the Authority shall consider them and then give final notice in relation to the proposed exercise of the specified regulatory function.
- (5) The final notice shall –
  - (a) refer to the matters contained in the initial notice;
  - (b) contain a summary of the representations and objections;
  - (c) contain details of the Authority’s response to them sufficient in content to enable it to be understood and the reasons for it to be known;
  - (d) specify the place where the full text of the response may be inspected if the full text is not contained in the final notice; and
  - (e) state whether or not the Authority now intends to exercise the specified regulatory function, and if it does so intend, the date (expressed by specification or by formula) when the proposed exercise will take effect.
- (6) The Authority shall give initial or final notice in relation to a proposed exercise of a specified regulatory function as follows –
  - (a) in a case where the proposed exercise relates to a licence held by a person named in the licence – by notice served on the person;
  - (b) in a case where the proposed exercise is in response to an application made by a person not referred to in sub-paragraph (a)– by notice served on the applicant;
  - (c) in every case (including the case referred to in sub-paragraph (a) or (b))– by taking reasonable steps to bring the proposed exercise to the attention of the public, coupled with making available for inspection full details of the proposed exercise in such place as is specified in taking those steps.
- (7) The Authority shall exercise a specified regulatory function as follows –

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

## 25 Appeals

- (1) An appeal to the Court is available against the exercise of a specified regulatory function, whether or not the exercise has taken effect, as follows –
- (a) if the exercise consists of the refusal of an application – the applicant may appeal against the refusal;
  - (b) if the exercise consists of the grant of a licence – any person may appeal simply against the grant, or may appeal against the exercise so far as it concerns the fact that the licence contains, or does not contain, any condition;
  - (c) if the exercise otherwise concerns a licence (including the giving of, or deciding not to give, a direction under Article 20)– any person may appeal against the exercise.
- (2) An appeal is available under this Part only if notice of the appeal is lodged with the Court after initial notice of the exercise is given and before the twenty-ninth day after –
- (a) in a case where no final notice of the exercise is required to be given – the date when the initial notice is given; or
  - (b) in a case where final notice of the exercise is required to be given – the date when the final notice is given,
- or within such further period as the Court may allow if it considers it desirable to do so in the interests of justice.
- (3) For the purposes of this Article, if the Authority has not given initial notice of the exercise of a specified regulatory function in response to an application within the period specified in

paragraph (8), the Authority shall be taken to have given initial notice of a refusal of the application and to have given that notice on the day after the last day of that period.

- (4) In determining an appeal under this Article, the Court is not restricted to a consideration of questions of law or to the facts contained in an application, or in other information, before the Authority.
- (5) When it determines an appeal under this Article, the Court may –
  - (a) confirm the exercise (or proposal) appealed against;
  - (b) refer the matter of the exercise back to the Authority for its determination, or other action, in accordance with the law; or
  - (c) exercise a specified regulatory function (and do any incidental thing) in the same way as the Authority could have done.
- (6) The Court may make such orders as it thinks appropriate, including ancillary orders and orders as to costs.
- (7) In this Article, a reference to the giving of notice (though not to the lodging of notice) is a reference to the giving of notice in accordance with Article 24.
- (8) For the purposes of paragraph (3), the period is 56 days (or such longer period as may be agreed in writing between the relevant applicant and the Authority) after the application has been served on the Authority.

## **26 Delay in implementation**

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

## **PART 6**

### **THE COMPANY**

## **27 Nature of company**

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

## **28 States’ holding in company**

- (1) Where any assets, rights or liabilities (within the meaning of Part 7) of the Committee for Postal Administration are transferred to the company under Part 7, the company–
  - (a) if a principal company – shall issue to the States any securities of the company that the States by Regulations require to be issued; or
  - (b) if a subsidiary of a principal company – shall issue to one or more of the companies any securities of the subsidiary that the States by Regulations require to be issued.
- (2) Such of those securities as are shares shall –
  - (a) be of a nominal value prescribed by Regulations;
  - (b) as prescribed by Regulations, be issued as fully paid up, partly paid up or not paid up; and
  - (c) be treated for the purposes of the Companies (Jersey) Law 1991<sup>[8]</sup> as if any amount paid on them were constituted by the payment to the issuing company of a corresponding value in cash.
- (3) The States may prescribe by Regulations classes of those securities and the terms and conditions to

which those securities are subject.

## **29 Loans and guarantees**

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

## **30 Ceiling on Committee guarantee**

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

- (a) the total amount outstanding at that moment of loans made under this Law to that company and its subsidiaries; and
- (b) the total amount outstanding at that moment of such loans to that company and its subsidiaries as are guaranteed (but not made) under this Law.

# **PART 7**

## **TRANSFER OF POSTAL ASSETS, LIABILITIES AND STAFF**

## **31 Interpretation of this Part**

- (1) In this Part –
  - “assets” means any interest in immovable property, or in movable property, of any description, and includes securities, choses in action and documents;
  - “employee of the Committee for Postal Administration” is defined in paragraph (5);
  - “liabilities” means any liabilities, debts, or obligations, whether present or future and whether vested or contingent;
  - “representative body” includes a trade union and any other association of employees formed for the purpose of representing those employees in their relationship with their employers;
  - “rights” means any rights, powers, privileges, or immunities, whether present or future and whether vested or contingent;
  - “transfer date” means the day or days prescribed by Regulations under Article 32;
  - “transferee” means the person or persons to whom any assets, rights or liabilities are transferred under this Part;
  - “transferor” means the person or persons from whom any assets, rights or liabilities are transferred under this Part.



- (2) For the purposes of this Part, it makes no difference whether the assets, liabilities and rights to which it refers are situated in Jersey or in the United Kingdom or in any other country or in any territory, or arise or subsist under the law of Jersey or of the United Kingdom or of any other country or in any territory.
- (3) For the purposes of this Part, an asset or right of the Committee for Postal Administration includes an asset or right of the public of Jersey (or of the States), being an asset or right to the use or enjoyment of which that Committee is entitled.
- (4) For the purposes of this Part, a liability of the Committee for Postal Administration includes a liability to which the public of Jersey (or the States) is subject (but arising from a benefit or interest to the use or enjoyment of which that Committee is entitled).
- (5) For the purposes of this Part, “employee of the Committee for Postal Administration” means –
  - (a) a person employed by the Committee for Postal Administration;
  - (b) a person employed by the Policy and Resources Committee, but engaged in the performance of the functions of the Committee for Postal Administration; or
  - (c) such other person, or person belonging to such class, as the States may prescribe by Regulations.

### **32 Transfer date**

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

### **33 Dissolution of Committee for Postal Administration**

The Committee for Postal Administration is dissolved.

### **34 Transfer of movables**

- (1) This Article does not apply to interests in immovable property.
- (2) On the transfer date, the assets, rights and liabilities of the Committee for Postal Administration shall be transferred to the company in accordance with the Regulations.
- (3) Such a transfer may be made on such terms and conditions as are prescribed by the Regulations and may (as prescribed in the Regulations) consist of the transfer of a liability, or transfer of an interest in an asset or right, that is less than the entire liability, or entire interest in the asset or right, of the Committee for Postal Administration (or of the public of Jersey, or of the States).
- (4) The States may, by Regulations, prescribe any asset, right or liability not subject to transfer, and an asset, right or liability that is so prescribed is not transferred under this Article, but this does not prevent its transfer otherwise than under this Article.
- (5) If it appears to the States expedient to do so for the purpose of removing any difficulties or uncertainties arising out of the operation of this Article, they may by Regulations direct that such assets, rights, or liabilities, of the Committee for Postal Administration as may be specified in the Regulations –
  - (a) are not transferred under this Article or shall be taken not to have been so transferred; or
  - (b) are transferred under this Article or shall be taken to have been so transferred.
- (6) Regulations made under paragraph (5) shall have effect on a date or on dates specified in the Regulations, but not before the earliest transfer date prescribed for the purposes of this Article nor more than 12 months after that transfer date.

- (7) The States cannot make Regulations under paragraph (5) more than 12 months after that transfer date

### **35 Transfer of immovables**

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

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

- (1) The States may, for the purposes of ensuring that the financial position of the company (or of the public of Jersey, or of the States, with respect to the company) is optimized at the time when Regulations are made under this Article, by Regulations –
  - (a) cause to be transferred to the company specified assets, rights or liabilities of the public of Jersey, or of the States, other than assets, rights, or liabilities, of the Committee for Postal Administration;
  - (b) cause to be transferred from the company to the public of Jersey, or to the States, specified assets, rights, or liabilities, of the company;
  - (c) create, and cause to be transferred to the company, an asset, right, or liability, of the public of Jersey, or of the States; or
  - (d) create, and cause to be transferred to the public of Jersey, or to the States, an asset, right, or liability, of the company.
- (2) A reference in paragraph (1) to a liability includes any liability that relates to all 3 of the following matters –
  - (a) the employment of a person by the States (or by a public authority) at any time before the person becomes an employee of the company by virtue of this Part;
  - (b) the person's membership of a scheme under the Public Employees (Retirement) (Jersey) Law 1967<sup>[9]</sup> or of the scheme referred to in Article 42(2)(b); and
  - (c) the capital value of any debt relating to the accrual of benefits to the person under that scheme because of that employment.
- (3) A transfer under Regulations made under this Article may be made on such terms and conditions as are prescribed in the Regulations and may (as prescribed in the Regulations) consist of the transfer of a liability, or transfer of an interest in an asset or right, that is less than the entire liability, or entire interest in the asset or right.
- (4) Regulations made under paragraph (1) shall have effect on a date or on dates specified in the Regulations, but not before the earliest transfer date prescribed for the purposes of Article 34 nor more than 12 months after that transfer date.
- (5) The States cannot make such Regulations more than 12 months after that transfer date.

### **37 Vesting in transferee**

- (1) When any assets, rights or liabilities are transferred under this Part (including under Regulations made under Article 36), the following provisions have effect–
  - (a) except to the extent provided in Article 38(3), the assets of the transferor vest in the transferee by virtue of this Article and without the need for any further conveyance, transfer, assignment

or assurance;

- (b) the rights or liabilities of the transferor become by virtue of this Article the rights or liabilities of the transferee;
  - (c) all proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the transferor or a predecessor of the transferor and pending immediately before the transfer are taken to be proceedings pending by or against the transferee;
  - (d) any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the transferor or a predecessor of the transferor is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the transferee;
  - (e) a reference in any enactment, in any instrument made under any enactment or in any document of any kind to the transferor or a predecessor of the transferor is (to the extent to which it relates to those assets, rights or liabilities) taken to include a reference to the transferee.
- (2) The operation of this Article or of Article 34, 35, 36 or 38 (or of any Regulations made under any of those Articles) is not to be regarded –
- (a) as a breach of contract or confidence or otherwise as a civil wrong;
  - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities; or
  - (c) as giving rise to any remedy by a party to a contract or other instrument, or as causing or permitting the termination of any contract or other instrument, or of any obligation or relationship, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (3) The operation of this Article or of Article 34, 35, 36 or 38 (or of any Regulations made under any of those Articles) is not to be regarded as an event of default under any contract or other instrument.
- (4) For the purposes of this Part, to the extent that a contract, or other instrument, that creates or passes an asset, right or liability of the Committee for Postal Administration specifies that the asset, right or liability is incapable of transfer or assignment, the contract or instrument is of no effect.
- (5) No attornment to the transferee by a lessee from the transferor is required.
- (6) A transfer is subject to any terms and conditions that the States prescribe by Regulations.
- (7) No compensation is payable to any person or body in connection with a transfer to which Article 34, 35 or 36 applies except to the extent (if any) to which the Regulations made under that Article so provide.

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

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

- (a) Article 21 of the Public Finances (Administration) (Jersey) Law 1967,<sup>[10]</sup>
  - (b) the determination of premiums for the purposes of Article 39 of the Companies (Jersey) Law 1991;<sup>[11]</sup>
  - (c) distributions for the purposes of Article 114 of that Law,<sup>[12]</sup> or
  - (d) any other matter under that Law.
- (5) The States may, by Regulations, make consequential, incidental or ancillary provision with respect to the matters referred to in paragraph (4).
- (6) Regulations may make different provision under paragraphs (4) and (5) for different purposes, even in respect of the same assets, rights or liabilities or the same transfer.

### **39 Stamp duty**

Stamp duty is not chargeable for or in respect of –

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

### **40 Transfer of staff**

- (1) If, immediately before the transfer date, a person is an employee of the Committee for Postal Administration, on the transfer date the person shall be transferred to the company and on and from that date –
- (a) shall be an employee of the company;
  - (b) the person's contract of employment shall have effect as if it had originally been made between the person and the company at the date when it was actually made;
  - (c) all rights, powers, duties and liabilities under or in connection with the contract shall be enforceable or exercisable as if the contract had been originally made between the person and the company;
  - (d) any collective agreement made by the Committee for Postal Administration (or otherwise on behalf of the States) with a representative body recognized by that Committee (or recognized otherwise on behalf of the States), being an agreement that still has effect in respect of the person immediately before the transfer, shall continue to have effect in respect of the person as if it had been originally made by or on behalf of the company with that representative body; and
  - (e) anything done before the transfer date by or in relation to the Committee for Postal Administration (or otherwise on behalf of the States) under or in respect of the contract or the agreement or in respect of the person shall be taken to have been done by or in relation to the company at the time when it was actually done.
- (2) However if, immediately before the transfer date, a person is an employee of the Committee for Postal Administration, and at any time before the transfer date, has served notice in writing on that Committee of refusal to be employed by the company, then, on the transfer date, unless the person has revoked that notice, the person –
- (a) shall not become an employee of the company; and
  - (b) shall be taken to have served notice of resignation from employment as an employee of that Committee on the preceding day, and, on the expiry of the period of notice that applied to that employment on that day, the employment shall terminate.

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

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

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

- (1) If a person was a member of any retirement scheme immediately before becoming an employee of the company by virtue of this Part, on so becoming such an employee –
  - (a) except to the extent provided in sub-paragraph (b), the terms of the person's membership of the scheme, and the person's rights and liabilities under that scheme, are unaffected by the person's becoming such an employee; and
  - (b) notwithstanding anything in any enactment or in any other document or under any arrangement, the company shall, by the operation of this Article, become the person's employer for the purposes of that scheme.
- (2) In this Article, "retirement scheme" means –
  - (a) a scheme made under the Public Employees (Retirement) (Jersey) Law 1967,<sup>[13]</sup>
  - (b) the retirement scheme applicable to those employees who, with effect from 1st October 196 and on becoming employees of the States of Jersey on that day, retained the entitlement under that scheme that they had immediately before that day; or
  - (c) any other retirement scheme.

## **PART 8**

### **POWERS RELATING TO LAND**

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

In this Part, "postal equipment" means equipment (other than vehicles) for use in, in relation to, or for, the provision of any postal service, and includes equipment already installed below, on or above land before this Article comes into force or before any Regulations made under this Part come into force.

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

- (1) If it appears to the Economic Development Committee that any land should be acquired on behalf of the public of Jersey for the purposes of facilitating the provision of postal services, and the Authority supports such an acquisition, it shall be lawful for the States to acquire such land by compulsory purchase on behalf of the public in accordance with the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961.<sup>[14]</sup>
- (2) For the purposes of that Law, the Economic Development Committee shall be the acquiring authority in relation to the acquisition of any land.
- (3) In assessing the amount of compensation payable to any person in relation to such a compulsory purchase, the Board of Arbitrators, in addition to acting in accordance with the rules set out in

Article 9 of that Law,<sup>[15]</sup> shall, if satisfied that the value of the land to be acquired has been or will be enhanced by reason of the expenditure of public money, set off against the value used to assess the compensation any increase in the value attributable to the expenditure.

- (4) The power to acquire land by compulsory purchase referred to in paragraph (1) shall include the power to –
  - (a) acquire any interest in land or a servitude or other right in, on or over land by the creation of a new interest, servitude or right; and
  - (b) extinguish or modify any interest in land or a servitude or other right in, on or over land.
- (5) The States have, in addition to the power under Article 17 of the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961<sup>[16]</sup> to sell any land so acquired, the power to transfer any interest in such land for the purposes of facilitating the provision of postal services.

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

The States may make Regulations –

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

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

- (1) A public postal operator may (to the extent that its licence specifies, and subject to the conditions that the licence specifies) install, maintain, do work on, or operate any postal equipment below, on or above any road for the purposes of providing any postal service.
- (2) A public postal operator may (to the extent that its licence specifies, and subject to the conditions that the licence specifies) remove any postal equipment below, on or above any road, if it controls the equipment.
- (3) This Article does not affect the operation of the Highways (Jersey) Law 1956<sup>[17]</sup> the Public Utilities Road Works (Jersey) Law 1963<sup>[18]</sup> or the Island Planning (Jersey) Law 1964<sup>[19]</sup> or relieve a person of the duty to comply with those Laws.
- (4) Nothing in this Article confers a right of entry.

## **PART 9**

### **IMMUNITY OF MAIL**

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

- (1) Mail in the course of transmission, including anything that it contains, and any mail bag containing such mail shall have immunity from examination, seizure, and detention, under this Law or any other enactment (whether passed before or after this Law), from seizure under distress or in execution and from retention by virtue of a lien.
- (2) However, nothing in paragraph (1) prevents the exercise of any of the following powers in relation to

mail, its contents or any mail bag containing mail –

- (a) the powers under Articles 48, 76(2) and 77;
- (b) a power arising under this Law, under any other enactment, or otherwise under the law, being a power prescribed by Regulations.

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

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

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

#### **49 Operation of this Part**

Nothing in this Part affects the operation of the Interception of Communications (Jersey) Law 1993<sup>[20]</sup> or of the Customs and Excise (Jersey) Law 1999<sup>[21]</sup>

## **PART 10**

### **LIABILITY OF POSTAL OPERATORS**

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

- (1) No proceedings in tort shall lie against a public postal operator in respect of loss or damage suffered by any person because of –
  - (a) anything done, or omitted to be done, in relation to any postal packet in the course of transmission by post by the operator; or
  - (b) any omission to carry out arrangements for the collection of any postal packet to be conveyed by post by the operator.
- (2) No employee, agent, or sub-contractor, of a public postal operator shall be subject, except at the suit or instance of the operator, to any civil liability for –
  - (a) any loss or damage in the case of which liability of the operator is excluded by paragraph (1) or
  - (b) any loss of a postal packet, or damage to a postal packet, being loss or damage to which Article 51 applies.
- (3) No person engaged in or about the conveyance (provided by a public postal operator) of postal packets and no employee, agent, or sub-contractor, of any such person shall be subject, except at the suit or instance of the public postal operator who is providing that conveyance, to any civil liability for –
  - (a) any loss or damage in the case of which liability of the operator is excluded by paragraph (1) or

- (b) any loss of a postal packet, or damage to a postal packet, being loss or damage to which Article 51 applies.
- (4) A person is not entitled to compensation just because a postal operator has refused under Article 48 to provide any service in relation to any mail that the person posted or caused to be posted or just because the postal operator has, under Article 48, detained, destroyed or otherwise disposed of the mail.
- (5) A person is not entitled to compensation for anything done by a postal operator under the Customs and Excise (Jersey) Law 1999<sup>[22]</sup>

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

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

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

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



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

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

- (1) If a money order (or postal order) issued in Jersey is paid outside Jersey, it shall be taken to be discharged in accordance with arrangements made by the party by or on behalf of whom it was issued.
- (2) If a money order (or postal order) is paid by the company or a person prescribed by Regulations to a banker to whom it has been delivered for collection on behalf of a person other than the true owner of the order, the company or prescribed person shall not be liable to the true owner of the order by reason of having paid it to the banker.
- (3) If a relevant uncrossed order is presented to the company or a person prescribed by Regulations for payment otherwise than by a banker to whom it has been delivered for collection or the true owner of the order, payment of the order by the company or prescribed person to the person presenting it shall not make the company or prescribed person liable to the true owner of the order.
- (4) Any person acting as a banker in Jersey who, in collecting in that capacity for any principal, has received payment from the company or a person prescribed by Regulations in respect of a money order (or postal order), or any document purporting to be a money order (or postal order), shall not incur liability to anyone except the principal by reason of having received the payment or having held or presented the order or document for payment.
- (5) Paragraph (4) does not relieve any principal for whom any such order or document has been so held or presented of any liability in respect of the principal’s possession of the order or document or of the proceeds of the order or document.
- (6) When –
  - (a) a money order (or postal order) has been delivered for collection to a banker; and
  - (b) the company or a person prescribed by Regulations has paid the order to the banker when it should not have done so,

the sum paid may be deducted from sums subsequently falling to be paid by the company or prescribed person to the banker by way of payment of money orders (or postal orders) so issued which have been delivered to the banker for collection.
- (7) No proceedings shall lie against the company or a person prescribed by Regulations for any loss or damage as a result of a reasonable refusal by it to pay out on a money order (or postal order) or a

reasonable delay by it in paying out on such an order.

(8) In this Article –

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

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

“relevant uncrossed order” means –

(a) an uncrossed money order (or postal order) that –

- (i) is expressed to be payable to a person specified or described in the order, and
- (ii) is signed by or on behalf of that person or purports to be so signed; or

(b) an uncrossed money order (or postal order) that is not expressed to be payable to a person specified or described in the order.

#### **54 Limitation of criminal liability**

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

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

#### **55 Content of postal packets**

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

#### **56 Obligations of postal operators**

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

- (c) a contractual obligation; or
- (d) an obligation under a postal scheme.

## **PART 11**

### **POSTAL SCHEMES**

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

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

#### **58 Effect of postal scheme**

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

apply to the provision of that service to that user.

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

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

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

## **PART 12**

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

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

- (1) A person who posts or causes to be posted any mail for transmission by a postal operator shall be guilty of an offence if the mail –
  - (a) contains anything that may harm persons or things and that thing is not packed –
    - (i) in a case where a postal scheme made by the postal operator is in force in respect of the packing of such a thing for posting – in compliance with the postal scheme or otherwise in such a way as to ensure that it can cause no harm to persons or things, or
    - (ii) in any other case – in such a way as to ensure that it can cause no harm to persons or things;
  - (b) may itself harm persons or things; or
  - (c) is or contains anything indecent, obscene or grossly offensive.
- (2) A person who is guilty of an offence against this Article shall be liable to imprisonment for a term of 12 months and to a fine.

## **61 Fictitious or used postage stamps**

- (1) A person shall not –
  - (a) make, knowingly utter, deal in or sell a fictitious stamp;
  - (b) have a fictitious stamp in the person’s possession without lawful excuse;
  - (c) make a die, plate, instrument or materials for making a fictitious stamp; or
  - (d) have in the person’s possession, without lawful excuse, a die, plate, instrument or materials for making a fictitious stamp.
- (2) A person shall not, for the purposes of paying postal charges in respect of mail, knowingly use –
  - (a) a defaced stamp or fictitious stamp; or
  - (b) a postage stamp that has previously been used to prepay postage on other mail.
- (3) A person who contravenes this Article shall be guilty of an offence and liable –
  - (a) in the case of a contravention of paragraph (1)(a) or (c)– to imprisonment for a term of 2 years and to a fine; or
  - (b) in the case of a contravention of paragraph (1)(b) or (d) or of paragraph (2)– to imprisonment for a term of 6 months and to a fine of level 4 on the standard scale.<sup>[23]</sup>
- (4) Any fictitious stamp, and any die, plate, instrument or materials for making a fictitious stamp that are found in the possession of any person who contravenes paragraph (1) may be seized by a police officer and, if the person is convicted of such a contravention in relation to those things, shall be forfeited to the States.
- (5) In this Article –

“defaced stamp” means a postage stamp issued by a public postal operator (for use in a postal service provided by the operator) or by the Committee for Postal Administration and altered in a way that has not been authorized by the issuer (or, in the case of a stamp issued by the Committee for Postal Administration, by that Committee or the company);

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

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

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

behalf of a postal operator established outside Jersey.

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

- (1) A person shall not, without lawful excuse, affix any advertisement, document, board or other thing in or on any post office, post box, vehicle, or other property or equipment, used by a public postal operator in connection with the provision of a postal service by the operator.
- (2) A person shall not, without lawful excuse, remove, or damage, paint or in any other way disfigure any such office, box, vehicle, or property or equipment.
- (3) A person shall not, without lawful excuse –
  - (a) place in, against or near any such office, box, vehicle, or property or equipment, any fire, or explosive or other substance, likely to damage or interfere with it; or
  - (b) do anything else likely to damage or interfere with any such office, box, vehicle, or property or equipment.
- (4) A person who contravenes this Article shall be guilty of an offence and liable to imprisonment for a term of 6 months and to a fine of level 4 on the standard scale.<sup>[24]</sup>

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

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

- (4) A person who contravenes this Article shall be guilty of an offence and liable to imprisonment for a term of 3 months and to a fine of level 3 on the standard scale.<sup>[25]</sup>

## **65 Injunction**

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

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

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

## **67 Unlawful opening of mail**

- (1) A person who, without reasonable excuse, opens mail that is in the course of transmission by post, or a mail bag containing such mail, shall be guilty of an offence.
- (2) A person who, without reasonable excuse, opens mail that has been delivered by post, or a mail bag containing such mail, knowing that it is not intended for the person, shall be guilty of an offence.
- (3) A person who is guilty of an offence against this Article shall be liable to imprisonment for a term of 2 years and to a fine.
- (4) This Article does not prevent the doing of anything in accordance with Part 9, the Interception of Communications (Jersey) Law 1993,<sup>[26]</sup> the Customs and Excise (Jersey) Law 1999<sup>[27]</sup> or another enactment or in accordance with a postal scheme or, in the case of mail, in accordance with an agreement with the sender or addressee of the mail.

## **68 Unlawful detention of mail**

- (1) A person who, without reasonable excuse, wilfully destroys, damages, keeps, secretes or detains a mail bag shall be guilty of an offence.
- (2) A person who, without reasonable excuse, wilfully destroys, damages, keeps, secretes or detains mail that is in the course of transmission by post, or was in the course of such transmission when it was so destroyed, damaged, kept, secreted or detained, shall be guilty of an offence.
- (3) A person who, without reasonable excuse, wilfully does anything whereby the due delivery of mail by post to another person is prevented or delayed or does anything whereby the due receipt by the person for whom mail is intended is prevented or delayed, being mail that has been delivered by post, shall be guilty of an offence.
- (4) A person who, without reasonable excuse, fails to deliver to a postal operator on demand by the postal operator any mail bag, mail, or contents of mail, that the person has taken, kept, secreted or

detained and that is in the course of transmission by post or was in the course of such transmission when it was so taken, kept, secreted or detained, shall be guilty of an offence.

- (5) A person who, without lawful excuse, fails to deliver to a postal operator on demand by the postal operator any mail bag, mail, or contents of mail, that the person has found after it was taken, kept, secreted or detained by the person or anyone else and that is in the course of transmission by post or was in the course of such transmission when it was so taken, kept, secreted or detained shall be guilty of an offence.
- (6) This Article does not prevent the doing of anything in accordance with Part 9, the Customs and Excise (Jersey) Law 1999<sup>[28]</sup> or another enactment or in accordance with a postal scheme or, in the case of mail, in accordance with an agreement with the sender or addressee of the mail.
- (7) Paragraphs (1)– (3) do not apply to any delay that results from industrial action in contemplation or furtherance of a trade dispute.
- (8) A person who is guilty of an offence against this Article shall be liable to imprisonment for a term of 2 years and to a fine.

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

- (1) Any person engaged in the provision of a postal service who, contrary to the person's duty, and without reasonable excuse –
  - (a) discloses to any person the contents of any mail conveyed by the service (if the latter person is not the intended recipient of the mail);
  - (b) discloses any information concerning the use made of the service to any person other than the person who actually made that use; or
  - (c) modifies, or interferes with, the contents of mail conveyed by the service,shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.
- (2) Paragraph (1)(a) and (b) do not apply to any disclosure made for the prevention or detection of crime or for the purposes of any criminal proceedings or under Article 55.
- (3) Paragraph (1)(a) does not apply to any disclosure made in obedience to a warrant issued by the Attorney General under Article 3 of the Interception of Communications (Jersey) Law 1993.<sup>[29]</sup>
- (4) Paragraph (1)(a) and (b) do not apply to any disclosure required as referred to in Article 9(3) of the Interception of Communications (Jersey) Law 1993<sup>[30]</sup>
- (5) Paragraph (1)(a) and (b) do not apply to any disclosure made in the interests of national security or in pursuance of the order of a court.
- (6) For the purposes of paragraph (5), a certificate signed by the Attorney General certifying that a disclosure was made in the interests of national security shall be conclusive evidence of that fact, and a document purporting to be such a certificate shall be received in evidence and taken to be such a certificate unless the contrary is proved.

## **70 Obstructing postal staff**

- (1) A person shall be guilty of an offence if, without reasonable excuse, the person –
  - (a) obstructs a person in the performance of a postal service provided by a public postal operator; or
  - (b) while in a post office used by a public postal operator, obstructs the course of business of the operator.
- (2) A person shall be guilty of an offence if, without reasonable excuse, the person fails to leave a post



office used by a public postal operator when required so to leave by a person engaged in the provision of a postal service provided by the operator, or a person acting on the operator's behalf.

- (3) A person engaged in the provision of a postal service provided by the operator, or a person acting on the operator's behalf, may remove from that post office a person who fails to leave (as referred to in paragraph (2)), and a police officer shall, on demand by a person so engaged or acting, remove or assist in removing the person who has failed to leave, and reasonable force may be exercised to effect that removal.
- (4) A person who fails to take reasonable steps to prevent an animal under the person's care or control from attacking a person engaged in the provision of a postal service provided by any postal operator shall be guilty of an offence.
- (5) A person who is guilty of an offence against –
  - (a) paragraph (1) or (4)– shall be liable to imprisonment for a term of 6 months and to a fine of level 4 on the standard scale,<sup>[31]</sup> or
  - (b) paragraph (2)– shall be liable to imprisonment for a term of 3 months and to a fine of level 2 on the standard scale.<sup>[32]</sup>

## **71 False information**

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

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

- (1) Where an offence under this Law, or under Regulations made under this Law, committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
  - (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
  - (b) any person purporting to act in any such capacity,the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (2) If the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

- (3) A person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.
- (4) An offence may be committed under this Law whether or not the act that constitutes the offence, or is an ingredient of the offence, causes any interruption to, or prevention of, the provision of a postal service.

## **PART 13**

### **MISCELLANEOUS**

#### **73 Orders in interests of security etc.**

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

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

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

- (a) in the interests of national security or in the interests of encouraging or maintaining relations with a country or territory; or
- (b) in order –
  - (i) to discharge, or facilitate the discharge of, an international obligation,

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

## 75 Limit on disclosure in general

- (1) A person shall not disclose any information with respect to a person or business during the lifetime of that person or so long as that business continues, without the consent of that person or the person for the time being carrying on that business, if the information –
  - (a) has been obtained under this Law; and
  - (b) relates to the private affairs of the person or to the business.
- (2) Any person who discloses information in contravention of this Article shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.
- (3) Paragraph (1) shall not apply to the disclosure of information –
  - (a) for the purpose of facilitating the performance by the Economic Development Committee or the Policy and Resources Committee of its functions under this Law;
  - (b) for the purpose of facilitating the performance by the Authority of its functions under this or any other Law;
  - (c) to enable the holder of a licence who is a public postal operator to comply with the terms and conditions of the licence;
  - (d) in connection with the investigation of any criminal offence or for the purposes of criminal proceedings, or generally in the interests of the prevention or detection of crime, whether in Jersey or elsewhere;
  - (e) in connection with the discharge of an international obligation;
  - (f) to assist any authority that appears to the Authority to exercise, outside Jersey, functions corresponding to some or all of those of the Authority under this or any other Law;
  - (g) for the purposes of civil proceedings arising under this Law;
  - (h) to comply with a direction of the Court;
  - (i) for the purpose of enabling or assisting the Jersey Financial Services Commission or the Economic Development Committee to exercise any powers relating to companies or financial services of any kind, being powers conferred by any enactment;
  - (j) for the purpose of enabling or assisting an inspector appointed under the Companies (Jersey) Law 1991<sup>[33]</sup> to carry out any functions that the inspector has under any enactment by virtue of being such an inspector;
  - (k) for the purpose of enabling or assisting the Viscount to carry out any functions under the Bankruptcy (Désastre) (Jersey) Law 1990;<sup>[34]</sup>
  - (l) for the purpose of facilitating the carrying out by any person of functions under the Health and Safety at Work (Jersey) Law 1989;<sup>[35]</sup> or
  - (m) for such other purposes as the States may by Regulations prescribe.
- (4) The States may, by Regulations, modify paragraph (3)(a)– (l).

## 76 Entry and search of vehicle or premises

- (1) If, on application made by a police officer supported by information on oath, the Bailiff or a Jurat is satisfied that there are reasonable grounds for believing that an offence under Article 4 has been, or is being, committed and that there is evidence of the commission of the offence to be found on or in a

ship, vehicle, aircraft, or premises, specified in the application, the Bailiff or Jurat may issue a warrant authorizing a police officer to enter and search the ship, vehicle, aircraft or premises.

- (2) The warrant shall not authorize the seizure or removal of any mail in the course of transmission by post (or anything contained in such mail) or any mail bag containing such mail, or the opening of such mail, but may authorize the officer to open such a mail bag or take copies of the cover, or labels, of such mail (or of such a mail bag) if the officer finds the mail (or mail bag) during the search.
- (3) Any person who obstructs a police officer in the execution of a warrant issued under this Article shall be guilty of an offence and liable to a term of imprisonment of 6 months and to a fine.

## **77 Power to require information**

- (1) The Authority may, for any purpose connected with the investigation of an offence under this Law or under Regulations made under this Law or with proceedings for such an offence, or with the exercise of the functions of the Authority under Article 20 or 21, by notice in writing—
  - (a) require any person to produce to the Authority, or any person appointed by it for that purpose, any documents specified or described in the notice that are in the custody, or under the control, of the first-mentioned person and specify the time, manner and form in which those documents are to be produced;
  - (b) require any person carrying on any business to furnish to the Authority, and have verified, any estimates, returns, or other information, specified or described in the notice and specify the time, manner and form in which those estimates, returns or information are to be furnished and verified; or
  - (c) require any person to furnish copies of the cover, or labels, of mail in the course of transmission by post or copies of the cover, or labels, of any mail bag containing such mail.
- (2) The Authority may –
  - (a) keep a document produced under paragraph (1)(a) for a reasonable time; and
  - (b) take copies of such a document.
- (3) Nothing in this Article authorizes the Authority to require the production or furnishing of any mail in the course of transmission by post (or anything contained in such mail) or any mail bag containing such mail, except for any purpose connected with the investigation of an offence against Article 4.
- (4) No person shall be compelled for any purpose referred to in paragraph (1) to produce any document that the person cannot be compelled to produce in proceedings before the Court or, in complying with any requirement to furnish information, to give any information that the person could not be compelled to give in evidence in such proceedings.
- (5) Any person who refuses or, without reasonable excuse, fails to comply with the requirements of a notice under paragraph (1) shall be guilty of an offence and liable to a fine of level 4 on the standard scale. <sup>[36]</sup>
- (6) A person who intentionally alters, suppresses or destroys a document that is the subject of a notice under paragraph (1) shall be guilty of an offence and liable to imprisonment for a term of 5 years and to a fine.
- (7) Where a person fails to comply with the requirements of a notice under paragraph (1) the Court may on application by the Authority, make an order requiring compliance, and the order may provide that the costs of, and incidental to, the application shall be paid by the person who failed to comply with the notice.

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

- (1) The mark of –

- (a) a public postal operator in connection with the provision of a postal service by the operator; or
- (b) a postal operator established outside Jersey,

of any sum on any postal packet as due in respect of that packet shall, unless the contrary is shown, be sufficient proof in any legal proceedings of the liability of the packet to the sum so marked.

- (2) Paragraphs (3)– (5) apply in relation to any legal proceedings for the recovery of postage or other sums due in respect of postal packets.
- (3) In any such proceedings, the production of the packet concerned with a stamp (or other endorsement) on it of a public postal operator (and made in connection with the provision of a postal service by the operator), or of a postal operator established outside Jersey, indicating that the packet –
  - (a) has been refused or rejected;
  - (b) is unclaimed; or
  - (c) cannot for any other reason be delivered,shall, unless the contrary is shown, be sufficient proof of the fact indicated.
- (4) In any such proceedings, a certificate of a public postal operator that any mark, stamp or endorsement is such a mark, stamp or endorsement as is mentioned in paragraph (1) or (3) shall, unless the contrary is shown, be sufficient proof of that fact.
- (5) In any such proceedings, the person from whom the packet concerned purports to have come shall, unless the contrary is shown, be taken to be the sender of the packet.

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

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

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

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

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

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

from the exercise of a function under Part 4.

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

## 82 Service of notices etc.

- (1) A notice required by this Law to be given to the Authority shall not be regarded as given until it is in fact received by the Authority.
- (2) A notice or other document required or authorized by or under this Law to be given to or served on the Authority may be given or served by facsimile, or by other electronic transmission, or by any other means, by which the Authority may obtain or recreate the notice or document in a form legible to the naked eye.
- (3) Any notice, direction, or other document, required or authorized by or under this Law to be given to or served on any person other than the Authority may be given or served –
- (a) by delivering it to the person;
  - (b) by leaving it at the person's proper address;
  - (c) by sending it by post to the person at that address; or
  - (d) by sending it to the person at that address by facsimile, or by other electronic transmission, or by any other means, by which the notice, direction or document may be obtained or recreated in a form legible to the naked eye.
- (4) Without limiting the generality of paragraph (3), any such notice, direction or other document may be given to or served on a partnership, company incorporated outside Jersey or unincorporated association by being given to or served on –
- (a) in any case – a person who is, or purports (under whatever description) to act as, its secretary, clerk or other similar officer;
  - (b) in the case of a partnership – the person having the control or management of the partnership business; or
  - (c) in the case of a partnership, or company incorporated outside Jersey – a person who is a principal person in relation to it (within the meaning of the Financial Services (Jersey) Law 1998<sup>[37]</sup>).
- (5) The notice, direction or other document may also be given to or served on the partnership, company incorporated outside Jersey or unincorporated association by being delivered to the registered or administrative office of the person referred to in paragraph (4)(a), (b) or (c) if the person is a body corporate.
- (6) For the purposes of this Article and of Article 12 of the Interpretation (Jersey) Law 1954,<sup>[38]</sup> the proper address of any person to or on whom a notice, direction or other document is to be given or served by post shall be the person's last known address, except that –
- (a) in the case of a company (or person referred to in paragraph (4) in relation to a company incorporated outside Jersey) – it shall be the address of the registered or principal office of the company in Jersey; and
  - (b) in the case of a partnership (or person referred to in paragraph (4) in relation to a partnership) – it shall be the address of the principal office of the partnership in Jersey.
- (7) If the person to or on whom any notice, direction, or other document, referred to in paragraph (3) is to be given or served has notified the Authority of an address within Jersey, other than the person's proper address within the meaning of paragraph (6), as the one at which the person or someone or the person's behalf will accept documents of the same description as that notice, direction or other document, that address shall also be treated for the purposes of this Article and Article 12 of the

Interpretation (Jersey) Law 1954<sup>[39]</sup> as the person's proper address.

- (8) If the name or the address of any owner, lessee, or occupier, of premises to or on whom any notice, direction, or other document, referred to in paragraph (3) is to be given or served cannot after reasonable enquiry be ascertained it may be given or served by –
  - (a) addressing it to the person by the description of “owner”, “lessee” or “occupier” of the premises;
  - (b) specifying the premises on it; and
  - (c) delivering it to some responsible person resident or appearing to be resident on the premises or, if there is no person to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

### **83 Orders and Regulations**

- (1) The Economic Development Committee may by Order make provision for the purpose of carrying this Law into effect and, in particular, but without prejudice to the generality of the foregoing, for or with respect to any matter that may be prescribed under this Law by Order of that Committee.
- (2) The States may by Regulations make provision for the purpose of carrying this Law into effect and, in particular, but without prejudice to the generality of the foregoing, for or with respect to any matter that may be prescribed under this Law by Regulations.
- (3) The States may by Regulations modify any of the following provisions –
  - (a) Article 7;
  - (b) Article 8(3)(a)– (d);
  - (c) Part 11;
  - (d) Part 1, so far as it is relevant to the interpretation of any provision referred to in subparagraphs (a)– (c).
- (4) An Order or Regulations made under this Law may contain such transitional, consequential incidental or supplementary provisions as appear to the maker of the Order or Regulations to be necessary or expedient for the purposes of the Order or Regulations.
- (5) Regulations made under this Law may create an offence punishable by a fine of level 4 on the standard scale.<sup>[40]</sup>

### **84 Amendments and repeals**

The enactments in Schedule 1 shall have effect subject to the amendments and repeals specified in the Schedule in relation to each enactment.

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

Schedule 2 shall have effect.

### **86 Citation and commencement**

- (1) This Law may be cited as the Postal Services (Jersey) Law 200- and shall, except for Article 33 come into force on such day as the States may by Act appoint and different days may be appointed for different purposes or different provisions (including different provisions of the Schedules) of this Law.
- (2) Different days may be appointed under paragraph (1) in respect of the operation of the repeals contained in Part 2 of Schedule 1 in such a way that the various provisions of the Laws referred to

there may be repealed on different days.

- (3) Article 33 shall come into force on such day as the States may by Act appoint, whether in any Act made under paragraph (1) or in a separate Act.



## SCHEDULE 1

(Article 84)

### AMENDMENTS AND REPEALS

#### PART 1

#### AMENDMENTS

##### 1 Recorded Delivery Service (Jersey) Law 1963 amended

For Article 2(3) of the Recorded Delivery Service (Jersey) Law 1963<sup>[41]</sup> there shall be substituted the following paragraph –

“(3) This Article shall not be construed as authorizing the sending by the recorded delivery service of anything in a case where there is a provision to the contrary in the Postal Services (Jersey) Law 200<sup>[42]</sup> or in any instrument made under that Law (including a postal scheme made under that Law) or in any agreement made with the relevant postal operator (within the meaning of that Law).”.

##### 2 Emergency Powers and Planning (Jersey) Law 1990 amended

- (1) In this paragraph “Law” means the Emergency Powers and Planning (Jersey) Law 1990.<sup>[43]</sup>
- (2) Before Article 6 of the Law<sup>[44]</sup> there shall be inserted the following Article –

###### “5B Powers of competent authority in relation to postal services

- (1) A competent authority may by Order provide for securing, regulating or prohibiting any of the following –
  - (a) the provision, sale or use of services that may be used in the provision of any postal service or form the whole or part of any postal service;
  - (b) the provision, manufacture, sale or use of vehicles, or other equipment, that may be used in the provision of any postal service.
- (2) A competent authority may by Order provide for regulating charges and prices in respect of postal services or the acts, services, or things, referred to in paragraph (1).
- (3) Any provision made by Order under this Article may be made –
  - (a) in relation to postal services, or the acts, services, or things, referred to in paragraph (1), generally or in relation to any particular description of them;
  - (b) with respect to the supply, distribution, acquisition or use of postal services, or of the services or things referred to in paragraph (1), or of a particular description of them, for all purposes, or for any particular purpose; or
  - (c) with respect to the acts referred to in paragraph (1), or of a particular description of them, for all purposes, or for any particular purpose.
- (4) An Order under this Article may empower a competent authority to give directions to any of the following –
  - (a) a person carrying on business as a provider of postal services or of any services,

- or things, referred to in paragraph (1), as to the provision of those postal services services or things;
- (b) a person carrying on business involving the use of postal services or of any services, or things, referred to in paragraph (1), as to the person's use of those postal services, services, or things, for the purposes of that business;
  - (c) a person carrying on business involving any of the acts referred to in paragraph (1), as to those acts.
- (5) A competent authority may by Order make provision for suspending, modifying or excluding any contractual obligation, or any obligation or restriction imposed by or under any enactment that directly or indirectly affects the provision or use of postal services or the provision or use of the services, or things, referred to in paragraph (1) or directly or indirectly affects the acts referred to in paragraph (1), or for extending any power conferred by such an enactment.
  - (6) A competent authority shall not make an Order under this Article except after consultation with the Jersey Competition Regulatory Authority established under the Competition Regulatory Authority (Jersey) Law 2001.<sup>[45]</sup>
  - (7) In this Article, "postal service" has the same meaning as in the Postal Services (Jersey) Law 200<sup>[46]</sup>.
- (3) In Article 9 of the Law<sup>[47]</sup> for the words "Article 5, 5A, 6, 7 or 8 of this Law" there shall be substituted the words "Article 5, 5A, 5B, 6, 7 or 8 of this Law".
  - (4) In Article 10(4) of the Law<sup>[48]</sup> after the words "food, water, fuel, light, telecommunication services" there shall be inserted the words ", postal services".

### 3 Interception of Communications (Jersey) Law 1993 amended

- (1) In this paragraph "Law" means the Interception of Communications (Jersey) Law 1993.<sup>[49]</sup>
- (2) For Article 9(3)(b) of the Law,<sup>[50]</sup> there shall be substituted the following sub-paragraph –
  - “(b) any person to the extent that he is providing, or engaged in the provision of, any postal service (being a postal service within the meaning of the Postal Services (Jersey) Law 200<sup>[51]</sup>); or”.
- (3) In Article 10 of the Law<sup>[52]</sup> –
  - (a) for paragraph (1)(a)(ii), there shall be substituted the following clause–
    - “(ii) any person providing, or engaged in the provision of, any postal service (being a postal service within the meaning of the Postal Services (Jersey) Law 200<sup>[53]</sup>); or”;
  - (b) in paragraph (3)(a), for the words “under Article 34 of the Post Office (Jersey) Law 1969” there shall be substituted the words “under Article 67, 68 or 69 of the Postal Services (Jersey) Law 200<sup>[54]</sup>”.
- (4) In Article 11 of the Law<sup>[55]</sup> –
  - (a) in paragraph (1), for the words “on the Committee for Postal Administration by or under any enactment” there shall be substituted the words “by or under any enactment on a person providing, or engaged in the provision of, any postal service (being a postal service within the meaning of the Postal Services (Jersey) Law 200<sup>[56]</sup>)”;

(b) paragraph (2) shall be repealed.

- (5) In paragraph 2(1) of the First Schedule to the Law,<sup>[57]</sup> for the words “or engaged in the business of the Committee for Postal Administration or” there shall be substituted the words “or to the extent that he is providing, or engaged in the provision of, any postal service (being a postal service within the meaning of the Postal Services (Jersey) Law 200-<sup>[58]</sup>) or is engaged”.

#### **4 Customs and Excise (Jersey) Law 1999 amended**

In Article 1(1) of the Customs and Excise (Jersey) Law 1999,<sup>[59]</sup> for the definitions of “to post”, “postal officer” and “postal packet” there shall be substituted the following definitions –

“ ‘to post’ has the same meaning as in the Postal Services (Jersey) Law 200-<sup>[60]</sup> and ‘posted’ shall be construed accordingly;

‘postal officer’ means an officer or servant of a postal operator (being a postal operator within the meaning of the Postal Services (Jersey) Law 200-<sup>[61]</sup>);

‘postal packet’ has the same meaning as in the Postal Services (Jersey) Law 200-<sup>[62]</sup>.”.

**PART 2**  
**REPEALS**

The following Laws are repealed –

- (a) Post Office (Jersey) Law 1969;<sup>[63]</sup>
- (b) Post Office (Amendment) (Jersey) Law 1993;<sup>[64]</sup>
- (c) Post Office (Amendment No. 2) (Jersey) Law 1999<sup>[65]</sup>

## SCHEDULE 2

(Article 85)

### SAVINGS, AND TRANSITIONAL AND CONSEQUENTIAL PROVISIONS

#### 1 No exclusive privilege

- (1) On and from the commencement of Article 3 of this Law, there shall be no exclusive privilege within the meaning of Article 2 of the Post Office (Jersey) Law 1969.<sup>[66]</sup>
- (2) Sub-paragraph (1) is included only for the avoidance of doubt.

#### 2 Exclusion of liability

Article 3 of the Post Office (Jersey) Law 1969<sup>[67]</sup> continues to have effect, notwithstanding its repeal by this Law, in respect of any act or omission that took place before that repeal, even if the liability for that act or omission arose on or after that repeal.

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

A reference in section 80 of the Post Office Act 1969 of the United Kingdom, as applied to Jersey,<sup>[68]</sup> to an officer of the Jersey Post Office shall be taken, with effect from the coming into force of this paragraph, to be a reference to an employee of any postal operator in Jersey.

#### 4 Preservation of scope of welfare funds

A reference in section 133 of the Post Office Act 1969<sup>[69]</sup> of the United Kingdom, as applied to Jersey, to employment by the States of Jersey shall be taken, with effect from the coming into force of this paragraph, to be a reference to employment by the company.

#### 5 References to Committee for Postal Administration

- (1) A reference in any enactment, agreement or other document to the Committee for Postal Administration in any capacity shall, on and from the day on which the function of that Committee implied in that capacity is effectively transferred or terminated –
  - (a) become a reference to the Economic Development Committee, in the case where the function is to make an Order (other than an order under Article 2(3) of the Post Office (Jersey) Law 1969<sup>[70]</sup>);
  - (b) become a reference to the Authority, in the case where the function is to grant or issue any permit, licence, authority or permission (otherwise than by order under Article 2(3) of the Post Office (Jersey) Law 1969);
  - (c) become a reference to the company, in the case where the function is to provide a postal service; or
  - (d) in any case (including any of the cases set out in clauses (a) – (c)), become such other reference as the States may prescribe instead by Regulations.
- (2) Accordingly, any application made to the Committee for Postal Administration, any proceedings commenced with that Committee as party, or anything else involving that Committee, being an application, proceedings or thing that has not been finally determined, or finished, when that

Committee is dissolved, may be determined or continued by the person (if any) to whom, according to sub-paragraph (1), reference is made in relation to the appropriate capacity.

- (3) Furthermore, any record or requirement made by, any information given to, any document deposited with, any record kept by, or any statement made to, the Committee for Postal Administration in the exercise of any of its functions before it is dissolved shall be taken to have been made by, given to, deposited with, kept by or made to, the person to whom, according to sub-paragraph (1), reference is made in relation to the appropriate capacity.
- (4) Sub-paragraph (1)(a)– (c) is subject, in its application to any enactment, agreement or other document, to any express provision, or implication, to the contrary in that or any other enactment, agreement or other document (including any Regulation to the contrary made under sub-paragraph (1)(d)).

## **6 References to infrastructure**

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

## **7 Stamps issued by the Committee for Postal Administration**

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

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

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

## **9 General saving**

- (1) Anything done by any person under any provision of the Post Office (Jersey) Law 1969<sup>[71]</sup> (being something that still had force or effect immediately before the repeal of that provision by this Law) shall, if there is a provision that gives power to do such a thing under this Law, be taken to have been done under the latter provision and by the person who has, under the latter provision, the function of doing that thing.
- (2) Sub-paragraph (1) is subject to any express provision, or implication, to the contrary in this Law or in the Regulations made under this Law.
- (3) Sub-paragraph (1) does not apply to an order made under Article 2(3) of the Post Office (Jersey) Law

1969<sup>[72]</sup> or to any other Order made under that Law.

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

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

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- [1] *Volume 2001, page 93.*
- [2] *Volume 1968-1969, page 438.*
- [3] *Volume 1990-1991, page 890 and Volume 2002, page 184.*
- [4] *Volume 1990-1991, page 477, Volume 1992-1993, page 93, Volume 1996-1997, page 551, Volume 1998, pages 265 and 685, Volume 1999, pages 420 and 525 and Volume 2002, page 95.*
- [5] *Volume 2001, page 91.*
- [6] *Volume 2001, page 91.*
- [7] *Volume 1990-1991, page 875, Volume 1992-1993, page 63, Volume 1994-1995, page 351, Volume 1996-1997, pages 552 and 683, Volume 1998, pages 499 and 594, Volume 1999, pages 107 and 525, Volume 2000, page 746, Volume 2002, pages 177 and 439 and R&Os 8326, 8941 and 68/2002.*
- [8] *Volume 1990-1991, page 875, Volume 1992-1993, page 63, Volume 1994-1995, page 351, Volume 1996-1997, pages 552 and 683, Volume 1998, pages 499 and 594, Volume 1999, pages 107 and 525, Volume 2000, page 746, Volume 2002, pages 177 and 439 and R&Os 8326, 8941 and 68/2002.*
- [9] *Volume 1966-1967, page 527, Volume 1973-1974, page 3, Volume 1986-1987, page 239, Volume 1988-1989, page 25 and Volume 1994-1995, pages 121 and 427.*
- [10] *Volume 1966-1967, page 606, Volume 1990-1991, page 550 and Volume 2003, page 121.*
- [11] *Volume 1990-1991, page 917 and Volume 2002, page 210.*
- [12] *Volume 1990-1991, page 984, Volume 1992-1993, page 63 and Volume 2002, page 261.*
- [13] *Volume 1966-1967, page 527, Volume 1973-1974, page 3, Volume 1986-1987, page 239, Volume 1988-1989, page 25 and Volume 1994-1995, pages 121 and 427.*
- [14] *Volume 1961-1962, page 391, Volume 1963-1965, page 171, Volume 1970-1972, page 179, Volume 1979-1981, page 373, Volume 1990-1991, page 851 and Volume 1994-1995, pages 69 and 379.*
- [15] *Volume 1961-1962, page 396, Volume 1970-1972, page 179, Volume 1979-1981, page 374 and Volume 1990-1991, page 852.*
- [16] *Volume 1961-1962, page 401.*
- [17] *Tome VIII, page 501, Volume 1990-1991, page 475, Volume 1992-1993, page 276 and Volume 1994-1995, page 123.*
- [18] *Volume 1963-1965, page 39, Volume 1970-1972, pages 311 and 408 and Volume 2002, page 81.*
- [19] *Volume 1963-1965, page 349, Volume 1979-1981, pages 89 and 319, Volume 1982-1983, page 245, Volume 1990-1991, page 847, Volume 1992-1993, page 105, Volume 1996-1997, page 33 and Volume 2002, pages 81, 309 and 493.*
- [20] *Volume 1992-1993, page 219 and Volume 2002, page 85.*
- [21] *Volume 1999, page 537, Volume 2001, pages 11 and 146, Volume 2002, page 429 and Volume 2003, pages 228 and 355.*
- [22] *Volume 1999, page 537, Volume 2001, pages 11 and 146, Volume 2002, page 429 and Volume 2003, pages 228 and 355.*
- [23] *Volume 1992-1993, page 437.*
- [24] *Volume 1992-1993, page 437.*
- [25] *Volume 1992-1993, page 437.*
- [26] *Volume 1992-1993, page 219 and Volume 2002, page 85.*
- [27] *Volume 1999, page 537, Volume 2001, pages 11 and 146, Volume 2002, page 429 and Volume 2003, pages 228 and 355.*
- [28] *Volume 1999, page 537, Volume 2001, pages 11 and 146, Volume 2002, page 429 and Volume 2003, pages 228 and 355.*
- [29] *Volume 1992-1993, page 224.*
- [30] *Volume 1992-1993, page 231.*
- [31] *Volume 1992-1993, page 437.*



- [32] Volume 1992-1993, page 437.
- [33] Volume 1990-1991, page 875, Volume 1992-1993, page 63, Volume 1994-1995, page 351, Volume 1996-1997, pages 552 and 683, Volume 1998, pages 499 and 594, Volume 1999, pages 107 and 525, Volume 2000, page 746, Volume 2002, pages 177 and 439 and R&Os 8326, 8941 and 68/2002.
- [34] Volume 1990-1991, pages 39 and 1092, Volume 1994-1995, page 399, Volume 1996-1997, pages 337, 485, 550, 607 and 641, Volume 1998, pages 264 and 594 and Volume 2000, pages 746 and 871.
- [35] Volume 1988-1989, pages 323 and 513, Volume 1996-1997, page 621 and Volume 2002, page 409.
- [36] Volume 1992-1993, page 437.
- [37] Volume 1998, page 507, Volume 1999, pages 413, 420 and 527, Volume 2000, pages 705 and 716-745, Volume 2002, page 107 and R&Os 9402 and 127/2000.
- [38] Tome VIII, page 381.
- [39] Tome VIII, page 381.
- [40] Volume 1992-1993, page 437.
- [41] Volume 1963-1965, page 101.
- [42] P.24/2004.
- [43] Volume 1990-1991, page 115, Volume 1996-1997, page 281 and Volume 2002, page 82.
- [44] Volume 1990-1991, page 120.
- [45] Volume 2001, page 91.
- [46] P.24/2004.
- [47] Volume 1990-1991, page 123 and Volume 2002, page 84.
- [48] Volume 1990-1991, page 124 and Volume 2002, page 85.
- [49] Volume 1992-1993, page 219 and Volume 2002, page 85.
- [50] Volume 1992-1993, page 231.
- [51] P.24/2004.
- [52] Volume 1992-1993, page 233.
- [53] P.24/2004.
- [54] P.24/2004.
- [55] Volume 1992-1993, page 234 and Volume 2002, page 86.
- [56] P.24/2004.
- [57] Volume 1992-1993, page 236.
- [58] P.24/2004.
- [59] Volume 1999, pages 546 and 547.
- [60] P.24/2004.
- [61] P.24/2004.
- [62] P.24/2004.
- [63] Volume 1968-1969, page 431.
- [64] Volume 1992-1993, page 457.
- [65] Volume 1999, page 655.
- [66] Volume 1968-1969, page 435.
- [67] Volume 1968-1969, page 437.
- [68] Volume 1968-1969, page 535.

[69] *Volume 1968-1969, page 565, Volume 1970-1972, page 434 and Volume 1973-1974, page 47.*

[70] *Volume 1968-1969, page 436.*

[71] *Volume 1968-1969, page 431, Volume 1973-1974, page 108, Volume 1992-1993, page 234 and 457 and Volume 1999, pages 622, 627 and 655.*

[72] *Volume 1968-1969, page 436.*