



# Government Gazette

**REPUBLIC OF SOUTH AFRICA**

Vol. 451    Pretoria    31    January    2003    **No. 24346**



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**GENERAL NOTICES**

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**NOTICE 365 OF 2003****DEPARTMENT OF COMMUNICATIONS****(POSTAL REGULATOR)****POSTAL SERVICES REGULATIONS**

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**(Made in terms of Section 61 of the Postal Services Act No. 124 of 1998)**

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I, Ivy Matsepe-Casaburri, the Minister of Communications has under section 61 of the Postal Services Act, 1998 (Act No. 124 of 1998) upon the advice of the Directorate: Postal Regulation, made the regulations contained the schedule. Regulation I and IV shall come into operation on the date of publication. The rest of the Regulations shall come into operation on a date to be determined.

**Dr Ivy Matsepe-Casaburri**  
**Minister of Communications**

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**SCHEDULE***Index*

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## CHAPTER 1

### DEFINITIONS

1. In these Regulations, an expression defined in the Act has that meaning and, unless the context indicates otherwise-

**“Consumer Price Index”** means the official rate of the Annual Consumer Price Index as published by Statistics South Africa in each case for the previous year;

**“office hours”** means from 08:30 to 15:30 on any day other than a Saturday, Sunday or Public Holiday;

**“ordinary parcel”** means any parcel that is not registered or insured;

**“the Act”** means the Postal Services Act, 1998 (Act No. 124 of 1998).

## CHAPTER II

### APPLICATION FOR LICENCE IN TERMS OF SECTION 16

#### ***Form of application***

2. (1) An application for a licence must be in written form, in triplicate, in a form similar to Form PRL 1 contained in Annexure 1 and must –
  - (a) contain such information as is solicited in the said form;
  - (b) be accompanied by all the appendices solicited in the said form;  
and
  - (c) contain a duly certified declaration under oath or an affirmation at the end of the said form that the information contained therein is true.
- (2) Every application must, at the time it is lodged with the Regulator, be accompanied by –
  - (a) an application fee as specified against item 1 of Part B of Annexure 2, which must be paid in cash or by bank guaranteed cheque;
  - (b) the applicant's business plan, including or incorporating a written report of a market study showing the viability of the applicant's intended business operation; and
  - (c) a proposed tariff or table of fees and charges in respect of the provision of reserved postal services for the first licence year.

#### ***Lodgement of application***

3. (1) An application for a licence may be lodged with the Regulator during office hours.
- (2) An application may only be lodged at the office of the Regulator or such other place as the Regulator may determine. Provided that the

Regulator may from time to time determine an alternative way of lodgement.

- (3) The Regulator must provide the applicant with a written acknowledgement of receipt of the application, which will set out-
- (a) the number of copies received;
  - (b) the date and time of receipt;
  - (c) the name of the applicant or the person lodging the application on behalf of the applicant;
  - (d) the name of the receiving officer; and
  - (e) such other matter or information as the Regulator may determine from time to time.

#### ***Licence fee***

4. (1) Where no licence fee is specified in the licence, the applicant is liable for a licence fee not exceeding the amount specified against item 2 in Part B of Annexure 2 in respect of each one of the first three years of the licence.
- (2) The licence fee payable in respect of each year of the remainder of the licence period is an amount equal to two percent of the turnover of the licensee and must in each case be based on the audited financial reports of the licensee, relating to the preceding licence year. The Regulator reserves the right to review the fees from time to time.

#### ***Payment of licence fee***

5. (1) The licence fee in respect of the first year of the licence must be paid within six months of the granting of a licence. For the second and third licence year the licence fee must be paid on the anniversary of the licence.

- (2) When a decision has been made to grant a licence to an applicant, the Regulator must notify the said applicant in writing.
- (3) Within 30 days of receipt of the notice contemplated in sub-regulation (2), the applicant must pay the licence fee or furnish the Regulator with a bank guarantee in respect of the licence fee for the first year of the licence.
- (4) After receipt payment of the licence fee or the bank guarantee contemplated in sub-regulation (3), the said applicant will be issued with a licence.
- (5) From the 4<sup>th</sup> year the licence fee must be paid within 6 months of the expiry of the licensee's last licence year.
- (6) The licence fee referred to in sub-regulation 5 must be based on the audited financial statements if available in respect of the preceding financial year. Where such statements are not available the licence fee must be based on the latest available such statements, in which case the Regulator will be entitled to make the necessary adjustments to the licence fee upon receipt of such statements relating to the preceding year.

#### ***Penalty in terms of section 19 (3)***

6. (1) The penalty contemplated in section 19 (3) of the Act will be an amount equal to the prime bank interest rate charged by the Department's bankers, compounded and added monthly in respect of each month or part thereof that such fee is unpaid.
- (2) Penalties under sub-regulation (1) will become due on the first day following the day the licence fee becomes payable.

#### ***Validity of licence***

7. With the exception of the licence issued to the postal company, all other licences are valid for a period of 10 years from the date of issue, unless a shorter period is determined by the Regulator under section 17 of the Act.

***Applications for renewal of licences***

8. An application for the renewal of a licence can only be made not earlier than six months and not later than three months before the expiry of the current licence. Any application outside this period will be invalid.



### CHAPTER III

#### APPLICATION FOR REGISTRATION IN TERMS OF SECTION 21

##### *Form of application*

9. (1) An application for registration must be made in writing, in triplicate, in a form similar to Form PRR 2 contained in the Annexure 1 and must –
- (a) contain such information as is solicited in Form PRR2;
  - (b) be accompanied by such documents as Form PRR 2 may require to be attached to the application; and
  - (c) contain a duly certified declaration under oath or an affirmation at the end of the said form that the information contained therein is true.
- (2) Every application must, at the time it is lodged with the Regulator, be accompanied by the applicant's business plan showing the viability of the applicant's intended business operation;

##### *Lodgement of application*

10. (1) An application for registration to operate an unreserved postal service may be lodged with the Regulator during office hours.
- (2) An application may only be lodged by physical delivery at the office of the Regulator or at any other place as the Regulator may determine. Provided that the Regulator may from time to time determine an alternative way of lodgement.
- (3) The Regulator must provide the applicant with a written acknowledgement of receipt of the application, which shall set out-
- (a) the number of copies received;
  - (b) the date and time of receipt;

- (c) the name of the applicant or the person lodging the application on behalf of the applicant;
- (d) the name of the receiving officer; and
- (e) such other matter or information as the Regulator may determine from time to time.

### ***Registration fee***

11. The prescribed registration fee is the amount specified against item 3 of Part B of Annexure 2.

### ***Payment of registration fees***

12. The registration fee must be paid by cash or bank guaranteed cheque.

**CHAPTER IV****FEEES CHARGES AND POSTAGE*****Manner of determining fees and charges***

13. (1) The manner of determining fees and charges in respect of unreserved postal services as contemplated in section 30(2) of the Act is as follows:
- a) The Regulator may divide postal services into different categories.
  - b) For the purposes of determining fees and charges under section 30 and 31 of the Act, the Regulator may from time to time by notice in the Gazette, invite written proposals.
  - c) The postal company and any other licensee may annually submit written proposals to the Regulator on the determination of fees and charges in respect of such categories.
  - d) Any other licensed postal operator who fails to lodge a proposal with the Regulator within the set period shall be deemed to have not intended to review the fees and charges for the following year.
  - e) The Regulator, having received the proposals contemplated in subregulations (1)(b) or (c), if any must consult with other interested licensees before any fees or charges are determined under section 30 of the Act.
  - f) In determining fees and charges, the Regulator may not increase the existing fees and charges if any, by more than the lower of the Consumer Price Index or 12 percent per annum.
- (2) For purposes of determining the fees and charges applicable to the provision of reserved postal services by any new applicant, the Regulator will take into account the proposal contemplated in regulation 2 (2) (c) and any submissions made by interested parties.
- (3) A proposal contemplated in subregulation (1) (b) must include a detailed report on the impact of the proposal –

(a) on the accessibility of postal services to the public; and

(b) on the business operations and profitability of the postal company or licensee.

***Procedure upon receipt of proposal***

14. Upon receipt of the proposal contemplated in regulation 13 (3), the Regulator may convene a public hearing for the purposes of obtaining any further information required to enable the Regulator to consider the proposal.

***Penalty for default in prepayment***

15. The amount payable for default in prepayment of postage or fees by stamps is double the amount of the deficiency and is payable within 60 days of the default.

**CHAPTER V****COMPENSATION IN TERMS OF SECTION 45*****Limits of compensation***

16. (1) Compensation may not exceed the proven replacement value of the postal article or its contents or any portion of its contents that may be lost or damaged. The maximum compensation payable will be as follows:

<b>Class of postal article (within the reserved postal service area)</b>	<b>Maximum compensation</b>
Registered postal article (with insured option)	R 2 000
Ordinary parcel	R 12

- (2) If documents that are of value only because of the cost of their preparation are enclosed in a postal article referred to in regulation 17 and such documents are lost or damaged while in the custody of the postal company, compensation may not exceed the cost of their replacement or the relative limit of compensation as prescribed in subregulation (1), whichever is the lesser amount.

***Applications for compensation***

17. (1) An application for compensation in terms of this regulation must be made within sixty days from the day following the date on which the relative postal article was posted. The application must be made on the official enquiry form or by letter, as may be determined from time to time by the postal company and must be accompanied by supporting documentation, as the postal company may deem necessary.

- (2) If required by the postal company an application for compensation must be accompanied by the certificate of posting or a slip of the postal article in respect of which compensation is claimed. If the certificate of posting or a slip is in book form, it will be sufficient if such book is produced for scrutiny at the post office where the application for compensation is lodged.

### ***Exclusions***

18. No compensation will be payable in respect of:
- (a) any postal article containing anything that may not legally or lawfully be sent by post;
  - (b) the loss or damage of any postal article unless the sender proves that such article was delivered to the postal company for conveyance .
  - (c) the loss or damage to any postal article if the loss or damage was due to **vis major**;
  - (d ) the loss of or damage to the contents or any portion of the contents of any postal article, if the loss or damage was due to improper or inadequate packing .
  - (e) the loss of or damage to the contents or any portion of the contents of any parcel, including a cash-on-delivery postal article, or packet duly delivered and accepted without reserve by the addressee. The postal company may pay compensation if such postal article or packet bears evidence of having been tampered with, repacked or repaired by the postal company or if there is proof that the parcel was delivered to the addressee or the addressee's address in a damaged condition. Where such postal article is insured, an insurance claim may be lodged in accordance with the applicable rules of such insurance, and payment of such an insurance claim will discharge the postal company from any liability to the complainant;
  - (f) any postal article or packet containing perishable products that have become unfit for consumption or use as a result of deterioration;

- (g) any negotiable instrument or any other document or article enclosed in any postal item, unless particulars sufficient to identify such negotiable instrument, document or other article are supplied if required by the postal company;
- (h) any claim lodged with the postal company after the expiry of six months from the day following the date on which the relative postal article was posted. However, the postal company may in its discretion accept a claim lodged after such period, whereupon the claim will be subject to these regulations.

***Recovery of postal articles after payment of compensation***

19. Where compensation has been given for the loss of any postal article or the whole or any portion of its contents and such article or the whole or any portion of its contents is subsequently recovered by the postal company, it may be retained or disposed of as the postal company may deem fit.

***Period of claim***

20. Compensation in terms of these regulations may be made within three months from the day following the date on which the application for compensation had been submitted to the postal company.

## CHAPTER VI

### GENERAL

#### *Fine in terms of section 80*

21. The fine which the Regulator may direct the licensee or the holder of a registration certificate to pay under section 80 (4) (b) of the Act is an amount not exceeding the amount specified against item 4 of Part B of Annexure 2.

#### *Fees for copies of minutes under section 11 (2)*

22. The fee for copies of minutes as contemplated in section 11 of the Act will be the amount specified against item 5 of part B of Annexure 2.

## CHAPTER VII

### FINAL PROVISIONS

#### *Repeal of laws*

23. Chapter XV of the Postal Regulations published in Government Notice No. R550 of 14 April 1960, as amended by Government Notices Nos. R432 of 24 March 1971 and R1102 of 25 June 1971 is repealed, including any other provision of those regulations which is inconsistent with these regulations.



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**ANNEXURE 1**

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**INDEX TO FORMS**

<i>Form No.</i>	<i>Description</i>	<i>Regulation No.</i>
PRL 1	Application form for a licence in terms of section 16	2 (1)
PRR 2	Application for registration in terms of Section 21	9 (1)

[FORM PRL 1]

# **APPLICATION FORM**

**(SECTION 16 OF ACT 124 OF 1998)**

BEFORE COMPLETING THIS FORM APPLICANTS SHOULD READ  
CAREFULLY THE INSTRUCTIONS ON PAGE 2 OF THIS FORM.

## INSTRUCTIONS

1. Applications should be typed or printed.
2. Applicants must complete all parts of the application form. If any question or part is considered not applicable, please mark N/A and if necessary, give an explanation of why same is considered not applicable.
3. Three originals of the completed application form should be lodged together at the time of the lodgement.
4. Each application form must be permanently bound, using either heat binding or spiral binding.
5. Each application form must have a cover page with the name of the applicant (if different from the registered name of applicant) and the month and year of the application.
6. The page immediately following the cover page must be the contents page and must detail each part or section of the application and its page number.
7. Pages, including annexures, must be numbered sequentially, starting with the page immediately following the contents page, as page 1, and ending with the last page of the application.
8. In the event that the applicant submits its application in more than one part or volume, each part or volume must have a cover page (see 5 above). In this case the cover page must specify the number of the part or the volume (i.e Part One, or Volume One). Each volume must have a contents page and be sequentially numbered.
9. Please indicate what sections of your application you would request to be treated as confidential.
10. The application must be accompanied by the application fee as prescribed in Regulation 2.2 (a). Application fees are non-refundable.
11. Failure to comply with any of these requirements may lead to disqualification of this application.
12. Copies of this form PRL 1 are available from the Regulator.
13. Applicants must provide a resolution authorising the signatory to sign this application form and to represent the applicant at any meetings or hearings that may be convened by the Regulator in connection with this application.

**CONTENTS**

<i>Item</i>	<i>Description</i>
PART I: PARTICULARS AND LEGAL STATUS OF THE APPLICANT	
1.	Name of applicant
2.	Trading name of the Business
3.	Registration number
4.	Date of registration
5.	Legal status of applicant
6.	Shareholders
7.	Particulars of controlling entity
8.	Management and Control
9.	Staffing
10.	General History and Development strategy
PART II: FINANCE	
11.	Funding and financial operations
PART III: GENERAL	
12.	Representation
13.	Motivation
14.	Declaration by applicant
15.	Declaration by Commissioner of Oaths
16.	Check list

## PART I : PARTICULARS AND LEGAL STATUS OF THE APPLICANT

1. NAME OF APPLICANT:

2. TRADING NAME OF THE BUSINESS:

3. REGISTRATION No:

4. DATE OF REGISTRATION:

5. LEGAL STATUS OF APPLICANT: ( Indicate relevant legal status with an X in the appropriate box)

Public Company	Private Company	Section 21 Company	Close Corporation	Trading Trust	Partnership
----------------	-----------------	--------------------	-------------------	---------------	-------------

Joint Venture	Individual	Other (Specify)
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**CERTIFIED COPIES OF ALL RELEVANT FOUNDING DOCUMENTS MUST BE PROVIDED FOR (AS APPENDIX "1 (5)").**

Founding Documents	
Memorandum/ Articles of Association	
Trust Deed	
Constitution	
Other (eg Partnership /Joint venture agreement)	

## 6. SHAREHOLDERS

6.1 Provide details of all shareholders and the percentage shareholding of each shareholder, according to the following format.

Name	
Date of Birth	
Gender	
Identity Number	
Physical Address	
Postal Address	
Tel Number	
Nationality	
Directorships held	
Occupation	

## 7. PARTICULARS OF CONTROLLING ENTITY

7.1 Is the applicant controlled by any other person or entity

Yes	No
-----	----

7.2 Indicate form of controlling entity .

Public Company	Private Company	Section 21 Company	Close Corporation	Trading Trust	Partnership
----------------	-----------------	--------------------	-------------------	---------------	-------------

Joint Venture	Individual	Other (Specify)
---------------	------------	-----------------

7.3 Provide the following details:-

<b>Full name of controlling entity</b>	
<b>Office/place of Registration</b>	
<b>Registration Number</b>	
<b>Date of Registration</b>	

## 8. MANAGEMENT AND CONTROL

8.1 Provide full details of each member of the applicant's management, including all directors, members, trustees, as the case may be.

Name	
Date of Birth	
Gender	
Identity Number	
Physical Address	
Postal Address	
Tel Number	
Fax Number	

Nationality	
Directorships held	
Occupation	

(ATTACH AS APPENDIX "2 (8.1)")

8.2 Provide written brief personal and professional background and relevant previous experience of the persons mentioned in 8.1

8.3 Will any of the persons referred to in 8.1 be in a position to control the operations of the applicant were this application to be granted?

Yes	No
-----	----

8.3.1 If so, full and complete business records of such person[s] must be provided.

ATTACH AS APPENDIX "3 (8.3.1)"

8.4 In providing the business records referred to in 8.3.1, state whether the persons concerned have any other interest in the postal sector. If so, give us full details of such interests.

(ATTACH AS APPENDIX "4 (8.4)")

**8.5 List and attach copies of any management agreements, consultancy agreements, franchise agreements and lease agreements relating to the proposed business. Include employment contracts in respect of senior management.**

(ATTACH AS APPENDIX "5 (8.5)")

## **9. STAFFING**

**9.1 Provide a control, management and staffing organisational chart showing all proposed management and staff posts, and indicate the reporting structure.**

(ATTACH AS APPENDIX "6(9.1)")

**9.2 Provide details of proposed breakdown of staff by race and gender. Superimpose this onto the chart referred to in 9.1.**

(ATTACH AS APPENDIX "7 (9.2)")

**9.3 List any activities which will be contracted out to consultants, agencies and other service providers. Give details of any relevant agreements concluded, and with whom.**

(ATTACH AS APPENDIX "8 (9.3)")

## **10. GENERAL HISTORY AND DEVELOPMENT STRATEGY**

**10.1 Describe when and how applicant was formed and how it has developed since then. Describe principles upon which applicant's future business growth and development strategy is based, and its general objectives in applying for this licence.**

(ATTACH AS APPENDIX "9 (10.1)")



## **PART II : FINANCE**

### **11 FUNDING AND FINANCIAL OPERATIONS**

**11.1 Provide details of all financial requirements, sources and planned sources of funding.**

**(ATTACH AS APPENDIX "10 (11.1)")**

**12.1 Provide estimated results of operations for the first three years (including pre-operation costs).**

**(ATTACH AS APPENDIX "11 (11.2)")**

## **PART III - GENERAL**

### **12. REPRESENTATION**

**12.1 Provide details of person[s] who are duly authorised to represent the applicant and to sign this application on behalf of the applicant.**

**(ATTACH AS APPENDIX "12 (12.1)")**

**12.2 Provide a duly signed written resolution of the applicants board of directors or controlling structure, authorising the persons in 12.1 above to make and sign this application form.**

**(ATTACH AS APPENDIX "13 (12.2)")**

### 13. MOTIVATION

State briefly why the Regulator should grant this application, and give details of any other matters not covered by this form, of which you consider that the Regulator should be aware.

(ATTACH AS APPENDIX "14 (13)")

### 14. DECLARATION BY APPLICANT

I, the undersigned, \_\_\_\_\_ in my capacity as \_\_\_\_\_ duly authorised in terms of Appendix 15 (13.2) hereto, acknowledge that:-

- The information provided in this form is to the best of my knowledge and belief both true and correct;
- I have not knowingly withheld any information from the Regulator the disclosure of which would tend to influence this application;
- 

\_\_\_\_\_  
For: APPLICANT

<b>Title</b>	
<b>Full Names</b>	
<b>Surname</b>	
<b>Identity No</b>	
<b>Designation</b>	

## 15. CERTIFICATE BY COMMISSIONER OF OATHS

THUS SIGNED AND SWORN TO BY THE DEPONENT BEFORE ME AT \_\_\_\_\_ ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, who declares the contents of this form to be true and correct, that he/she understands the nature of this declaration, has no objection to taking the prescribed oath and considers it to be binding on his/her conscience.

\_\_\_\_\_  
COMMISSIONER OF OATHS

**CHECKLIST IN RESPECT OF APPENDICES**

1. Appendix 1 (5) : Certified copies of all relevant founding documents
2. Appendix 2 (6.1) Details of shareholders and percentage shareholding
3. Appendix 3 (8.1) Details of applicant's management, directors or trustees
4. Appendix 4 (8.3.1) Complete business records of management, directors or trustees
5. Appendix 5 (8.4) Any interests of management, directors or trustees in the postal sector
6. Appendix 6 (8.5) Copies of management, consultancy, franchise and lease agreements, including employments contracts in respect of senior management
7. Appendix 7 (9.1) Control, management and staffing organisational chart
8. Appendix 8 (9.2) Proposed breakdown of staff by race and gender and disabilities
9. Appendix 9 (9.3) Activities to be contracted out to consultants, agencies and service providers
10. Appendix 10 (10.1) General history and development strategy
11. Appendix 12 (12.1) Details of financial requirements and sources of funding
12. Appendix 13 (12.2) Estimated profits for the first three years
13. Appendix 14 (13.1) Details of representatives in respect of this application
14. Appendix 15 (13.2) Resolution authorising representative[s] to sign on behalf of applicant
15. Appendix 16 (14) Brief motivation in support of this application.

[FORM PRR 2]

# **APPLICATION FORM**

**(SECTION 21 OF ACT 124 OF 1998)**

**BEFORE COMPLETING THIS FORM APPLICANTS SHOULD READ CAREFULLY THE INSTRUCTIONS ON PAGE 2 OF THIS FORM.**

## INSTRUCTIONS

- 1 Applications should be typed or printed.
- 2 Applicants must complete the application form in full.
- 3 Three originals of the completed application form should be lodged together at the time of the lodgement.
- 4 All information contained in the application for a registration in the unreserved postal services will be made available to any member of the public on request, save where the Regulator on the applicant's request, determines that any information is of confidential nature and should be publicly disclosed. Such determination, when made, will be in writing and signed by the chairperson of the Regulator.
- 5 The application must be accompanied by the registration fee as prescribed in Regulation 11. Registration fees are non-refundable.
- 6 Failure to comply with any of these requirements may lead to disqualification of this application.
- 7 Copies of this form PRR 2 are available from the Regulator.
- 8 Where a person acts in a representative capacity, such person must provide a resolution authorising the signatory to sign this application form and to represent the applicant at any meetings or hearings that may be convened by the Regulator in connection with this application.

**APPLICATION FOR REGISTRATION TO OPERATE UNRESERVED POSTAL SERVICE**

(Under section 21 of the Postal Services Act, 1998 (Act No. 124 of 1998))

TO: The Directorate: Postal Regulation

Address:


FROM: Name of applicant:

--

Address of applicant:


I hereby apply in terms of section 21 of the Postal Services Act, 1998 (Act No 124 of 1998), for registration to operate the following unreserved postal services:

.....in the following areas:.....

Attached are-

- (a) a detailed business plan, a report on a market study that shows that the intended business operation is viable and (other documents required by the Postal Regulator)
- (b) the registration fee of R.....

Certified to be true and correct.

.....  
(signature of applicant)

Sworn or affirmed before.....

.....  
(Commissioner of Oaths)

## ANNEXURE 2

Item	PART A Description	PART B Fee Payable
1.	Application fee in terms of section 19 (1) and regulation 2 (2) (a)	R15 000.00
2.	Licence fee under regulation 4 (1)	R 550 000.00
3.	Registration fee in respect of unreserved postal services under section 21 read with regulation 11	R 10 000.00
4.	Fine in terms of section 80(4) (b) and regulation 21.	Maximum R 20 000.00
5.	Fees for copies of minutes of the Regulator under regulation 2.2.	R1,00 per page