



# Government Gazette

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## THE PRESIDENCY

No. 188

2 March 2007

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

**No. 22 of 2006: Postal Services Amendment Act, 2006**



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**Substitution of heading to Chapter II of Act 124 of 1998**

2. The following heading is hereby substituted for the heading to Chapter II of the principal Act:

**“[POSTAL] MINISTERIAL POLICY DIRECTIONS AND FUNCTIONS OF REGULATOR”.**

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**Insertion of section 2A in Act 124 of 1998**

3. The following section is hereby inserted in the principal Act after section 2:

**“Ministerial policies and policy directions**

**2A.** (1) The Minister may make policies on matters of national policy applicable to the ICT sector, including the postal industry, consistent with the objects of this Act and any other policy which may be necessary for the application of this Act.

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(2) The Minister may, subject to subsections (3) and (5), issue to the Regulator policy directions consistent with the objects of this Act in relation to—

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(a) the undertaking of an inquiry in terms of section 4B of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000), on any matter within the Regulator’s jurisdiction and the submission of reports to the Minister in respect of such matter;

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(b) the determination of priorities for the development of postal services particularly with a view to accelerating universal access to postal and other essential services that can be provided using the postal and related ICT infrastructure;

(c) the consideration of any matter within the Regulator’s jurisdiction reasonably placed before it by the Minister for urgent consideration.

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(3) No policy made by the Minister in terms of subsection (1) or policy direction issued by the Minister in terms of subsection (2) may be made or issued regarding the granting, amendment, transfer, renewal, suspension or revocation of a licence, except as permitted in terms of this Act.

(4) The Regulator, in exercising its powers and performing its duties in terms of this Act and the related legislation, must consider policies made by the Minister in terms of subsection (1) and policy directions issued by the Minister in terms of subsection (2).

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(5) When issuing a policy direction under subsection (2) the Minister must—

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(a) consult the Regulator;

(b) in order to obtain the views of interested persons, publish the text of such policy direction by notice in the *Gazette*—

(i) declaring his or her intention to issue the policy direction; and

(ii) inviting interested persons to submit written submissions in relation to the policy direction in the manner and within the period specified in such notice, which period may not be less than 30 days from the date of the notice; and

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(c) publish the final version of the policy direction in the *Gazette*.

(6) Subsection (5) does not apply in respect of any amendment by the Minister of a policy direction contemplated in subsection (2) as a result of representations received and reviewed by him or her after consultation or publication in terms of subsection (5).

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(7) Subject to subsection (8), a policy direction issued in terms of subsection (2) may be amended, withdrawn or substituted by the Minister.

(8) Except in the case of an amendment contemplated in subsection (6), subsections (3) and (5) apply, with the necessary changes, to any such amendment or substitution of a policy direction in terms of subsection (7).

(9) The Regulator may make recommendations to the Minister on policy matters in accordance with the objects of this Act.”

#### Amendment of section 8 of Act 124 of 1998

4. Section 8 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph (c) of the following paragraph: 10

“(c) promote the interests of users of postal [services] and other services provided through postal and related ICT infrastructure, in respect of the cost of reserved services, the continuity of [postal] those services and the quality thereof;”;

(b) by the substitution in subsection (1) for paragraphs (e) and (f) of the following paragraphs, respectively: 15

“(e) promote and encourage the expansion of postal services and infrastructure, including ICT;

(f) promote [a] universal access to postal [service that will ensure] and other services contemplated in paragraph (c) so as to facilitate equal access for all citizens to a [basic letter] service that, in addition to a basic letter service, is— 20

(i) [that is] reasonably accessible to all people in the country regardless of physical location, with special attention to the needs of persons with disabilities; 25

(ii) at a uniform rate of postage;

(iii) at an affordable price; and

(iv) [that offers a] reliable [service];”;

(c) by the deletion of subsections (2) and (3). 30

#### Amendment of section 16 of Act 124 of 1998, as amended by section 1 of Act 33 of 2001 and section 24 of Act 3 of 2006

5. Section 16 of the principal Act is hereby amended—

(a) by the substitution for subsection (2) of the following subsection: 35

“(2) The Regulator may only accept and consider an application for a licence to provide a reserved postal service in accordance with a policy direction issued by the Minister in terms of section 2A.”;

(b) by the substitution for the proviso to subsection (8) of the following proviso: 40

“: Provided that nothing contained in this subsection may be regarded as limiting the powers vested in the [Regulator] Minister by subsection (2) and that any such period must be reviewed by the Minister every [three] five years or such shorter period as the Minister may determine.”

#### Amendment of section 30 of Act 124 of 1998, as amended by section 24 of Act 3 of 2006

6. Section 30 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 45

“(1) [The] Subject to the approval of the Minister, the Regulator, in consultation with the postal company or, where applicable, any other licensee, may determine the fees and charges payable in respect of the provision of a postal service by the postal company or, where applicable, by such other licensee.” 50

**Substitution of section 59 of Act 124 of 1998**

7. The following section is hereby substituted for section 59 of the principal Act:

**“Electronic mail and addresses**

**59.** Subject to the [Telecommunications Act, 1996 (Act No. 103 of 1996)] Electronic Communications Act, 2005 (Act No. 36 of 2005), the Postal Company may carry electronic mail, including the Internet, and provide electronic addresses.” 5

**Repeal of section 65 of Act 124 of 1998**

8. Section 65 of the principal Act is hereby repealed.

**Amendment of section 80 of Act 124 of 1998, as amended by section 8 of Act 33 of 2001 and section 24 of Act 3 of 2006** 10

9. Section 80 of the principal Act is hereby amended by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

“The Complaints and Compliance Committee established [by] in terms of section 17A of the [Electronic] Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000), must investigate and consider—” 15

**Substitution of certain words in Act 124 of 1998**

10. The principal Act is hereby amended by the substitution for the word “officer”, wherever it occurs, of the expression “employee of the postal company”.

**Short title** 20

11. This Act is called the Postal Services Amendment Act, 2006.