

REPUBLIC OF SOUTH AFRICA

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# POSTAL SERVICES AMENDMENT BILL

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*(As introduced in the National Assembly as a section 75 Bill; explanatory summary of Bill  
published in Government Gazette No. 25274 of 28 July 2003)  
(The English text is the official text of the Bill)*

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(MINISTER OF COMMUNICATIONS)

[B 40—2003]

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REPUBLIEK VAN SUID-AFRIKA

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# WYSIGINGSWETSONTWERP OP POSDIENSTE

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*(Soos ingedien by die Nasionale Vergadering as 'n artikel 75-wetsontwerp; verduidelikende  
opsomming van Wetsontwerp gepubliseer in Staatskoerant No. 25274 van 28 Julie 2003)  
(Die Afrikaanse teks is die amptelike vertaling van die Wetsontwerp)*

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(MINISTER VAN KOMMUNIKASIE)

[W 40—2003]

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**GENERAL EXPLANATORY NOTE:**

[                    ]     Words in bold type in square brackets indicate omissions from existing enactments.

                         Words underlined with a solid line indicate insertions in existing enactments.

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## **BILL**

**To amend the Postal Services Act, 1998, so as to provide anew for the application for and the issue of a licence to provide reserved postal services; and to provide anew for the requirements to provide a courier service in respect of unreserved postal services; and to provide for matters connected therewith.**

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 16 of Act 124 of 1998**

**1.** Section 16 of the Postal Services Act, 1998 (hereinafter referred to as the principal Act), is hereby amended by— 5

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

“**(2)** Subject to **[subsections (3) and (5)]** subsection (3), no application may be entertained to provide a reserved postal service unless such application is lodged pursuant to and in accordance with an invitation issued by the Minister in the *Gazette*.”; 10

(b) the substitution in subsection (4) for the words in paragraph (a) preceding subparagraph (i) of the following words:

“A reserved postal service of the postal company contemplated in this section**[, excluding a courier service in respect whereof the postal company must be licensed or registered separately,]** may be provided by a wholly-owned subsidiary of the postal company, without such subsidiary being required to hold a licence in terms of this Act, if—”; 15

(c) the deletion of subsection (5); and

(d) the substitution for subsections (9) and (10) of the following subsections, respectively: 20

“(9) The licences contemplated in subsections (1) and (3) **[and (5)]** must be granted on terms and conditions consistent with the objects of this Act to be determined by the Minister and stated in the licence.

(10) **[The]** After a licence contemplated in subsection (1) or (3) has been issued, the Minister must make known the terms and conditions **[contemplated in subsection (8)]** applicable to such licence by notice in the *Gazette*.”. 25

**Amendment of section 22 of Act 124 of 1998**

2. Section 22 of the principal Act is hereby amended by the substitution for paragraph (d) of the following paragraph:

- “(d) A person may not be registered to provide a courier service in terms of this section unless that person undertakes— 5
- (i) to receive, collect and deliver items contemplated in item 1(b) of Schedule 2; **[or]**
  - (ii) **[to render any service contemplated in subparagraphs (ii) to (v) of section 16(5)(d), in respect of items contemplated in item 1(b) of Schedule 2]** to track and trace the whereabouts of any item received or 10  
collected for delivery by such person’s business undertaking;
  - (iii) to deliver items within a definite time, in the case of deliveries across international borders;
  - (iv) to deliver items within the Republic at the latest by 13:00 on the first 15  
working day after receipt thereof; and
  - (v) to clear items through customs, where applicable.”

**Short title**

3. This Act is called the Postal Services Amendment Act, 2003.

**MEMORANDUM ON THE OBJECTS OF THE POSTAL SERVICES  
AMENDMENT BILL, 2003**

**1. OBJECT OF BILL**

1.1 The Bill proposes amendments to the Postal Services Act, 1998 (Act No. 124 of 1998) ("the Act"), so as to protect the exclusivity of the South African Post Office to provide reserved postal services.

1.2 The proposed amendment to section 16 of the Act ensures that the exclusivity of the Post Office will be protected for the time specified by the Minister of Communications in the licence issued to the South African Post Office. It is further proposed that courier services should only be licensed to provide unreserved services and not reserved services. It is therefore proposed that subsection (5) of section 16 of the Act be deleted.

1.3 The proposed amendment of section 22 of the Act is as a result of the deletion of section 16(5) of the Act. Section 22 incorporated certain obligations on persons who provide courier services in respect of unreserved postal services by reference to section 16(5).

**2. INSTITUTION CONSULTED**

The South African Post Office.

**3. FINANCIAL IMPLICATIONS FOR STATE**

None.

**4. PARLIAMENTARY PROCEDURE**

The State Law Advisers and the Department of Communications are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.