

REPUBLIC OF SOUTH AFRICA

POSTAL SERVICES AMENDMENT BILL

*(As introduced in the National Assembly as a section 75 Bill; explanatory summary of Bill
published in Government Gazette No 22641 of 31 August 2001)
(The English text is the official text of the Bill)*

(MINISTER OF COMMUNICATIONS)

[B 63—2001]

ISBN 0 621 31325 4

No. of copies printed 1 800

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.

BILL

To amend the Postal Services Act, 1998, so as to amend the definition of Regulator; to make fresh provision for the composition of the Postal Regulator; and to enable the postal company to provide insurance of mail and postal articles; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 124 of 1998

1. Section 1 of the Postal Services Act, 1998 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of “Regulator” of the following definition: 5

“ ‘Regulator’ means the **[Directorate: Postal Regulation contemplated in]** Postal Regulator established by section 3(1);”.

Amendment of section 3 of Act 124 of 1998

2. Section 3 of the principal Act is hereby amended— 10

(a) by the substitution for subsection (1) of the following subsection:

“(1) A **[Regulator]** Directorate: Postal Regulation to be known as the **[Directorate: Postal Regulation]** Postal Regulator is hereby established within the Department.”; and

(b) by the deletion of subsection (5). 15

Amendment of section 4 of Act 124 of 1998

3. Section 4 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsections:

“(1) The Regulator consists of **[two persons, of whom]**—

(a) **[one must be the most senior officer in the Postal Policy Division of the Department, who must be designated the Chairperson of the Regulator, or, subject to subsection (2), an officer acting in his or her position]** a Chairperson appointed by the Minister for a period of no more than five years; and 20

(b) **[the other must be a fit and proper person with appropriate qualifications appointed by the Minister for a period of not more than five years]** two officers of the Department designated by the Minister, one of whom must be designated as the deputy chairperson.

(1A) The Chairperson appointed in terms of subsection (1)(a) must be a fit and proper person with appropriate qualifications. 5

(1B) Whenever the Chairperson is absent or unable to perform his or her duties, the deputy chairperson contemplated in subsection (1)(b) must act in his or her stead and when so acting, may perform any function of the Chairperson.”.

Substitution of section 5 of Act 124 of 1998 10

4. The following section is hereby substituted for section 5 of the principal Act:

“Reappointment and termination

5. The Minister may—

(a) reappoint the person appointed in terms of section 4(1)(a) upon the expiry of his or her term of office; and 15

(b) terminate the appointment of such person in accordance with the procedures applicable to State employees if there are sound reasons to terminate the appointment.”.

Substitution of section 17 of Act 124 of 1998

5. The following section is hereby substituted for section 17 of the principal Act: 20

“Duration of licence

17. Subject to **[section 16(7)]** section 16(3), a licence issued in terms of this Act is valid for the period prescribed or for such shorter period as may be determined by the Regulator in any particular case and stipulated in the licence at the time of issue thereof.”. 25

Insertion of section 30A in Act 124 of 1998

6. The following section is hereby inserted in the principal Act after section 30:

“Insurance of mail and postal articles

30A. The postal company may provide for the insurance of mail or postal articles subject to such terms and conditions as may be prescribed, and may enter into an agreement with any postal authority for the reciprocal exchange of insured mail or postal articles.”. 30

Amendment of section 35 of Act 124 of 1998

7. Section 35 of the principal Act is hereby amended by the substitution in subsection (1) for the words following upon paragraph (c) of the following words: 35

“must be sent to the office known as the returned letter office or any authorised branch of such office and dealt with as may be determined by the postal company.”.

Amendment of section 80 of Act 124 of 1998

8. Section 80 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 40

“(1) Any person who operates a postal service except **[in terms of]** in accordance with this Act **[or]** and in terms of a licence or registration certificate issued to that person in terms of this Act is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both a fine and such imprisonment.”. 45

Amendment of Schedule 1 to Act 124 of 1998

9. Schedule 1 to the principal Act is hereby amended—

- (a) by the substitution in item 1 for paragraph (a) of the following paragraph:
 “(a) all letters, postcards, printed matter, small parcels and other postal articles subject to the mass **[and]** or size limitations **[of paragraph]** set out in item 3;”;
- (b) by the substitution for items 2 and 3 of the following items, respectively:
 “2. For **[the]** purposes of this Schedule, a letter means any form of written communication or other document, article or object that is directed to a specific person or persons or specific address and is to be conveyed other than by electronic means and includes a parcel, package or wrapper containing any such communication or article conforming to the mass **[and]** or size limitations set out in **[paragraph]** item 3.
 3. The reserved postal services include all items described in **[paragraphs]** items 1(a) and 2 of a mass up to and including one kilogram **[as well as dimensions]** or size which **[enable]** enables it to fit into a rectangular box with the following dimensions:
 length 458 mm
 width 324 mm
 thickness 100 mm
 Cylinders having a maximum length of 458 mm and 100 mm thickness **[and]** or a mass of up to one kilogram are regarded as letters.”; and
- (c) by the deletion of paragraph (d) of item 4.

Amendment of Schedule 2 to Act 124 of 1998

10. Schedule 2 to the principal Act is hereby amended by the substitution in item 1 for paragraph (a) of the following paragraph:

- “(a) all letters, postcards, printed matter, small parcels and other postal articles **[larger or heavier than the dimensions set out in item 3 of Schedule 1] that fall outside the ambit of the reserved services set out in Schedule 1** up to and including thirty kilograms;”.

Substitution of certain words in Act 124 of 1998

11. The principal Act is hereby amended—

- (a) by the substitution in section 9(1) for the word “him” of the expression “him or her”; and
- (b) by the substitution in section 60(4) for the word “he” of the expression “he or she”.

Transitional provision

12. (1) The Minister may require the person employed in terms of section 4(1)(b) of the principal Act immediately before the commencement of this Act to remain in office until the expiry of the person’s term of office.

(2) In that event, that person must serve as deputy chairperson of the Postal Regulator established by section 3(1) of the principal Act in place of one of the officials contemplated in section 4(1)(b) of the said Act until the expiry of the person’s term of office, subject to subsection (3).

(3) The Minister may at any time terminate the employment of that person in accordance with applicable laws.

Short title

13. This Act is called the Postal Services Amendment Act, 2001.

MEMORANDUM ON THE OBJECTS OF THE POSTAL SERVICES AMENDMENT BILL, 2001

1. OBJECT OF BILL

1.1 The object of the Bill is to provide for a number of amendments to the Postal Services Act, 1998 (Act No. 124 of 1998) ("the Act").

1.2 The Bill seeks to amend the definition and the composition of the Postal Regulator ("the Regulator"). It is proposed that the Regulator consists of a Chairperson, appointed by the Minister of Communications ("the Minister") for a period of no more than five years, and two officers from the Department of Communications ("the Department"), designated by the Minister. The Chairperson is no longer required to be the most senior person in the Postal Policy Division of the Department.

1.3 Section 22 of the Act requires that unreserved postal service providers should apply for registration to the Regulator within 90 days of the commencement of the Act (1 April 2000) or such extended period as the Regulator may allow. No service provider has applied within the 90 days period and the period has not been extended. However, it is proposed that service providers be given another change to register and that the Regulator be given a discretion to register the services.

1.4 It is also proposed that the Post Office be allowed to insure mail and postal articles.

1.5 Lastly, the Bill seeks to make provision that authorised branches of the returned letter office may deal with undelivered articles, to effect certain textual improvements and to make provision for transitional provisions regarding the Regulator.

2. INSTITUTIONS CONSULTED

The South African Post Office.

3. FINANCIAL IMPLICATIONS FOR STATE

The remuneration of the Chairperson of the Regulator.

4. PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Communications are of the opinion that the 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.