

REPUBLIC OF SOUTH AFRICA

POSTAL SERVICES AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 75); explanatory summary of
Bill and prior notice of its introduction published in Government Gazette No. 42027
of 9 November 2018)*
(The English text is the official text of the Bill)

(MINISTER OF TELECOMMUNICATIONS AND POSTAL SERVICES)

[B 45—2018]

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- (b) by the deletion of the definition of “courier service”;
- (c) by the insertion before the definition of “Department ” of the follows definition:
“**‘day’** means any day excluding a public holiday and a weekend;”;
- (d) by the substitution for the definition of “Department” of the following definition: 5
“**‘Department’** means the Department [**of Communications**] responsible for telecommunications and postal services;”;
- (e) by the insertion after the definition of “Department” of the following definition: 10
“**‘designated operator’** means an operator determined by the Minister in consultation with the Authority to provide universal postal services in terms of section 24A;”;
- (f) by the insertion after the definition of “Director-General” of the following definition: 15
“**‘extra-territorial office of exchange’** means an office or facility established and operated by a licensed foreign operator in the Republic;”;
- (g) by the substitution for the definition of “postal authority” of the following definition: 20
“**‘foreign operator’** means any duly constituted postal operator of any foreign country or place;”;
- (h) by the substitution for the definition of “letter” of the following definition: 25
“**‘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 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 a mass of up to one kilogram;” 30
- (i) by the insertion after the definition of “letter” of the following definition:
“**‘licence’** means licence to provide reserved or unreserved postal services issued by the Authority under this Act;”;
- (j) by the substitution for the definition of “money order” of the following definition: 35
“**‘money order’** means a money order issued in terms of this Act or by any [**postal authority**] foreign operator for payment in terms of this Act;”;
- (k) by the insertion after the definition of “money order” of the following definitions: 40
“**‘National Address Database’** data sets as defined in the Spatial Infrastructure Act, 2003 (Act No. 54 of 2003);
“**‘organ of state’** means an organ of state as defined in section 239 of the Constitution;” 45
- (l) by the deletion of the definition of “National Savings Certificate”
- (m) by the insertion before the definition of “postage” of the following definition:
“**‘person’** means a natural or juristic person;”;
- (n) by the deletion of the definition of “postal authority”;
- (o) by the substitution for the definition of “postal company” of the following definition: 50
“**‘postal company’** means the [**postal company contemplated in section 3(1) of the Post Office Act, 1958 (Act No. 44 of 1958)**] South African Post Office SOC Ltd contemplated in section 3(1) of the South African Post Office SOC Ltd Act, 2011 (Act No. 22 of 2011);” 55
- (p) by the substitution for the definition of “postal order” of the following definition:
“**‘postal order’** means a postal order issued under this Act or by any [**postal authority**] foreign operator for payment under this Act;”;
- (q) by the substitution for the definition of the “postal services” of the following definition: 60
“**‘postal service’** means a reserved postal service or an unreserved postal services as [**contemplated in Schedule 1 and Schedule 2, respectively**] defined in this Act;”;

- (r) by the insertion after the definition of “postal service” of the following definition:
 “**‘postal services operator’** means any person licensed in terms of Chapter III to provide reserved or unreserved postal services;”;
- (s) by the substitution for the definition of “post office” of the following definition: 5
 “**‘Post Office’** [includes any house, building, room, vehicle, place or structure where postal articles are received, sorted, delivered, made up or dispatched or which is used for any other purpose in connection with the rendering of any postal, savings, money transfer or other service by the postal company and any pillar box or other receptacle provided by or with the approval of the Department or the postal company for the reception of postal articles;] means the Post Office as defined in the South African Post Office SOC Ltd Act, 2011 (Act No. 22 of 2011);”;
- (t) by the insertion after the definition of “post office” of the following definition:
 “**‘Post Office Act’** means the Post and Telecommunications Related Matters Act, 1958 (Act No. 58 of 1958);”;
- (u) by the substitution for the definition for the “reserved postal services” of the following definition: 20
 “**‘reserved postal services’** means the services [contemplated in Schedule 1] that can only be provided by the designated operator as determined by the Minister in the *Gazette* in consultation with the Authority;”;
- (v) by the insertion after the definition of “this Act” of the following definition:
 “**‘underserved area’** means the geographically identified area prescribed by the Authority in accordance with this Act;”;
- (w) by the substitution for the definition of “universal postal services” of the following definition: 30
 “**‘universal postal services’** means [a universal service as defined in a licence issued in terms of section 16] the equitable and accessible provision of minimum range of postal services to all citizens without discrimination and regardless of physical location as prescribed by the Authority;”;
- (x) by the insertion after the definition of “universal postal service” of the following definition:
 “**‘unreserved postal operator’** means an operator licenced to provide unreserved postal services in accordance with this Act;”;
- (y) by the substitution for the definition of “unreserved postal services” of the following definition: 40
 “**‘unreserved postal services’** means [the services contemplated in schedule 2] the delivery and or courier of all letters, postcards, printed matters, small parcels and other postal articles up to and including 30kg;” and
- (z) by the insertion after the definition of “unreserved postal services” of the following definition: 45
 “**‘value added services’** means services contemplated under section 44A;”;
- (za) by the deletion of the definition of “telecommunication company” 50
 (zb) by the deletion of the definition of “telecommunications line”.

Amendment of section 2 of Act 124 of 1998

2. Section 2 of the principal Act is hereby amended by the deletion of “and” at the end of paragraph (q) and by the insertion after paragraph (q) of the following paragraphs: 55
- “(qA) encourage and ensure the expansion of postal services and infrastructure including ICTs, government and value-added services;
- (qB) ensure the establishment of funding mechanisms for universal postal services; and
- (qC) ensure the regulation of extra-territorial offices of exchange;”.

Amendment of section 15 of Act 124 of 1998, as amended by section 1 of Act 33 of 2003, section 24 of Act 3 of 2006 and section 5 of Act 22 of 2006

3. Section 15 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The Minister may by notice in the *Gazette* make such amendments as may be necessary from time to time to the **[Schedules]** reserved postal services or unreserved postal services but may not, in so doing, cause any activity falling under unreserved postal services to fall under reserved postal services.”. 5

Amendment of section 16 of Act 124 of 1998, as amended by section 1 of Act 33 of 2003, section 24 of Act 3 of 2006 and section 5 of Act 22 of 2006 10

4. Section 16 of the principal Act is hereby amended by the substitution for subsection (7) of the following subsection:

“(7) The postal company and any other holder of a licence must comply with the conditions specified in the licence in question relating to the provision of postal services in **[areas and to communities which are not served or adequately served by postal services,]** underserved areas with a view to achieving universal postal service.”. 15

Substitution of section 20 of Act 124 of 1998

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

“Prohibition on operating unreserved postal service without [registration certificate] licence 20

20. No person may operate an unreserved postal service **[contemplated in Schedule 2]**, unless such person is **[registered]** licenced with the **[Regulator]** Authority in terms of this Act and is in possession of a **[registration certificate issued by the Regulator]** licence.”. 25

Insertion of section 20A in Act 124 of 1998

6. The following section is hereby inserted after section 20 of the principal Act:

“Categories of licences

20A. Upon receipt of an application made in accordance with section 21, the Authority must grant the following licences: 30

(a) International operator: licence to provide postal services and operated inbound and outbound deliveries on a world-wide network;

(b) regional operator: licence to provide postal services across the Southern African Development Community (SADC) region; 35

(c) national operator: licence to provide postal services nationally across the country;

(d) local operator: licence to provide postal services across a particular province, municipality or metropolitan only.”.

Substitution of section 21 of Act 124 of 1998, as amended by section 24 of Act 3 of 2006 40

7. The following section is hereby substituted for section 21 of the principal Act:

“Application for [registration] licence for unreserved postal services

21. (a) An application for **[registration with the Regulator]** a licence to operate an unreserved postal service must be in the format and in accordance with the procedure prescribed by the **[Regulator]** Authority and must be accompanied by the prescribed **[registration]** application fee. 45

(b) The Authority must, where it rejects an application, inform the applicant of the rejection and give reasons for the rejection. |