

No. 56 of 1996.

Postal Services Act 1996.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. 56 of 1996.

Postal Services Act 1996.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Postal Services Act 1996,

Being an Act relating to the obligations and constitution of Post PNG and to the provision of postal services and to repeal the *Post and Telecommunication Act* (Chapter 150), and for related purposes.

PART I. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

(1) This Act, to the effect that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the *Constitution*, namely–

- (a) the right to freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and
- (b) the right to freedom of expression conferred by Section 46 of the *Constitution*; and
- (c) the right to freedom of employment conferred by Section 48 of the *Constitution*; and
- (d) the right to privacy conferred by Section 49 of the *Constitution*,

is a law that is made for the purpose of giving effect to the public interest in public order and public welfare.

(2) For the purposes of Section 35 (*Protection from unjust deprivation of property*) of the *Constitution*, it is hereby declared that the provision of postal services of this Act is a public purpose.

2. INTERPRETATION.

(1)¹ In this Act, unless the contrary intention appears—

“**article**” means any matter or thing and includes—

- (a) a letter; and
- (b) a message or information; and
- (c) a direction to pay an amount of money; and
- (d) an envelope, packet, parcel, container or wrapper containing any matter or thing (including a letter, message, information or direction to pay an amount of money); and
- (e) a message, information or direction to pay an amount of money that is not in written form;

“**Board**” means that the Board of Directors of Post PNG;

“**carriage**” in relation to a postal article, means—

- (a) carriage of the postal article from one place to another by physical means (and includes the collection or receipt of the postal article for carriage and delivery of the postal article after carriage); or
- (b) where the postal article is an unwritten communication—transmission of the postal article from one place to another by electromagnetic or other non-physical means (and includes the collection or receipt of the communication (whether in written or unwritten form) for transmission and delivery of the communication (whether in written or unwritten form) after transmission);

“**carriage by post**”, in relation to a postal article, means a postal article carried by or through Post PNG;

²“**convention**” means a convention relating to postal matters to which Papua New Guinea or Post PNG is a party or an arrangement or agreement between Papua New Guinea or Post PNG and a foreign postal administration;

“**Customs Act**” means any Act relating to duties of custom in force within Papua New Guinea and all orders and regulations made under any such Act or Acts;

“**employee**” means any employee or officer in the service of Post PNG;

“**erect**” includes construct, lay down and place;

“**Head Office**” means the head office of Post PNG;

¹ Section 2 Subsection (1) amended by No. 22 of 2002, s. 1; Subsection (1) amended by No. 22 of 2002, s. 1.

² Section 2 Subsection (1) amended by No. 22 of 2002, s. 1; Subsection (1) amended by No. 22 of 2002, s. 1.

“letter” means any form of written communication that is directed to a particular person or address, and includes—

- (a) any standard postal article; and
- (b) any envelope, postcard, packet, parcel, container or wrapper containing such a communication; and
- (c) any enclosed written communication that is directed to a particular person or address;

“letter service” means the service provided by Post PNG under Section 7;

“Managing Director” means the Managing Director of Post PNG;

“money order” means a money order issued under this Act or by any postal authority for payment under this Act and includes Salim Moni Kwik and other methods of remitting funds;

“ordinary post” in relation to the carrying of a postal article, has the meaning given by Subsection (2);

“post-box” means any receptacle established by Post PNG for the lodgment, receipt or handling of post articles;

“post office” means office established by Post PNG in Papua New Guinea for the provision of postal services (and includes, without limitation, a house, building, room, place or structure where postal articles are by permission or under the authority of Post PNG received, delivered, sorted or made up from or from which postal articles are despatched);

“Post PNG” means Post PNG Limited, a company incorporated or to be incorporated under the *Companies Act* (Chapter 146), being the company to which the assets, rights and liabilities relating to the postal services division of Post and Telecommunication Corporation were transferred under the *Post and Telecommunication Corporation (Corporatisation) Act 1996*;

“Post and Telecommunication Corporation” means the statutory body established under the *Post and Telecommunication Corporation Act* (Chapter 394);

“postage” in relation to a postal article, means the amount payable for the carriage of the postal article by post (including any special charge or additional fee payable for special services supplied in relation to the carriage of the postal article);

“postage stamp” includes an imprinted or printed mark, label or design authorized by Post PNG for the purpose of paying postage for a postal article;

“postal article” means an article of a kind that under the terms and conditions on which Post PNG supplies postal services, may be carried by post;

“postal order” means a postal order issued under this Act or by any postal authority for payment under this Act;

“postmaster” means the officer-in-charge of a post office;

³**“regulated industry”** has the same meaning as in the Independent Consumer and Competition Commission Act 2002;

⁴**“regulatory contract”** has the same meaning as in the Independent Consumer and Competition Commission Act 2002;

“Salim Moni Kwik” or **“SMK”** means a transmission of funds from one place to another by electromagnetic means and is a form of money order;

“standard postal article” means a postal article that satisfies all the following criteria:–

- (a) it does not weigh more than 250 grams;
- (b) it is not more than 5mm thick;
- (c) its other two dimensions form a rectangle–
 - (i) two of whose sides are shorter than the other sides; and
 - (ii) the shorter sides of which are not more than 122mm long; and
 - (iii) the longer sides of which are not more than 237mm long; and
 - (iv) the adjacent sides of which are in the ratio of 1 to at least 1.414;

“this Act” includes the regulations;

“Universal Postal Union Regulations” or **“UPU Regulations”** means the Universal Postal Union Regulations, as amended from time to time, and includes appendices, annotated acts and codes, arrangements to those regulations and any additional agreements or regulations published by the International Bureau of the Universal Postal Union in pursuance of the agreement concluded by the postal administration of member countries concerned in the Universal Postal Union Congress;

“unwritten communication” includes a message, information or direction to pay an amount of money, that is not in written form.

(2) For the purposes of this Act, an article is carried by ordinary post if the article is carried by means of the letter service in such a way as will not involve the supply of a special service for which a special charge or additional fee is payable in relation to the carriage of the article.

(3) Unless the contrary intention appears, any words or phrases used in this Act and not defined in this Act and used in the Universal Postal Union Regulations

³ Section 2 Subsection (1) amended by No. 22 of 2002, s. 1.

⁴ Section 2 Subsection (1) amended by No. 22 of 2002, s. 1.

have the same meaning or interpretation given to them in the Universal Postal Union Regulations.

3. DECLARATION TO BE TAKEN BY OFFICERS.

⁵(1) Every officer shall, before exercising the duties of his office, take and subscribe before a Commissioner for Oaths a declaration in the form set out in the Schedule.

(2) A failure by an officer to comply with Subsection (1) –

- (a) shall not affect the officer's responsibility and obligation to act in accordance with the terms of the declaration set out in the Schedule; and
- (b) shall not invalidate any act or thing done by the officer in exercising the duties of his office.

⁵ Section 3 Substituted by No. 22 of 2002, s. 2.

PART II.⁶ – POST PNG AND ITS BOARD.**4. POST PNG BOARD.**

⁷(1) There shall be a Board of Post PNG which shall consist of –

- (a) the Chairman; and
- (b) the Managing Director; and
- (c) not more than four other directors.

(2) In addition to the responsibilities conferred on the Board by Law and by Constitution of Post PNG, it is the role of the Board –

- (a) to decide the objectives, strategy and policies to be followed by Post PNG; and
- (b) to ensure that Post PNG performs its functions in a manner that is proper, efficient and, as far as practicable consistent with sound commercial practice.

(3) The Managing Director shall, subject to direction by the Board, manage Post PNG.

(4) The Chairman and other Directors (other than the Managing Director) –

- (a) shall be appointed by the shareholders of Post PNG; and
- (b) shall be appointed for such period not exceeding three years as is specified in the instrument of appointment; and
- (c) are eligible for re-appointment; and
- (d) shall hold office on a part-time basis on such terms and conditions as a specified in the instrument of appointment.

(5) The Managing Director –

- (a) shall be appointed by the Board; and
- (b) holds office during the Board's pleasure; and
- (c) holds office on a full-time basis;
- (d) holds office on such terms and conditions as are determined by the Board.

(6) The Board shall not appoint the Chairman or a Director referred in Subsection (1) (c) as Managing Director.

(7) In the event the Managing Director being dismissed from office or otherwise ceasing to hold office of Managing Director, the maximum amount payable by way of compensation, contractual entitlement or damages awarded by a Court, if

⁶ Part II Substituted by No. 22 of 2002, s. 3.

⁷ Section 4 Substituted by No. 22 of 2002, s. 3.

any, shall not exceed an amount equal to 12 months' salary for the Managing Director.

(8) in any action, whether instituted before or after the commencement of this section, claiming wrongful dismissal or other termination of appointment of a person as the Chairman, Managing Director or any other Director, the only remedy which maybe awarded by a Court shall be in damages and shall not include any order requiring re-instatement or re-employment of the person taking such actions.

5. ANNUAL REPORT AND AUDITED ACCOUNTS.

⁸(1) Post PNG shall, within six months after each year ending on 31 December, furnish to the Minister, for presentation to the Parliament, a report with respect to its operations in that year and including audited accounts for that year, certified by a qualified external company auditor.

(2) In addition to the reporting requirements referred to in Subsection (1), Post PNG shall provide half-yearly financial reports to its shareholders.

(3) If the annual report and audited accounts are not provided to the Minister, within the time specified in Subsection (1), the appointments of the Chairman, Managing Director and all of the other Directors, shall be automatically terminated from that date without any compensation being payable for early termination of those appointments.

(4) In the event that the appointments of the Chairman, Managing Director and other Directors are terminated in accordance with Subsection (3), the Departmental Head of the Department responsible for finance matters or his delegate shall assume the powers, functions and responsibilities of the Board and the Managing Director, until such time as new appointments to those positions are made in accordance with this Act.

5A. ACT TO PREVAIL OVER POST PNG CONSTITUTION..

⁹In the event of any inconsistency between any provision of this Act, and a provision of the Constitution of Post PNG, the Act shall prevail.

⁸ Section 5 Substituted by No. 22 of 2002, s. 3.

⁹ Section 5A Inserted by No. 22 of 2002, s. 3.

PART III. – POST PNG’S OBLIGATIONS AND RESERVED SERVICES.***Division 1.******Obligations.*****6. OBLIGATIONS GENERALLY.**

Post PNG has the following obligations:–

- (a)¹⁰ to provide a letter service within Papua New Guinea in accordance with Section 7;
- (b) its general governmental obligations under Section 8;
- (c) its other general obligations under Section 9.

7. POST PNG FUNCTIONS AND OBJECTIVES.

¹¹(1) Post PNG shall supply a letter service for the carriage within Papua New Guinea, by ordinary post, of letters that are standard postal articles.

(2) It is the objective of Post PNG that in view of the social importance of the letter service, the service be made available to as many people in Papua New Guinea as is commercially practicable.

(3) The letter service referred to in this section includes only delivery of a letter to a post office nearest to the recipient’s address, for collection by the recipient or his agent from that post office and does not include any obligation to deliver the letter to the recipient’s address or premises.

8. GENERAL GOVERNMENTAL OBLIGATIONS.

Post PNG shall perform its functions in a way consistent with–

- (a) any general policies of the Government notified by the Minister under Section 20; and
- (b) any directions given by the Minister under Section 21; and
- (c) the obligations under any convention.

9. OTHER GENERAL OBLIGATIONS.

(1) Post PNG shall cause postage stamps to be issued and sold at such amounts as determined by the Board.

(2)¹² ¹³Unless otherwise advised to the contrary by the Minister acting in accordance with a National Executive Council directive, Post PNG shall–

¹⁰ Section 6 Amended by No. 22 of 2002, s. 4.

¹¹ Section 7 Substituted by No. 22 of 2002, s. 5.

¹² Section 9 Subsection (2) substituted by No. 22 of 2002, s. 6.

¹³ Section 9 Subsection (2) substituted by No. 22 of 2002, s. 6.

- (a) act as adviser to the Government of Papua New Guinea on all matters relating to postal activity in Papua New Guinea; and
- (b) represent Papua New Guinea as a member of, and actively participate in, International bodies concerned with the administration of postal services or in which Post PNG has an interest.

(3)¹⁴ ¹⁵Post PNG may, with the prior approval in writing by the National Executive Council, enter into international agreements relating to postal activities where such agreements are in the best interests of Papua New Guinea.

Division 2.

Reserved Services.

10. SERVICES RESERVED TO POST PNG.

(1) Subject to Section 11, Post PNG has the exclusive right to carry letters within Papua New Guinea and between Papua New Guinea and places outside Papua New Guinea.

(2) The reservation of services to Post PNG under Subsection (1) extends to the collection and delivery of letters within, but not outside, Papua New Guinea, and applies in relation to letters irrespective of whether they originated within or outside Papua New Guinea.

(3) Post PNG also has the exclusive right—

- (a) to provide services for the registration of postal articles and the insurance of postal articles; and
- (b) to manufacture and issue postage stamps and philatelic products within Papua New Guinea; and
- (c) to market, including the sale of postage stamps and philatelic products in Papua New Guinea and elsewhere; and
- (d) to erect post-boxes, and to provide private box, private mail bag and lock mail bag services; and
- (e) to transact in money orders and postal orders within Papua New Guinea and between Papua New Guinea and other places; and
- (f) to regulate the sale, hire and use of franking machines; and
- (g) to fulfil, on behalf of the State, any obligations of the State under any convention, treaty or international agreement entered into by the State relating to postal activities.

(4)¹⁶ ¹⁷Post PNG may license persons to provide the services reserved to Post PNG under Subsections (1), (2) and (3), on payment of such license fees and on such terms and conditions as Post PNG shall determine.

¹⁴ Section 9 Subsection (3) inserted by No. 22 of 2002, s. 6.

¹⁵ Section 9 Subsection (3) inserted by No. 22 of 2002, s. 6.

11. EXCEPTIONS TO RESERVED SERVICES.

The services reserved to Post PNG do not include—

- (a) the carriage of a letter weighing more than 250 grams unless the letter consists of an envelope, packet, parcel, container or wrapper containing two or more separate letters; and
- (b) the carriage of a letter relating to goods that is sent and delivered with the goods; and
- (c) the carriage of newspaper, magazines, books, catalogue and leaflets; and
- (d) the carriage of a letter otherwise than for a reward; and
- (e) the carriage of a letter within Papua New Guinea for a charge or fee that is at least 20 times the then rate of postage for the carriage within Papua New Guinea of a standard postal article by ordinary post; and
- (f) the carriage of a letter by the sender or an officer or employee of the sender; and
- (g) the carriage of a letter from an office of the individual or organization sending the letter to another office of that individual or organization; and
- (h) the carriage of a letter to or from—
 - (i) the nearest office of Post PNG; or
 - (ii) another office of Post PNG authorized by it; and
- (i) the carriage of a letter on behalf of Post PNG under an agreement with it; and
- (j) the carriage of writs, warrants or other documents require or permitted to be served, given or sent under the practice and procedure of any court or tribunal; and
- (k) the carriage of a letter solely by any electromagnetic or other non-physical means; and
- (l) the carriage of an unwritten communication solely by any electromagnetic means or other non-physical means; and
- (m)¹⁸ any service that is being provided, in accordance with the terms of its license, by a person licensed by Post PNG under Section 10(4) to provide that service; and
- (n)¹⁹ any service that, under the regulations, is not reserved to Post PNG.

¹⁶ Section 10 Subsection (4) inserted by No. 22 of 2002, s. 7.

¹⁷ Section 10 Subsection (4) inserted by No. 22 of 2002, s. 7.

¹⁸ Section 11 Amended by No. 22 of 2002, s. 8.

¹⁹ Section 11 Amended by No. 22 of 2002, s. 8.

11A. INCIDENTAL BUSINESSES AND ACTIVITIES.

²⁰PNG Post may carry on any business or activity that is capable of being conveniently carried on –

- (a) by the use of resources that are not immediately required in providing reserved services; or
- (b) in the course of supplying postal services or operating post offices.

12. ACTIONS FOR INFRINGEMENT OF RESERVED SERVICES.

(1) Where a person has engaged, or is proposing to engage, in conduct that involves, or would involve, an infringement of an exclusive right that Post PNG has under this Act, Post PNG may apply to the National Court for relief.

(2) The relief that may be granted includes an injunction and, at the option of Post PNG, either damages or an account of profits.

(3) Where, in the opinion of the National Court, it is desirable to do so, the Court may grant an interim injunction pending determination of an application under Subsection (1).

(4) The power of the National Court to grant an injunction restraining a person from engaging in conduct may be exercised–

- (a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind; and
- (b) whether or not the person has previously engaged in conduct of that kind; and
- (c) whether or not there is imminent danger of substantial damage to Post PNG if the person engages in conduct of that kind.

Division 3.***Arrangements for foreign postal articles.*****13. ARRANGEMENTS FOR FOREIGN POSTAL ARTICLES.**

Post PNG may make arrangements with the proper authorities of a foreign country with respect to–

- (a) the carriage by air, land or sea or a combination thereof of postal articles between Papua New Guinea and a foreign country; and
- (b) the appointment, determination and collection of postage and fees or other charges on postal articles conveyed between Papua New Guinea and a foreign country; and
- (c) the division and mutual accounting for the payment of the funds collected under any such arrangements; and

²⁰ Section 11A Inserted by No. 22 of 2002, s. 9.

- (d) the purposes specified in Paragraph (a), (b) and (c) in the case of postal articles carried through Papua New Guinea to or from any part of the world; and
- (e) the payment, in full or otherwise, of the postage payable on the postal articles; and
- (f) the carriage, to places out of Papua New Guinea free of postage or on such terms as to the amount of postage or fees to be collected and paid on delivery and as to the application and payment of the amount as may be agreed on, of postal articles posted in Papua New Guinea; and
- (g) the collection, application and payment of postage or fees on postal articles received from places out of Papua New Guinea on which no postage or insufficient postage has been paid; and
- (h) the payment of compensation for the loss or injury of any registered postal articles.

Division 4.

Money orders and postal orders.

14. ARRANGEMENTS FOR MONEY ORDERS AND POSTAL ORDERS.

(1) Post PNG may make arrangements for the issue and payment of money orders and postal orders—

- (a) within Papua New Guinea; and
- (b) between Papua New Guinea and a foreign country,

and for the accounting for, and remittance of, moneys required for that purpose.

(2) A money order or postal order issued under this Act and not presented for payment within 12 months from the last day of the month of issue shall be payable under such conditions as are determined by Post PNG.

15. ORDERS DEEMED VALUABLE SECURITY.

Every money order and postal order shall be deemed a valuable security within the meaning of any law relating to larceny.

16. NO TAX ON MONEY ORDERS OR POSTAL ORDERS.

No stamp duty, tax, levy or imposts (whether national, provincial or National Capital District Commission), shall be charged, levied or imposed on any money order or postal order issued or paid under this Act or on or in connection with any fees or charges for or on any money order or postal issued or paid under this Act.

PART IV. – POST PNG’S OPERATIONS.

Division 1.

Terms and conditions applying to services.

17. RATES OF POSTAGE AND OTHER CHARGES.

(1) Subject to Section 19–

- (a) amounts to be charged for or in connection with work done, or services, goods or information supplied by Post PNG shall be determined by the Board or an authorized person within the meaning of Section 31(2); and
- (b) without limiting the generality of Paragraph (a), the rates of postage payable for the carriage of a postal article shall be the rates determined by the Board for the carriage of that postal article.

(2) The Board shall ensure that the rates of postage payable for the carriage of a postal article are made available for inspection and purchase at Head Office, a post office or such other places as the Board may determine.

18. TERMS AND CONDITIONS GENERALLY.

(1)²¹ ²²Subject to Section 19 and any express provision of this Act, the terms and conditions of a service supplied by Post PNG are–

- (a) so far as the regulations specify the terms and conditions for the supply of the service–the terms and conditions specified in the regulations applicable to the supply of the service; and
- (b) so far as the regulations–
 - (i) do not specify the terms and conditions for the supply of the service; or
 - (ii) provide for Post PNG to determine the terms and conditions for the supply of the service,

the terms and conditions determined by the Board or an authorized person within the meaning of Section 31(2) that are applicable to the supply of the service.

(2) Without limiting Subsection (1), the terms and conditions determined by the Board may make provision with respect to–

- (a) the kinds of articles that may be carried by post and the means by which different kinds of articles may be carried; and
- (b) the carriage of letters and other postal articles; and
- (c) rates of postages; and

²¹ Section 18 Subsection (1) amended by No. 22 of 2002, s. 10.

²² Section 18 Subsection (1) amended by No. 22 of 2002, s. 10.

- (d) amount to be changed for work done, or services, goods or information supplied by Post PNG; and
- (e) the payment of postage, including the issue and sale of postage stamps, the pre-stamping of postal articles and the use of franking machines; and
- (f) the carriage of letters to or from an office of Post PNG that is not the nearest office of Post PNG; and
- (g) undelivered letters and other articles (including the forfeiture and destruction of such articles); and
- (h) the publications that may be carried by post as qualified publications.

(3) Where the Board determines terms and conditions applicable to the supply of a service, copies of the determination made by it under this Section shall be made available for inspection and purchase at Head Office as soon as practicable after the determination is made.

(4) A contravention of Subsection (3) in relation to a determination does not affect the validity of the determination.

19. POSTAL SERVICES IS A REGULATED INDUSTRY.

²³(1) The supply of Postal Services is declared to be a regulated industry for the purposes of the Independent Consumer and Competition Commission Act 2002.

(2) Any determination of rates or charges made by Post PNG under Section 17 or 18 shall not be inconsistent with the provisions of any regulatory contract which is in effect in relation to Post PNG.

(3) If any term or condition for the supply of goods or services by Post PNG conflicts with, or is inconsistent with, any term or condition of the regulatory contract relating to Post PNG, the provisions of the regulatory contract shall prevail and the terms and conditions determined by Post PNG, to the extent of any inconsistency, shall be of no effect.

Division 2.

Other accountability requirements.

20. MINISTER MAY NOTIFY THE BOARD OF GENERAL POLICIES OF GOVERNMENT.

²⁴(1) The Minister may notify the Board, in writing, of general policies of the Government as approved by the National Executive Council, that are to apply to Post PNG.

(2) Any notification under Subsection (1) shall be published in the National Gazette within 14 days of the notification being given.

²³ Section 19 Substituted by No. 22 of 2002, s. 11.

²⁴ Section 20 Substituted by No. 22 of 2002, s. 12.

(3) Any general policies of the Government notified in accordance with this section shall not be inconsistent with or contrary to any of the provisions contained in any regulatory contract which is in effect in relation to Post PNG.

(4) If any general policy of the Government notified to the Board under this section is inconsistent with the regulatory contract referred to in Subsection 4, that notification shall, to the extent of the inconsistency, be of no effect.

(5) The Board shall ensure that policies notified to it in accordance with this Section are carried out.

(6) The Board shall not have regard to any notification or purported notification which does not comply with the requirements of this section.

21²⁵. [REPEALED.]

22. POST PNG AND BOARD NOT OTHERWISE SUBJECT TO GOVERNMENT DIRECTION.

Except as otherwise provided by or under this or any other Act, Post PNG and its Board are not subject to direction by or on behalf of the Government.

²⁵ Section 21 Repealed by No. 22 of 2002, s. 13.

PART V. – NOTICE AND LIMITATIONS OF ACTIONS.**23. NOTICE AND LIMITATIONS OF ACTION.**

(1) Subject to Sections 24 and 25, any action against Post PNG, the Board, the Managing Director or any officer of Post PNG for anything done or omitted to be done under this Act shall be commenced within six months after the act is done or omitted to be done.

(2) An action under Subsection (1) shall not be commenced until one month after notice of, and the cause of, the action has been duly served on the defendant.

(3) On the back of the notice under Subsection (1) shall be endorsed the name and place of abode or business of the plaintiff and his lawyer or agent if the notice is served by a lawyer or agent.

24. IMMUNITY FROM ACTIONS.

An action or other proceeding shall not be maintainable against Post PNG, the Board, the Managing Director or any officer of Post PNG, in relation to any loss or damage suffered, or that may be suffered, by a person by reason of any act, default, delay, error, omission or loss (whether negligent or otherwise) by or on behalf of Post PNG in the carriage or delivery of, or otherwise in relation to, a postal article by means of the letter service.

25. ACTIONS IN RELATION TO MONEY ORDERS OR POSTAL ORDERS.

²⁶(1) Post PNG shall exercise reasonable care and diligence when paying the amount of a money order or a postal order in determining that the person presenting the money order or the postal order for payment is properly entitled to receive payment for the amount of that money order or postal order.

(2) Subject to Subsection (1), an action or other proceedings shall not be maintainable against Post PNG or the Board, the Managing Director or an officer of Post PNG in respect of a money order or postal order after its payment to whomsoever presented it if it was paid without fraud or wilful misbehaviour.

²⁶ Section 25 Substituted by No. 22 of 2002, s. 14.

PART VI. – PENALTIES.

26. PENALTY FOR INFRINGEMENT OF RESERVED SERVICES.

A person, who engages in conduct that involves an infringement of an exclusive right that Post PNG has under this Act, is guilty of an offence.

Penalty: A fine not exceeding K50,000.00 or imprisonment for a term not exceeding 10 years, or both.

27. PENALTY FOR PLACING PLACARDS ON POST PNG PROPERTY.

A person not duly authorized for that purpose (proof of which is on him), who places any placard or other document, writing, or painting on, or who otherwise defaces, any building or property (including, without limitation, a post-box) of Post PNG, is guilty of an offence.

Penalty: A fine not exceeding K5,000.00 or imprisonment for a term not exceeding two years or both.

28. PENALTY ON UNAUTHORIZED PERSON OPENING POSTAL ARTICLES.

²⁷A person, not being the addressee or an officer or employee of the addressee or a postmaster or a person authorized for the purpose (proof of which is on him) by the Managing Director, who, on any pretence, opens or endeavours to open any postal articles, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding five years, or both.

²⁷ Section 28 Amended by No. 22 of 2002, s. 15.

PART VII. – MISCELLANEOUS.**29. CONTRIBUTIONS MAY BE ACCEPTED.**

Post PNG may arrange or contract with any local governing body or person applying to it to establish or provide any special or additional facilities (postal or other) for the contribution by the body or person towards the expense of establishing or providing the facilities or for indemnifying Post PNG against any loss it may sustain by establishing or providing the facilities.

30. POST-BOXES.

(1) Post PNG may erect, maintain and use post-boxes in any public road, street or highway or in any other public place.

(2) Subject to Subsection (3), Post PNG shall keep in good order all post-boxes erected by it.

(3) Post PNG may remove any post-boxes erected by it.

31. DELEGATION.

(1) Where under this Act a matter is to be determined by Post PNG, that matter shall be determined by the Board or an authorized person.

(2) In Subsection (1), “authorized person” means an officer of Post PNG who is for the time being, authorized by the Board for the purposes of this section.

32. ACTION TO RECOVER POSTAGE.

In any action or other proceeding for the recovery of any postage or fee payable in respect of a postal article—

- (a) the person from whom the article purports to have come shall be deemed to be the sender of it and the onus of proving that the article did not come from or was not sent by him rests on the person proceeded against; and
- (b) the post office stamp or mark denoting that the article has been refused or that the person to whom the article is addressed is dead or cannot be found is *prima facie* evidence of the refusal or that the person is dead or cannot be found; and
- (c) the post office stamp, or mark on the stamp, denoting the postage or fee, is *prima facie* evidence of the liability of the article to the postage or fee and that the sum or marked on it is payable in respect of it.

33. POSTAL ARTICLES DEEMED TO BE IN COURSE OF POST.

In any action or other proceeding every postal article in charge of, or being carried by, a postmaster, officer or servant of Post PNG or other person employed by,

or under, Post PNG shall, until the contrary is approved, be deemed to be in the course of being sent by post.

34. POSTAL ARTICLES CARRIED BY POST TO BE TAKEN TO BE POST PNG'S PROPERTY.

For the purpose of any legal proceeding or action in relation to a postal article carried by post or under the control of Post PNG, the article shall be taken to be, while it is being carried by post or under the control of Post PNG, the property of Post PNG.

35. REGULATIONS.

(1) The Head of State, acting on advice, may make regulations not inconsistent with this Act prescribing matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act and may, in particular, make regulations with respect to—

- (a) the terms and conditions (other than rates of postage or amounts to be charged) applicable to the supply of postal and related services by Post PNG including, without limitation—
 - (i) prescribing the form and mode of packaging and dealing with postal articles and qualified publications; and
 - (ii) providing for the receipt, carriage, delivery, return or other disposal of postal articles; and
 - (iii) prescribing the form and mode of dealing with registered postal articles and insured postal articles; and
 - (iv) providing for private boxes and private bags; and
 - (v) providing for the payment by any person instead of the sender of the postage payable on any postal article; and
- (b) the form and mode of dealing with the manufacturing, marketing and sale of postage stamps including licensing of vendors and arrangements with philatelic outlets; and
- (c) the form and mode of dealing with the licensing and use of franking machines; and
- (d) the conditions relating to the issue, payment and cancellation of money orders and postal orders.
- (e) the arrangements for collecting duties of customs and other duties payable in relation to postal articles carried by post; and
- (f) dealing with postal articles that may contain goods on which duties of customs or other duties are payable; and
- (g) the forfeiture and destruction of postal articles carried by post; and

- (h) the opening and examination of postal articles, and the examination of contents of postal articles, carried by post; and
- (i) prescribing penalties of fines not exceeding K15,000 and/or imprisonment for a term not exceeding ten years for offences against this Act.

(2) The power to make regulations extends to the making of regulations binding not only Post PNG, and officers and persons having dealings with Post PNG, but on all persons.

36. REPEAL AND SAVING.

(1) The following Acts are repealed:—

- (a) *Post and Telecommunications Act* (Chapter 150).
- (b) *Post and Telegraph (Amendment) Act* 1990.

(2) A licence to use a franking machine issued under an Act repealed by Subsection (1) (or under Regulations made under an Act repealed by Subsection (1)) and valid and in force immediately before the coming into operation of this Act, shall, on that coming into operation, continue to be valid and in force until it lapses or is otherwise terminated according to law.

(3) All instruments (other than regulations) made and all things done under an Act repealed by Subsection (1), and in force or having effect immediately before the coming into operation of this Act continue in force and have effects as if made under this Act.

SCHEDULE 1 – DECLARATION OF OFFICE.

Sec.3.

“I, ... , do solemnly and sincerely declare that I will not willingly or knowingly open detain, return, or delay, or cause or suffer to be opened, detained, returned, or delayed, any postal article which comes into my hands, power or custody, by reason of my employment relating to Post PNG, except by the consent of the person, or persons, to whom the postal article is directed or by an express warrant in writing for that purpose under the hand of the Managing Director or unless otherwise in pursuance and under the authority of any of the provisions for the purpose contained in any Act, law, or duly authorized regulation, of Post PNG passed and made for or in relation to the postage and conveyance of postal articles, and I further declare that I will be true and faithful in the execution of the duties entrusted to me and that I will hold strictly secret all communications that may pass through my hands in the performance of my duties.”

Office of Legislative Counsel, PNG