

POSTAL SECTOR (AMENDMENT) BILL, 2023

(Bill No. 8 of 2023)

OBJECTS AND REASONS

1. The Postal Sector Act, 2010 was enacted to establish a Postal Regulator as a body corporate to regulate the postal sector.
2. As part of a review process to bring more efficiency within the postal sector, the amendments of this Bill proposes the following —
 - (a) to repeal the definitions of the “Seychelles Licensing Authority” as the function of granting of licence will now be undertaken by the Postal Regulator;
 - (b) giving additional powers and the functions to the Postal Regulator;
 - (c) Insertion of section 19, 20, 21, 22, 23, 23A, 23B, 23C, 23D and 23E in order to establish the Postal Regulator and giving it its powers, functions and other administrative requirements that the regulator shall now be required to comply with.

Dated this 24th day of July, 2023.

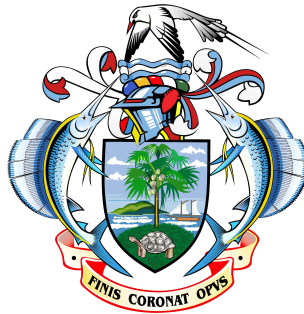
**NAADIR HASSAN
MINISTER OF FINANCE,
NATIONAL PLANNING AND TRADE**

POSTAL SECTOR (AMENDMENT) BILL, 2023*(Bill No. 8 of 2023)***ARRANGEMENT OF SECTIONS****Sections**

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(Bill No. 8 of 2023)



A BILL

FOR

AN ACT TO AMEND THE POSTAL SECTOR ACT, 2010 (*ACT 27 OF 2010*).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Postal Sector (Amendment) Act, 2023.

Amendment of Act 27 of 2010

2. This Act, amending the Postal Sector Act, 2010 (Act 27 of 2010), shall be read and construed as one with the Postal Sector Act, 2010 (Act 27 of 2010), and which, as amended, is hereinafter referred to as the “principal Act”.

Amendment of section 2

3. Section 2 of the principal Act is amended as follows —

- (a) by repealing the definition of “Seychelles Licensing Authority”;
- (b) by inserting in the definition of “franking meter machine” after the word “machine” the second time it appears the words “digital or otherwise”.

Amendment of section 6

4. Subsection 6(1) (e) of the principal Act is amended by inserting after the word “offices” the following words —

“on its own or in partnership with private entities for the provision of collection points and delivery points services”.

Amendment of section 8

5. Section 8 of the principal Act is amended as follows —

- (a) by deleting subparagraph 8(1)(b) and substituting therefore the following —

“produce philatelic products, pre-stamped envelopes, pre-stamped postcards and aerogrammes, international reply coupons and virtual, barcoded and non-fungible tokens”;
- (b) in subsection 2 —

- (i) at paragraph (b), by deleting the word “or”;
- (ii) at paragraph (c), by deleting the comma after the word “issues” and substituting therefor “; or”;
- (iii) by inserting after paragraph (c) the following paragraph —
 - “(d) in partnerships or sponsors from third parties as deemed fit by the Postal Operator.”.

Amendment to section 13

6. Section 13 of the principal Act is amended as follows —

- (a) at subsection (1), by deleting the words “Seychelles Licensing Authority on the advice of the Postal Regulator” and substituting therefor the following words “Postal Regulator upon application in the form and manner as provided by the Postal Regulator and upon payment of the prescribed fees.”;
- (b) at subsection (3), by deleting the words “Seychelles Licensing Authority” and substituting therefor the following words “Postal Regulator”;
- (c) by deleting subsection (4) and substituting therefor the following —

“(4) The Postal Regulator may request a person applying for a licence to submit such other documents or to provide such other information that will be necessary to enable the Postal Regulator to consider an application for a licence under this Act.

(5) In determining whether to grant, renew or vary a licence, the Postal Regulator shall have regard to —

- (a) whether the applicant is a fit and proper person to be granted a licence under this Act;
- (b) the promotion of healthy competition, the likelihood of unfair practices and how the interest of the consumer would be best served;
- (c) the public interest, public order and national security;
- (d) any agreement between Seychelles and any other State in relation to the postal service or courier service to be provided;
- (e) any international obligation, to which Seychelles is a party, in the field of postal services;
- (f) the views of any Government institutions or Authorities, including international bodies, consulted;
- (g) any direction issued by the Minister pertaining to matters of policy relating to the postal sector.

(6) After considering an application, the Postal Regulator may grant the application with such terms and conditions as may be necessary, or refuse the application.

(7) The Postal Regulator shall make its decision within 2 months from the time a complete application is submitted.

(8) Where the Postal Regulator refuses an application, it shall give written reasons for the refusal to the applicant.”.

Amendment of section 14

7. Section 14 of the principal Act is amended by repealing subsections (1) and (2), and the marginal note, and substituting therefor the following —

“Duration, renewal and revocation of licence

(1) A licence issued under this Act shall be valid for a period of five years.

(2) A licensee who wishes to renew the licensee's licence shall not later than 3 months before the expiry of the licence, give written notice of its intention to do so to the Postal Regulator.

(3) The Postal Regulator may cancel or revoke a licence where —

- (a) the licensee has contravened this Act or any regulations made thereunder;
- (b) the licensee has not paid the prescribed licence fee;
- (c) the licensee has committed a breach of the conditions attached to the licence;
- (d) the licensee has ceased operations;
- (e) the licensee conducts itself in a manner unfit and improper in connection with the service delivered by it;
- (f) the licensee fails to meet standards and performance prescribed by regulations and the terms and conditions of the licence;
- (g) it is in the public interest to revoke the licence.

(4) Upon notification to the licensee, the Postal Regulator may, of its own motion, vary the terms and conditions of a licence on the ground that the licensee has —

- (a) contravened this Act; or
- (b) acted in breach of any term or condition imposed for the operation of the licence.

(5) Where the Postal Regulator proposes to cancel, revoke or vary the terms and conditions of a licence pursuant to subsection (3) and (4), it shall give written notice of 30 days of its intention to the licensee, stating —

- (a) the reasons for which it proposes to do so; and
- (b) the time, being not less than 30 days, within which the licensee may make written representation to object to the proposal.

(6) Every licensee shall display its licence at a conspicuous place at its registered office and a copy thereof at each place of business.”.

Insertion of section 14A

8. The principal Act is amended by inserting after subsection 14 (6) the following section —

“General duties of licensees

14A. A licensee shall, in the discharge of postal services —

- (a) provide a universal postal service;
- (b) ensure compliance with standards of performance, including delivery times of

- services to reasonably meet the social, industrial and commercial needs of the country as prescribed by regulations;
- (c) operate in such a way so as to provide a safe, confidential, efficient and timely service;
 - (d) afford the Postal Regulator access to the licensed premises for inspection upon notification;
 - (e) afford Customs Officers access to the licensed premises for the purpose of administering customs and excise laws;
 - (f) co-operate with such enforcement officers empowered by law to investigate into, enquire into or prosecute an offence, where there is reasonable suspicion that an offence has been or is being committed within the licensed premises or in connection with the licensee's service;
 - (g) furnish to the Postal Regulator such reports, audited accounts, documents and information, concerning its operations as the Postal Regulator may request;
 - (h) not disclose to any person, make a record of, divulge or communicate to any person, any information concerning commercial dealings, or any information of its clients which it may have obtained in the discharge of its duties.

Insertion of section 19, 20, 21, 22, 23, 23A, 23B, 23C, 23D and 23E

9. Part IV of the principal Act is amended as follows —

- (a) by repealing sections 19, 20, 21, 22 and 23 and substituting therefore the following sections —

“Establishment of the Postal Regulator

19. There is hereby established the Postal Regulator which shall be a body corporate with perpetual succession and a common seal and which shall, in its corporate name, be capable of suing and being sued and purchasing or otherwise acquiring, holding, charging and disposing of movable or immovable property.

Objects of the Postal Regulator

20. The objective of the Postal Regulator is to regulate the postal sector whilst simultaneously developing a competitive communications and logistics market nationally and regionally.

Functions of the Postal Regulator

21.(1) The functions of the Postal Regulator are to —

- (a) license, renew, amend, vary, suspend, cancel or revoke a licence issued under this Act;
- (b) define the scope of universal postal services;
- (c) establish universal postal service standards;
- (d) set universal postal service targets;
- (e) measure quality of service;
- (f) determine uniform standards, best practices and codes of conduct

- applicable to service providers and ensure compliance therewith;
- (g) approve or fix rates for each product considered within the scope of the universal postal service area;
 - (h) regulate the issue of postage stamps, their themes and designs;
 - (i) conduct surveys, tests and evaluations as regards the standards of services delivered by licensees;
 - (j) collect information on licensees;
 - (k) issue such directions as may be necessary to ensure that persons in control of premises may provide effective access to premises for the delivery of mail;
 - (l) examine and settle disputes between licensees and licensees;
 - (m) promote, develop and enforce fair competition and equality of treatment among licensees in any business or service relating to the postal sector in accordance with section 24;
 - (n) monitor, control, inspect and regulate postal, courier and ancillary services and ensure that these services are provided and operated in accordance with this Act;
 - (o) liaise with any regulatory authority, require necessary information from,

exchange information with, and receive information from any such authority relating to any specific complaint or investigation;

- (p) for the purposes of subparagraph (o), enter into a memorandum of understanding with any regulatory authority;
- (q) advise the Minister on all matters relating to the provision of postal services by licensees; and
- (r) perform such other postal regulatory functions as may be specified or approved by the Minister.

(2) In the performance of its functions, the Postal Regulator shall have regard to international developments in the field of postal services and regulation of postal services.

Powers of the Regulator

22.(1) The Postal Regulator shall have such powers as are necessary to enable it to effectively carry out its functions and may, in particular —

- (a) monitor, control, inspect and regulate postal, courier and ancillary services;
- (b) ensure that postal, courier and ancillary services are provided and operated in accordance with this Act;
- (c) give such reasonable directions to a licensee as it deems fit and the licensee shall comply with those directions;

- (d) require a licensee to provide such information as it deems necessary in relation to the postal services offered;
 - (e) require any person to furnish to the Postal Regulator any information in his or her possession which relates to any postal, courier or ancillary service;
 - (f) require any person who has in his or her custody or under his or her control any document which relates to any postal service or postal system —
 - (i) to furnish the Postal Regulator with a copy of or extract from the document; or
 - (ii) to transmit the document itself to the Postal Regulator for its inspection unless the document forms part of the records or other documents of a court or Postal Regulator; and
 - (g) require any person who has under his or her control any premises to provide access and appropriate facilities for delivery of postal packets to addressees.
- (2) The Postal Regulator shall be entitled without payment to keep any copy or extract furnished to the Postal Regulator under subsection (1)(f).
- (3) The Postal Regulator shall at all reasonable times upon notice have full and free access to all buildings, places, books, documents and other papers for the purpose of discharging the Postal Regulator's functions under this

Act, and may, without payment, inspect, copy or make extracts from any such books, documents or papers.

(4) The Postal Regulator may take possession of any books, documents or papers in whichever format, where in the opinion of the Postal Regulator —

- (a) the books, documents or papers may be interfered with or destroyed unless possession thereof is taken; or
- (b) the books, documents or papers may be required as evidence in proceedings for an offence under this Act or any regulations made thereunder.

(5) The rights conferred by this section shall, in relation to information recorded otherwise than in legible form, include the right to require the information to be made available in legible form for inspection or for a copy or extract to be made of or from it.

(6) Any person who —

- (a) fails to comply with any requirement specified in any order under subsection (1)(f);
- (b) intentionally alters, suppresses or destroys any document which he or she has been required under subsection (1)(f) to furnish or transmit; or
- (c) in furnishing any information required of him or her under subsection (1)(f), makes any statement which he or she knows to be false in a material particular, or recklessly makes any

statement which is false in a material particular,

shall commit an offence.

(7) No person shall by virtue of this section be obliged to disclose any particulars as to which he or she is under any statutory obligation to observe secrecy.

Appointment of Chief Executive Officer.

23.(1) The President shall, upon consultation with the Minister, appoint a Chief Executive Officer of the Postal Regulator.

(2) The Chief Executive Officer shall be appointed for such term not exceeding three years as the President may determine and shall be eligible for reappointment on completion of the term of appointment.

(3) The salary and allowances and other terms and conditions of service of the Chief Executive Officer shall be such as may be determined by the President.

Functions of Chief Executive Officer

23A. The Chief Executive Officer shall be responsible for the general administration of the Postal Regulator and for carrying out any functions assigned under this Act.

Staff of Postal Regulator

23B. The Chief Executive Officer may appoint, on such terms and conditions as the Chief Executive Officer may determine, such members of staff as may be considered necessary for the performance of the functions under this Act.

Funds of the Postal Regulator

23C.(1) The funds of the Postal Regulator shall consist of —

- (a) moneys as may be appropriated by the National Assembly under an Appropriation Act for the purposes of the Postal Regulator and paid to the Postal Regulator;
- (b) any moneys received by the Postal Regulator from its operations or other payments;
- (c) any moneys as are from time to time received by the Postal Regulator by way of donations, gifts or grants, subject to approval by the Minister responsible for Finance.

Accounts and audit

23D.(1) The financial year of the Postal Regulator shall be the calendar year.

(2) The Postal Regulator shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in the form and manner approved by the Auditor General.

(3) The accounts of the Postal Regulator shall be audited by the Auditor General in accordance with article 158 of the Constitution.

(4) The Postal Regulator shall prepare, in each financial year, an annual financial statement for the next financial year showing separately —

- (a) the expenditure which is proposed to be met from the internal sources of the Postal Regulator; and
- (b) the sum required from the Government to meet other expenses distinguishing revenue expenditure from other expenditure.

Annual reports

23E.(1) The Postal Regulator shall, not later than 6 months after the end of each financial year, submit to the Minister —

- (a) a report of the activities and operations of the Postal Regulator throughout the preceding financial year in such detail as may be directed; and
- (b) a statement of the audited accounts of the Postal Regulator for the preceding financial year.

(2) A copy of the report and a statement of the audited accounts of the Postal Regulator referred to in subsection (1) shall be printed and submitted to the National Assembly not later than 6 months from the date of receipt thereof by the Minister.”.

Repeal of sections 25, 26 and 27

10. Sections 25, 26 and 27 of the principal Act are hereby repealed.

Amendment of section 29

11. Subsection 3 of section 29 of the principal Act is amended by repealing subsection (3) and substituting therefor the following subsections —

“(3) Any party to a dispute who is aggrieved by the determination of the Postal Regulator under this section may appeal to the Minister within 14 working days.

(4) Upon receiving an appeal under subsection (3), the Minister shall constitute a panel comprising of the following persons —

- (a) a representative of the Attorney General;
- (b) a representative from Ministry responsible for Trade; and
- (c) a suitable candidate from the private sector.

(5) The members of the panel shall appoint a Chairperson from amongst themselves.

(6) The panel shall regulate its own proceedings.

Insertion of section 29A

12. The principal Act is hereby amended by inserting immediately after section 29 the following as section 29A —

“Direction by Minister

29A. The Minister may, in relation to the exercise by the Postal Regulator of its functions, give the Postal Regulator such general directions, not inconsistent with this Act, as appear to the Minister to be requisite in the public interest, and the Postal Regulator shall comply with such directions.”.

Amendment of section 30

13. Section 30 of the principal Act is hereby amended by repealing subsection (2) and substituting therefor the following subsections —

“(2) A person shall not —

- (a) insult or otherwise threaten a member of staff of the Postal Regulator in the performance his or her functions under this Act;
- (b) refuse to comply with a direction of the Postal Regulator under this Act;
- (c) impede, prevent or obstruct any investigation, inspection by the Postal Regulator or any authorised officer in the execution of an inquiry;
- (d) provide to the Postal Regulator or an officer any information which he or she knows to be false or misleading.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine not exceeding R100,000 or to imprisonment for a term not exceeding 2 years or to both such fine and imprisonment.”.

Amendment of section 41

14. Section 41 of the principal Act is hereby amended in subsection (1) and paragraph (b) by inserting after the words “Operator”, the following words —

“Postal Service Regulator or Courier Service Provider”.